

**CRIMINAL INVESTIGATION AMENDMENT  
(PROTECTION OF LAW ENFORCEMENT ANIMALS) BILL 2023**

*Introduction and First Reading*

Bill introduced, on motion by **Mr P. Papalia (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the minister.

*Second Reading*

**MR P. PAPALIA (Warnbro — Minister for Police)** [12.21 pm]: I move —

That the bill be now read a second time.

The Criminal Investigation Amendment (Protection of Law Enforcement Animals) Bill 2023 will introduce into the Criminal Investigation Act 2006—the CIA—new offence, penalty and court-ordered restitution provisions for assaulting, injuring or killing a law enforcement animal. The bill fulfils a government commitment to address a recommendation in the *WA Police Union: 2017 pre-election submission* to introduce harsher penalties for offenders found guilty of assaulting a police animal. Recommendations made in the June 2018 report of the statutory review of the CIA also proposed legislative reform in this area.

Pursuant to section 17 of the CIA, a police officer or other public officer exercising powers under the CIA may use an animal to assist, provided that the animal has been trained for the purposes for which it is used and use of the animal is reasonably necessary in the circumstances. The power to use animals under the CIA is wideranging, as the CIA includes preventive and investigative powers as well as providing for other matters, including the use of force and maintaining public order. The use of animals by police officers is also expressly contemplated in the Misuse of Drugs Act 1981 and the Terrorism (Extraordinary Powers) Act 2005.

The Western Australia Police Force train and use dogs and horses for a number of purposes. Dogs are primarily used for tracking and locating suspects and detecting drugs in places and on persons. Horses are used for targeted high-visibility patrols in areas with big crowds and entertainment precincts such as Northbridge and Fremantle, and for occasions such as New Year's Eve. Police horses are also used for responding to land search-and-rescue incidents, out-of-control gatherings and other public order incidents, including protests and demonstrations.

People may use violence against law enforcement animals in an attempt to avoid arrest or to prevent police from carrying out their lawful duties. For example, in September 2019, a violent offender punched a police dog in the head in an attempt to avoid arrest. In Queensland, in February 2020, a police dog assisting in the arrest of two offenders was stabbed in the chest. In Victoria, in June 2022, an offender was sentenced for using a flagpole to hit a police horse at an October 2020 protest against COVID-19 lockdowns.

Separately, information obtained by the WA Police Force indicates that members of outlaw motorcycle gangs in other jurisdictions are looking to specifically target police dogs. According to WA Police Force statistics, there have been 32 recorded assault incidents involving law enforcement animals since January 2015. Although not reflected in the number of recorded incidents, police dogs are often assaulted in the course of assisting officers to apprehend offenders.

There is currently no specific sanction for a person who assaults, injures or generally uses violence against an animal used by a police officer in the lawful exercise of their duties. In the past, police have charged offenders under the Criminal Code for obstruction of a public officer or disorderly behaviour in public. Fines in those cases have tended to range from \$200 to \$1 500. The only other available recourse would be for an offender to be charged with cruelty to animals pursuant to section 19 of the Animal Welfare Act 2002, which carries a maximum penalty of a fine of \$50 000 and imprisonment for five years. The Prisons Act 1981 and the Young Offenders Regulations 1995 provide that if a person assaults a prison dog carrying out its duties, that person is deemed to have assaulted the officer handling the animal. However, these provisions do not extend to police and other law enforcement animals.

Other jurisdictions—namely, New South Wales, the Northern Territory, Queensland, Tasmania and South Australia—have legislated for specific offences relating to killing or seriously injuring animals used in law enforcement. Most of these jurisdictions also provide for the ability of a court to order an offender to pay compensation for the injury or killing of a law enforcement animal.

The Criminal Investigation Amendment (Protection of Law Enforcement Animals) Bill 2023 will introduce new offences in Western Australia for assaulting, injuring or killing a law enforcement animal. The offences will cover animals used by police officers in the execution of their powers, duties or responsibilities, whether they arise from the CIA, other statutes or the common law. The offences will also cover animals used by other public officers who have powers under the CIA in the execution of their powers, duties or responsibilities.

There are two limbs to the new offences. The first limb concerns assaulting, injuring or killing an animal that is being used by an officer. The second limb concerns assaulting, injuring or killing an animal on account of it being an animal that is used, or trained or maintained for use by officers. The second limb would, for example, apply when there is a targeted attack on an animal simply because it is a law enforcement animal, regardless of whether the animal is being used by an officer at the time. The second limb will cover targeted attacks on animals that are trained or maintained for use by officers, including animals that have not yet been deployed because they have not yet completed their training. Assaulting a law enforcement animal will be an offence against authority akin to assaulting a public officer. The penalties for the new offences will therefore be in line with the penalties in section 318 of the Criminal Code for assaulting a public officer, without the application of the mandatory sentencing provisions in that section.

Under each limb of the new offence provisions, killing an animal will be punishable by 10 years' imprisonment. Assaulting or injuring an animal in "circumstances of aggravation" will also be punishable by 10 years' imprisonment. The circumstances of aggravation will be consistent with the Criminal Code provisions for assaulting a public officer and include being armed with a weapon and being in company with another person during the commission of the offence. Assaulting or injuring an animal, other than in circumstances of aggravation, will carry a maximum penalty of seven years' imprisonment, with a summary conviction penalty of three years' imprisonment and a fine of \$36 000.

The offences will not apply if a person has a "reasonable excuse" for assaulting, injuring or killing a law enforcement animal. Examples of reasonable excuses, such as actions by veterinarians and animal trainers, are set out in the bill. One example of reasonable excuse that is expressly provided for in the bill is where an accused was acting in self-defence. The self-defence provisions are modelled on the defence of self-defence in section 20 of the Animal Welfare Act 2002. The provisions would allow a person to claim they were acting in self-defence to protect themselves against an animal that was being used by an officer if the use of the animal was unreasonable in the circumstances—for example, when the use of the animal was not in accordance with WA Police Force policy, procedure and training.

The bill also provides for compensation orders to be made against a person who is convicted of assaulting, injuring or killing a law enforcement animal. Animals used by officers are of significant value to the state because of the work they perform as well as the resources invested in their training. If an animal is injured, the state may incur significant costs in relation to the treatment, care, rehabilitation and re-training of the animal. If an animal is killed or unable to be deployed for use, the state may incur costs in relation to the replacement of the animal with another suitably trained animal. The bill provides an avenue for the WA Police Force, or other agencies using animals under the Criminal Investigation Act, to recover those costs from the offender. The bill will strengthen the protection of animals that assist officers to perform their duties.

I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle**.