

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

June 18, 2021

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CJN-34-21, *An Action Relating to an Emergency for the Navajo Nation Council; Amending Title 17 of the Navajo Nation Code to Address Dogs Running at Large and to Establish Criminal Penalties for Vicious Dog Attacks*

Dear Speaker Damon,

We express our sincere sympathies to the family of the young person who lost her life and we pray the family will find peace and comfort during this time.

This resolution came as an emergency to the Navajo Council and we understand there was not time to talk with the Division of Natural Resources programs that are involved every day with animals, livestock, wildlife, and predators. We also understand the apparent need to move quickly to address an urgent situation; however, there are times when patience is the prudent option.

Our Natural Resources officers – Animal Control, Fish & Wildlife, Rangers, Parks & Recreation – believe in providing the best protection for the People and our animals. They are involved on a daily basis in responding to calls involving livestock, wildlife, domestic animals, and other dangerous situations. These Natural Resources officers work with our Navajo Police Department and the Prosecutors Office as a team to ensure we all follow the law. However, there are limits to their work.

The Natural Resources officers and the Public Safety Officers agree that each is responsible for enforcing certain provisions of Navajo law. Natural Resources officers are limited to enforcing certain provisions in Title 13 and Title 3, while Public Safety Officers are primarily responsible for enforcing Title 17 and Title 14. Amendments to Title 17 in CJN-34-21 put the enforcement action out of reach for Animal Control officers.

We agree changes in the law are needed to protect the public and to ensure responsible animal ownership. Natural Resources officers, Public Safety officers, and Department of Justice attorneys are available to help recraft CJN-34-21 to ensure it protects all.

In addition, we are working with the Division of Natural Resources programs to enhance their capabilities to address the serious issues that face the Nation. These programs are preparing strategies to bring to the Navajo Council, including funding needs to improve services, recommended changes to operational cooperation between programs, and involving additional partners such as Navajo Housing Authority and the Indian Health Service. Additionally, there are

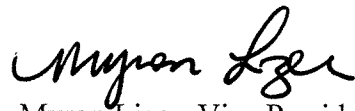
non-profit organizations who are capable of providing services to fix our growing animal population. Further, there are opportunities with the American Rescue Plan Act funds to help our communities with animal population concerns.

We concur with the Navajo Council that we have a growing problem and our programs stand ready to recommend improvements to services and will continue to work daily to protect our communities. Those responding to the latest tragedy are deeply affected by the incident and are looking forward to working with the Navajo Council on improving Navajo law. In its present form CJN-34-21 does not provide the authority needed to carry out the law. We look forward to the next version, with the help of appropriate programs, that will address the true need and provide the proper authority.

Sincerely,



Jonathan Nez, President
THE NAVAJO NATION



Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - THIRD YEAR, 2021

AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING
TITLE 17 OF THE NAVAJO NATION CODE TO ADDRESS DOGS RUNNING AT LARGE
AND TO ESTABLISH CRIMINAL PENALTIES FOR VICIOUS DOG ATTACKS

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Navajo Nation Code provides, "[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or federal law, or which directly threaten the sovereignty of the Navajo Nation." 2 N.N.C. § 164(A)(16).
- C. This legislation is offered as an emergency measure because of the recent death by an apparent vicious dog attack of a young Navajo Nation tribal member in the Fort Defiance community of the Navajo Nation. This unfortunate tragedy has brought to the forefront the longstanding and widespread problem of attacks and killings by vicious dogs running at large on the Navajo Nation.
- D. This tragedy demonstrates the current danger to Navajo Nation residents and visitors alike, presented by dog packs that are running at large on the Navajo Nation. All people on the Navajo Nation are entitled to government services that protect the public's health, safety, and welfare, and the lack of such services is a direct threat to the sovereignty of the Navajo Nation.

SECTION TWO. FINDINGS

- A. Due to the COVID-19 pandemic of the past 18 months, enforcement of the Navajo Nation's animal control laws has been nearly eliminated, with several animal control facilities forced to close down. As well, the pandemic has severely reduced the Navajo Nation's efforts at spaying and neutering the dog population. Both circumstances have resulted in an unprecedented number of dogs running at large on the Navajo Nation.

- B. In April 2021, Navajo Nation Animal Control manager Kevin Gleason reported to the Associated Press that the reservation dog population is back up to about 250,000 dogs.
- C. According to the website for the Navajo Nation's Animal Control Program: "[t]he Navajo Nation currently lacks an effective Animal Control Program and adequate Animal Shelters. Because of this, we are unable to provide services in a variety of areas such as: aggressive enforcement of laws, vaccinations, livestock damage investigations, animal-bite investigations, quarantines, adoptions, pick-up of stray/unwanted animals, dead animal disposal, and assisting with spay/neuter clinics. As a result, over 3,000 individuals are treated each year at hospitals and clinics for animal attacks and bites. The majority of victims are children and elderly. Some of these victims are transported to other hospitals for special treatment." **Exhibit A.**
- D. The website continues: "[c]urrently there are only five Animal Control Officers employed to address animal control issues for the entire Navajo Nation. These Officers can only provide services that have been determined as priority, such as bite cases and livestock damage. Officers are stationed in each of the five agencies (Ft. Defiance, Chinle, Shiprock, Tuba City and Crownpoint). Without an adequate Animal Control Program, we place the public's health and safety at risk." **Exhibit A.**
- E. According to the Navajo Times (May 18, 2021 issue), if the most recent death is confirmed to be the result of a dog attack, the victim will be the fifth person killed by dogs on the Navajo Nation since 2010. The victims include a 56-year-old man near Gallup, New Mexico in 2010, an 8-year-old boy in Pine Hill, New Mexico in 2012, a 3-year-old boy in Seba Dalkai, Arizona in 2016, and a Kayenta woman last fall.
- F. The most recent comprehensive study on this problem was addressed in a White Paper Analysis done in January of 2017 by the Navajo Nation Animal Control Program. In this paper, the Program stated: "[o]ver the last five years there has been increase in the severity of dog bite cases. The Animal Control Officers agree that the dogs are becoming more vicious and aggressive." **Exhibit B.** This White Paper was attached as an Exhibit to Resolution No. CJY-64-18, adopted in the Summer of 2018, that amended Title 3 and Title 13 of the Navajo Nation Code to address the roaming dog problem on the Navajo Nation. However, CJY-64-18 did not amend the Navajo Nation's criminal code to address the problem.

- G. Tragic deaths from dog attacks are avoidable, if the Navajo Nation implements severe penalties that would discourage the keeping and breeding of vicious dogs. Severe penalties would also deter offenders from allowing their potentially dangerous dogs to run at large. Animal Control Officers should be given the authority to shoot on site vicious and dangerous dogs that are running at large.
- H. Currently, Navajo Nation law does not provide any criminal penalties that would deter offenders from keeping vicious dogs that attack persons. Neither does the Navajo Nation make it a crime to allow vicious dogs to run at large with resulting injuries or deaths to persons. Therefore, an amendment to the Navajo Nation Criminal Code is urgently needed to protect the public and ensure that no one is ever mauled to death by dogs running at large on the Navajo Nation.

SECTION THREE. AMENDING TITLE 17 OF THE NAVAJO NATION CODE.

The Navajo Nation Council hereby amends Title 17 of the Navajo Nation Code, as follows:

TITLE 17. LAW AND ORDER

§ 486. Criminal nuisance; Vicious dogs

A. Offense. A person commits criminal nuisance if:

1. By conduct either unlawful in itself or unreasonable under all the circumstances, he or she knowingly or recklessly creates or maintains a condition which endangers the safety or health of others; or
2. He or she knowingly conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct.; or
3. He or she knowingly or recklessly allows a dog to run at large, and while running at large such dog physically inflicts bodily injury or death upon any person.

(a) Criminal nuisance may be charged against the person who allowed the dog to run at large or against the owner of the dog, or both, as the circumstances warrant.

(b) Provocation of the dog by the injured person shall not be a defense to the charge of criminal nuisance.

(c) A separate offense of criminal nuisance shall be charged for each separate event in which an injury or injuries or death are suffered by a person, and for each separate person injured during a single event.

(d) At the discretion of the Prosecutor, the offense of criminal nuisance may be charged in lieu of, or in addition to, the civil offenses provided for in 13 N.N.C. §§ 1702-1715.

(e) Any dog running at large that any Law Enforcement Officer or an Animal Control Officer determines has physically inflicted any such injury or, in his/her discretion, deems a danger to the health, safety, or welfare of other persons, may be immediately destroyed by the Officer. The cost of destruction and disposal shall be charged to the offender or the owner of the dog, or both, as circumstances warrant.

(f) For purposes of this Section a dog "running at large" means a dog that is without adequate and secure control, by fence, kennel, leash, chain or other tie-up or other secure tethering method, while off the property (including a vehicle) of the dog's owner or the dog owner's designee.

B. Sentence.

1. Any person found guilty of criminal nuisance may be sentenced to a term of imprisonment not to exceed 30 days, or be ordered to pay a fine not to exceed \$1,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.
7. Any person found guilty of criminal nuisance pursuant to § 486(A)(3) shall be sentenced, for each offense, to imprisonment for a term of incarceration not less than 30 days and not more than 365 days, or shall be ordered to pay a fine not less than one-thousand-dollars (\$1000) and not more than five-thousand-dollars (\$5,000), or both. The minimum sentencing provisions herein shall be imposed notwithstanding § 486(B)(1-6), and notwithstanding any civil fines provided for in 13 N.N.C. §§ 1702-1715. For multiple separate offenses, the trial court shall impose the imprisonment terms consecutively and the fines cumulatively. If the criminal nuisance has resulted in death, the dog's owner or the dog owner's designee shall pay restitution in the amount of \$6000 for the victim's funeral expenses. The \$6000 payment will not shield any offender found guilty under this Section to damages in a civil complaint.

SECTION FOUR. CODIFICATION

The provisions of this resolution that amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION FIVE. SAVINGS CLAUSE

Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 00 Opposed, on this 3rd day of June 2021.



Hon. Eugenia Charles-Newton, Speaker Pro Tem
24th Navajo Nation Council

6/8/21

DATE

Motion: Honorable Raymond Smith, Jr.

Second: Honorable Thomas Walker, Jr.

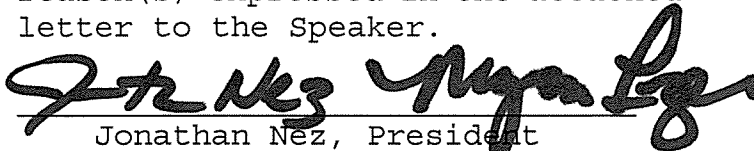
Speaker Pro Tem Eugenia Charles-Newton not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2021.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 18 day of June, 2021 for the reason(s) expressed in the attached letter to the Speaker.



Jonathan Nez, President
Navajo Nation

NAVAJO NATION



ANIMAL CONTROL

[NNAC Home](#)[Personnel](#)

The Navajo Nation currently lacks an effective Animal Control Program and adequate Animal Shelters. Because of this, we are unable to provide services in a variety of areas such as: aggressive enforcement of laws, vaccinations, livestock damage investigations, animal-bite investigations, quarantines, adoptions, pick-up of stray/unwanted animals, dead animal disposal, and assisting with spay/neuter clinics. As a result, over **3,000** individuals are treated **each year** at hospitals and clinics for animal attacks and bites. The majority of victims are children and elderly. Some of these victims are transported to other hospitals for special treatment.

Currently there are only five Animal Control Officers employed to address animal control issues for the entire Navajo Nation. These Officers can only provide services that have been determined as priority, such as bite cases and livestock damage. Officers are stationed in each of the five agencies (Ft. Defiance, Chinle, Shiprock, Tuba City and Crownpoint). Without an adequate Animal Control Program, we place the public's health and safety at risk.

The Animal Control Program must have additional funding to accomplish the following:

- Build and establish adequate comprehensive animal control centers in each agency that will serve as an animal shelter and adoption/vaccination centers;
- Reduce the number of bite cases that occur to children and elderly;
- Provide adequate services to BIA schools/housing, HIS Hospitals/housing, other schools/housing, and chapter communities;
- Reduce the number of livestock loss/damage cases by dog attacks;
- Develop an education program to address responsible pet care and an awareness of proper animal ownership;
- Address complaints received from guests/visitors regarding stray dogs and 'road-kills' they see when visiting the Navajo Nation;
- Address the over-population of dogs and cats within the Navajo Nation;
- Promote spay/neuter clinics;
- Enforcement of Navajo Nation animal laws.

The Animal Control Program is dedicated and committed to the professional enforcement of Animal Control Laws established by the Navajo Nation Council, to protect the health, safety, and property of peoples and animals, address responsible pet ownership, over-population, disease, and neglect of animals through education, and promote foster programs, spay and neuter clinics and animal adoption programs through public, other agencies and organizations for the benefit of present and future generations.



White Paper Analysis of Law Enforcement Activities & Functions

Navajo Nation Animal Control Program

Glenda Davis, Program Manager

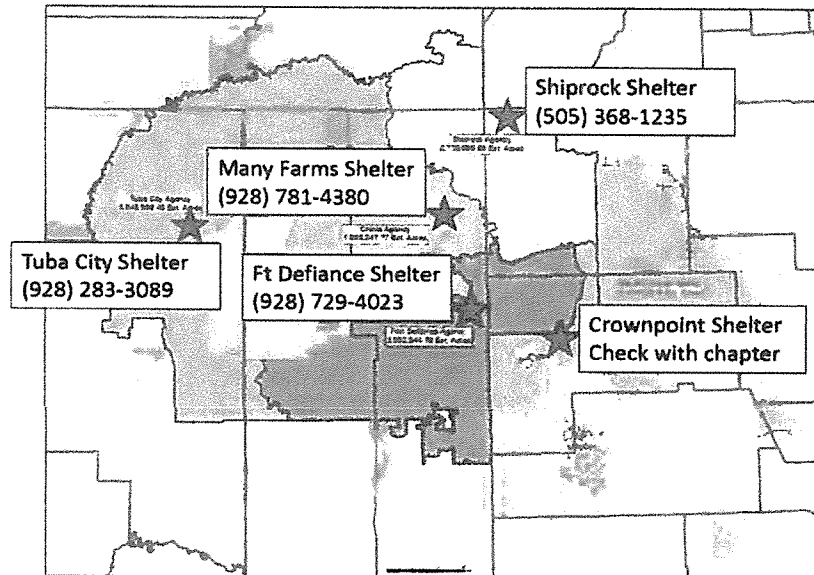
January 17, 2017



Navajo Nation Animal Control Program

PO Box 1480
Window Rock, AZ 86515

www.nndfw.org
Animal Control Program

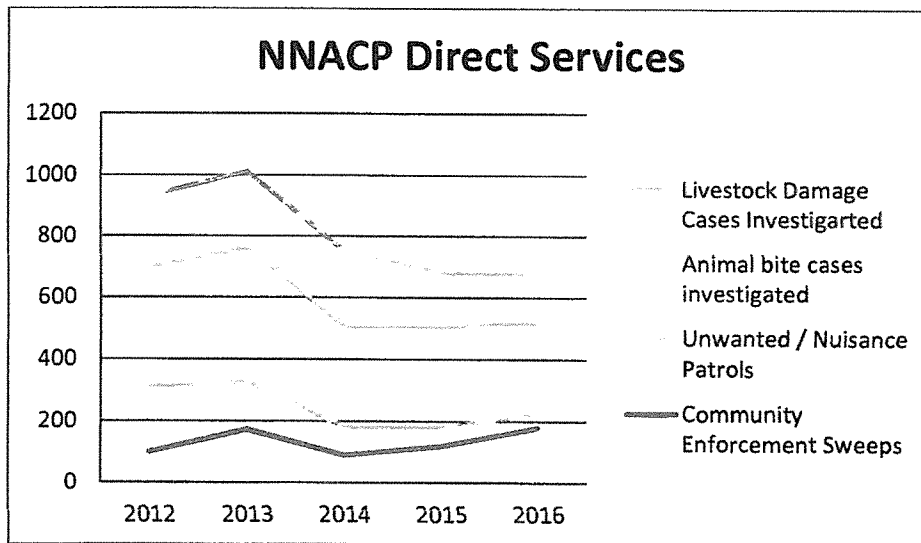


Introduction

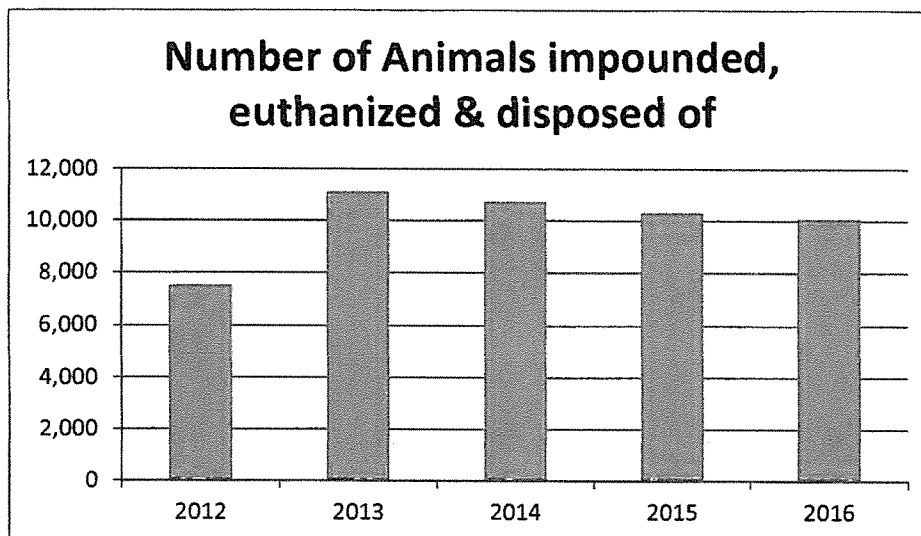
The purpose of the Animal Control Program is to enforce the animal control laws established by the Navajo Nation Council, to protect the health, safety and property of people and animals, address responsible pet ownership, over population, disease and neglect of animals through education, and in the spirit of cooperation, promote and foster spay and neuter clinics and animal adoption programs through the public, other agencies and organizations for the benefit of present and future generations. (Resolution: GSCD-87-02 NNACP Plan of Operation)

Problem Definition

The number of dog bites and livestock damage cases consumes 85% of our field officers' time. While our officers are addressing these investigations, the number of general traffic and service calls accumulate. The sheer volume of dogs running-at-large, the increase of vicious animals on school campuses and unwanted animal pick up requests is alarming within all Navajo Nation communities.

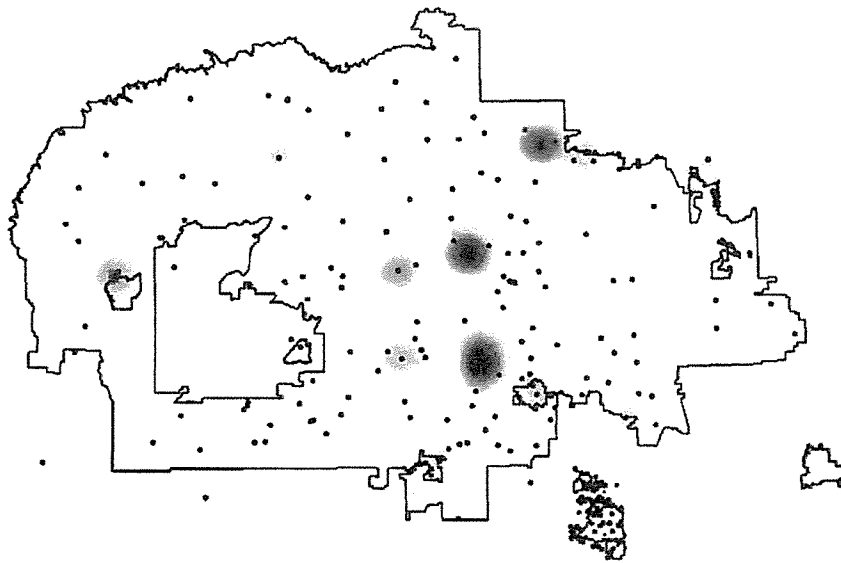


A Navajo Nation wide effort for Rocky Mountain Spotted Fever Prevention and the coordination of Navajo Nation Programs demonstrated an increase in direct services across all direct service avenues in 2013. The additional funding in 2013, made a remarkable difference in direct services and cases investigated. Whether this decreasing trend is due to a decrease in funding as a direct correlation or if the animal numbers are actually decreasing is difficult to measure after 2013.

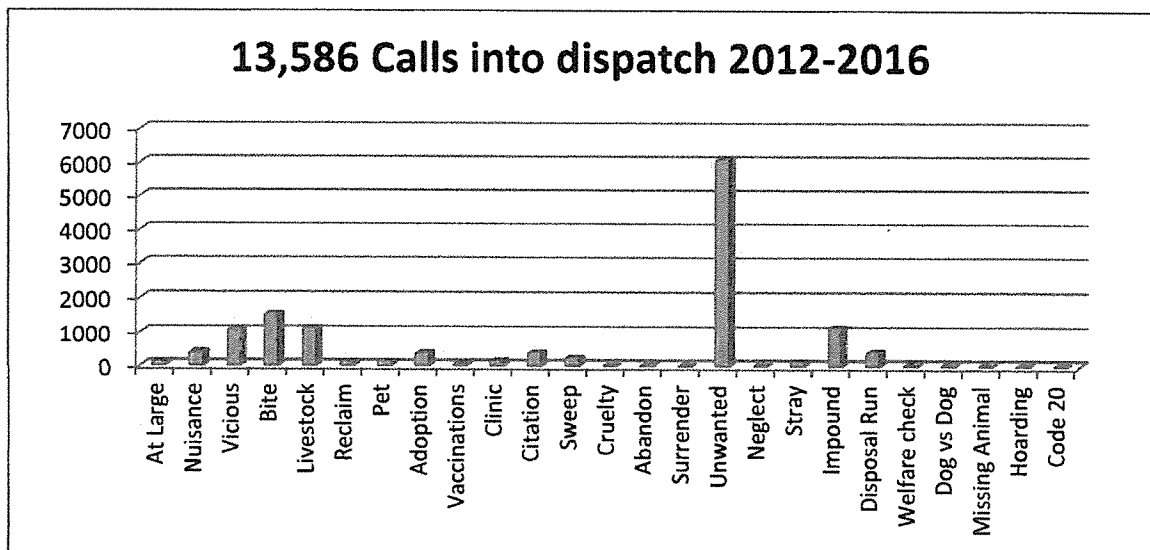


Given that on an annual basis, over 10,000 animals are impounded, euthanized and disposed of brings to question if we truly have any control of our animal population.

The Department of Fish & Wildlife has a single dedicated dispatch personnel for all law enforcement within the department. Communication directly to field officers is critical for the safety of the officers and the investigation of the violation in progress. The following is a summary of the data on the calls received between 2012-2016.



*Concentration of calls over Navajo Nation communities between 2012-2016 from dispatch data; Over 17,056 calls for all of Department of Fish & Wildlife – 65% related to Animal Control at 13,586



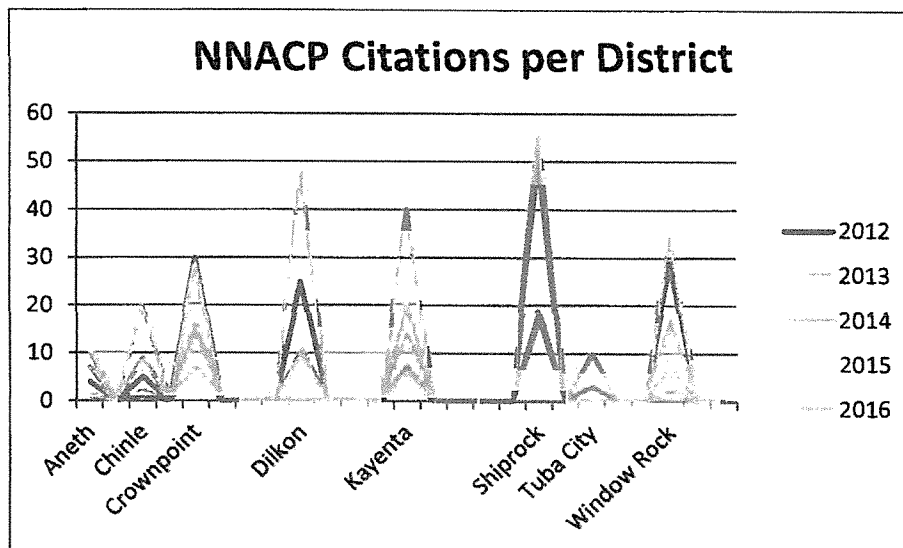
*Breakdown of calls – TOP FIVE: 6,078 Unwanted animals, 1,529 Bite cases, 1,135 Impounded animals, 1,118 Livestock Damage and 1,087 Vicious dogs.

Statistics per law enforcement district (Window Rock, Chinle, Dilkon, Tuba City, Kayenta, Shiprock, & Crownpoint)

The Navajo Animal Control Program reported that 1,024 citations were filed in Navajo Nation courts from 2014 – 2016. The Program began monitoring citations in 2014 therefore any previous data was not available for this report.

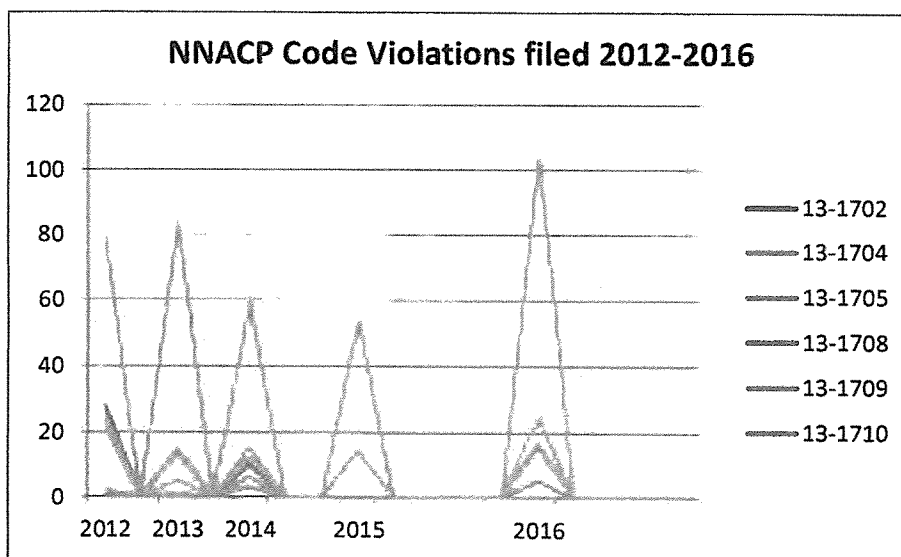
An official review of our citations was requested and compiled by Melanie A. Price. The report was received January 19, 2017. The following information is a summary of the data.

Over a five-year period between 2012 – 2016, six hundred twelve (612) citations were reported to be filed into the Navajo Courts. Comparing the Animal Control Program data between 2014-2016, the report from the Courts defines that 340 citations were filed whereas the Animal Control Program has reported that 1,024 citations were filed with the courts for the same timeframe.



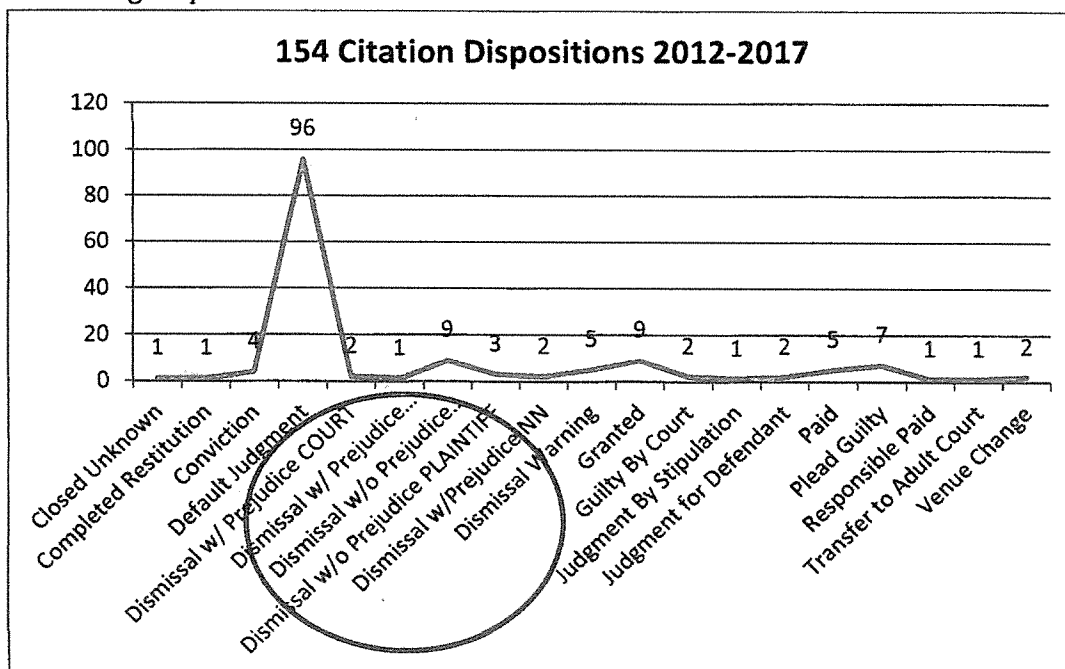
*Window Rock (District 1) – 90 cases filed, Shiprock (District 2) - 162 cases filed, Crownpoint (District 3) - 96 cases filed, Tuba City (District 4) - 13 cases filed, Chinle (District 5) - 37 cases filed, Kayenta (District 6) - 87 cases filed, Dilkon (District 7) - 94 cases filed, and Aneth (District 8) - 33 cases filed

A breakdown of the 612 violations are demonstrated in the graph below with animals running at large the highest at 378 cases followed by vicious animals at 80 cases and other citations.

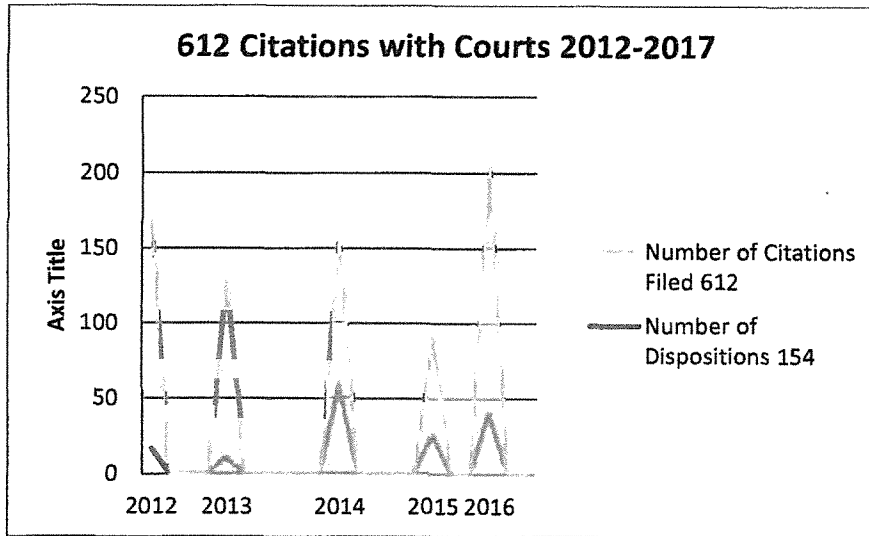


*13-1702 Animal Licenses – 68 citations (11% of 612 citations), 13-1704 Rabies Control – 68 citations (11% of 612 citations), 13-1705 Animal Bites Cases – 5 citations (1% of 612 citations), 13-1708 Nuisance Animals – 13 citations (2% of 612 citations), 13-1709 Restraint of Animals – 378 citations (62% of 612 citations), and 13-1710 Vicious Animals – 80 citations (13% of 612 citations)

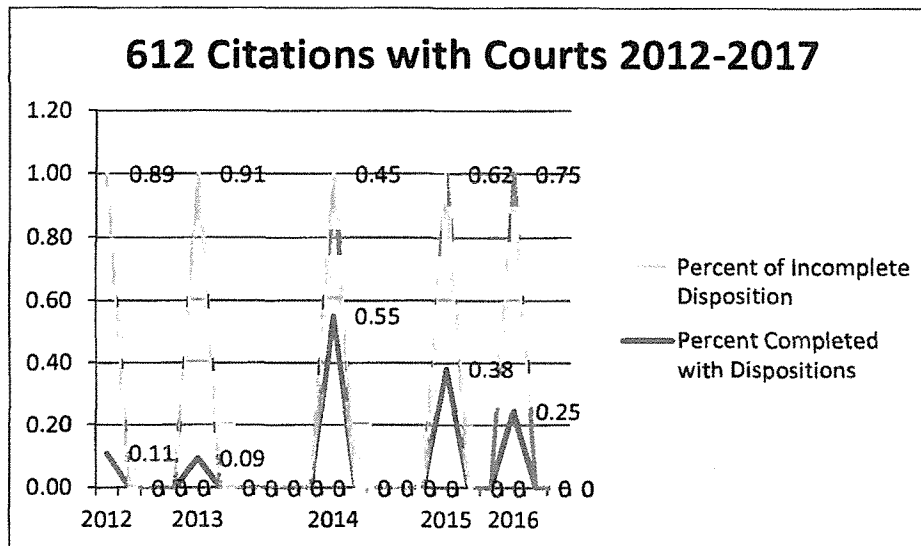
The report was analyzed and reported that only 154 citations received dispositions of the 612 citations filed with the courts. Surprisingly 96 of the 154 cases had default judgements with 22 varied dismissal judgements, following by the remaining disposition results.



The following graph demonstrates the number of citations filed and the number of dispositions received of the 612 citations between 2012-2017.



Below are the percent of dispositions completed and percentage of pending citations presently with the courts between 2012-2016. The overall average of completed citations with disposition was 25% with 75% incomplete citations that still require dispositions. It was not revealed which districts have the specific disposition results as reported.



Upstream Issues

Within the Animal Control Program there is a need for additional training on correctly completing citation and warnings to the general public to decrease the number of citations that are dismissed. Outside of the Program, there is a need for a better understanding of the prosecution process especially since 13 NNC 1701-1712, are civil cases. It appears that civil cases are considered a lesser priority over more serious violations.

Over the last five years there has been increase in the severity of dog bite cases. The Animal Control Officers agree that the dogs are becoming more vicious and aggressive.

A need for a massive humane education platform on responsible pet owner and relationship of pet ownership with abiding our Navajo Nation codes for the control of pets within communities.

To begin coordination of services with other programs to assist with service delivery and increasing direct services within communities and at each animal shelter.

Barriers

- To decrease the timeline between the filing of citations and the disposition of each case.
- Lapse of statutes of limitations on cases filed.
- Need to process civil cases, to demonstrate to pet owners to be more responsible for their pets and decrease fines
- Better communication on trial dates

Resource Needs

- Increase in the number of animal control officers to two per shelter and a kennel officer at each shelter
- Funding for a second dispatch
- Massive Humane Education Platform - Responsible Pet Ownership; Obey all Navajo Nation Animal Control Laws

Proposed Solutions

- Increase in the number of animal control officers to two per shelter and a kennel officer at each shelter
- Training with the prosecutors, provide some time for “animal control issues”
- Develop a system to track citations, monitoring citations within the courts. “Just ware” Training on platform and use

Summary

After review of the data, a few specific areas need to be reaffirmed. The data submitted from the district courts, document that 612 citations were received but only 154 dispositions were completed, an estimate of only 25% of citations have dispositions. Of the 154 dispositions, 96 had default judgement with an additional 22 citations that were dismissed. The Animal Control Program is concerned that our citations are not taken serious within the courts, since only 25% have been processed with 460 filed citations pending within the courts since 2012.

Over the three year period, the Animal Control Program reports that 1,024 citations were filed by the officers where only 340 citations were received by the courts.

The dispatch call density map has the communities of Window Rock, Chinle and Shiprock as the areas requesting for a majority of the assistance from the Department of Fish & Wildlife and Animal Control Program.

The personnel of the Animal Control Program expend over \$800,000 in financial resources to keep the Navajo public safe and control our animal numbers. We are seeking your support to recognize the issues and assist the program to prosecute cases in a timely manner.

The humane education effort of the Animal Control Program requires cooperation and acknowledgement that **our animal issues are really - People Issues.**

Call to Action – “Safety for the People & Animals”

NAVAJO NATION

798

Navajo Nation Council Special Session

6/3/2021

07:53:46 PM

Amd# to Amd#	Legislation 0088-21: An Action	PASSED
MOT Smith	Relating to an Emergency for the	
SEC Walker, T	Navajo Nation Council; Amending	
	Title 17 of the Navajo Nation...	

Yeas : 21

Nays : 0

Excused : 0

Not Voting : 2

Yea : 21

Begay, K	Halona, P	Smith	Tso, E
Begay, P	Henio, J	Stewart, W	Walker, T
Brown	James, V	Tso	Wauneka, E
Crotty	Nez, R	Tso, C	Yazzie
Daniels	Slater, C	Tso, D	Yellowhair
Freeland, M			

Nay : 0

Excused : 0

Not Voting : 2

Damon	Begay, E
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Presiding Speaker: Charles-Newton