

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

**DETERMINATION**

*In the matter of a request that “animal control officer” be designated as an eligible profession for the purchase, sale, and use of body armor.*

Date of designation: May 4, 2023

Legal framework

To purchase or take possession of body armor in New York State, an individual or entity must be engaged or employed in an eligible profession.<sup>1</sup> Pursuant to Executive Law section 144-a, the Department of State (Department) has created a process whereby individuals and entities may request that the profession in which they engage be added to the Department’s list of eligible professions.<sup>2</sup> The Department has received request that “animal control officer” be designated as an eligible profession. Prior to adding a profession to the list of eligible professions, the Department must first determine whether the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor, or whether the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor.

Request

The Department has received a request by an individual employed by the Mohawk Hudson Humane Society in Menands, New York, seeking designation of the profession of “animal control officer/dog control officer/dog warden” as an eligible profession. Notice of this eligible profession request was published on the Department’s website on September 30, 2022, whereby the public was invited to submit additional requests relating to these professions. No other requests relating to these requests have been received by the Department and no comment was received for this request.

The requestor states that no state certification is required for the profession of animal control officer. In describing an animal control officer’s duties, the requestor states that animal control officers “are dispatched to all [manner] of calls for services . . . [w]hile engaged in their duties . . . the[] conditions present almost all of the same risk factors that exist for traditional law enforcement officers . . . .” Examples of dispatches given by the requestor include animal bites, barking complaints, and license checks, where “they can conduct enforcement action ranging from issuing an appearance ticket to seizing an animal.” Further, the requestor states that

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<sup>1</sup> Penal Law §270.21.

<sup>2</sup> See 19 NYCRR Chapter XIX, Part 905, generally.

it is a frequent occurrence to have animal control officers assist with the execution of search warrants for narcotics and other violent crimes when dogs are being used to secure a property. Specifically, a recent case on Bradford st in the city of Albany where a search warrant was executed for animal cruelty and several hand guns w[ere recovered.

On the application, the requestor indicates that individuals engaged in the profession currently utilize body armor. The requestor states that “[m]ost [animal control officers (ACOs)] wear a soft external vest with ID placards that clearly identify them [as] an ACO. Most agencies require their ACOs to wear issued armor [when] they are on duty.” The requestor also references guidance by the National Animal Control Association (NACA) that “support[s] the issuance and use of bullet proof vests by ACOs.” The NACA provides “resources, standardized training, and support for animal care and control professionals across the United States” and is “a leader in providing guidance for its members . . . of animal shelters and animal care and control staff . . .”<sup>3</sup> That organization’s current guidelines states, “Animal care and control personnel should be offered ballistic protective vests (commonly referred to as ‘bullet proof vests’) as part of their standard equipment.” The organization offers the following basis for such guideline:

Animal care and control personnel encounter individuals with the same or greater frequency than regular law enforcement officers. Some of these individuals engage in criminal activity, are armed and can present an immediate threat to officer safety.

The basis of the policy recognizes that many animal care and control personnel now deal with the same violent felons and armed criminals as other law enforcement officers. The number of assaults on animal care and control personnel has increased and officers have been shot and killed in the course of their duties.

Finally, the requestor also provided reference to an unofficial list of animal control officer and animal control response-related deaths, as far back as the late 1800s, that has been compiled by Jeff Christner, who serves as Captain for animal rescue and control for a Human Society and SPCA located in California. Regarding the shooting deaths of animal control officers specifically, the list acknowledges that, in 2016, an animal control officer was shot and killed in front of his house in Newark, New Jersey, and in 2012, an animal control officer was shot and killed after going to a house to remove animals following an eviction, in California.<sup>4</sup> In providing this information, the requestor stated that “While not all [incidents on this list] are due to assault or gunfire a rising trend from 1960 on of death/assault on ACOs is evident.”

### Findings of fact and analysis

A “profession” refers to any occupation or line of work referenced or included within a category identified in the Standard Occupational Classification Manual published by the federal Office of Management and Budget (SOC Manual), or as otherwise described in a federal, state, or

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<sup>3</sup> National Animal Care & Control Association, About, available at <https://www.nacanet.org/about/>.

<sup>4</sup> Animal Control Officer Line of Duty Deaths, available at <http://www.acolodd.com/>.

local statute or regulation.<sup>5</sup> The profession of animal control officer is defined in the 2018 federal Office of Management and Budget Standard Occupational Classification Manual, under code 33-9011 titled “Animal Control Workers,” where duties are described as “[h]andl[ing] animals for the purpose of investigations of mistreatment, or control of abandoned, dangerous, or unattended animals.” Agriculture and Markets Law defines a dog control officer as

[A]ny individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.<sup>6</sup>

Further, Agriculture and Markets Law states that:

Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this article. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this article may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any proceeding, whether criminal or civil in nature undertaken in accord with the provisions of this article or any local law or ordinance promulgated pursuant thereto.<sup>7</sup>

A municipality may appoint a peace officer or police officer, or contract with an incorporated humane society, to fulfill its obligation in appointing a dog control officer.<sup>8</sup> Police officers are already deemed by operation of law to be an eligible profession, as are peace officers, which include “[o]fficers or agents of a duly incorporated society for the prevention of cruelty to animals.”<sup>9</sup> Further, Agriculture and Markets Law confers to peace officers, police officers, and officers of incorporated humane societies the authority to issue an appearance ticket, to summon, or to arrest a person for violations of Agriculture and Markets Law Article 26, which identifies several provisions addressing harm and cruelty toward animals.<sup>10</sup> This provision further states that “[a]ny officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence.”<sup>11</sup> For example, the Village of Menands—the local government in which the applicant is situated—has a local dog control law that permits appointment of or contracting for one or more dog control officers who, according to that local

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<sup>5</sup> 19 NYCRR 905.1(f).

<sup>6</sup> Agriculture and Markets Law § 108(6).

<sup>7</sup> Agriculture and Markets Law § 113(3).

<sup>8</sup> Agriculture and Markets Law § 113.

<sup>9</sup> Criminal Procedure Law § 2.10(7).

<sup>10</sup> Agriculture and Markets Law § 371.

<sup>11</sup> Agriculture and Markets Law § 371.

law, have the powers of a peace officer in enforcing the provisions of the Village’s dog control law.<sup>12</sup> Other local governments in the State of New York have similar laws or ordinances.

Importantly, a dog control officer who is not a peace officer, police officer, or an officer of an incorporated humane society does not have the power to arrest or make other forceful interventions involving animal cruelty under Agriculture and Markets Law Article 26.<sup>13</sup> The primary duties and powers of a dog control officer who is not a peace officer, police officer, or officer of an incorporated humane society are limited to: issuing appearance tickets; serving a summons and serving and executing an order pursuant to Article 7 of the Agriculture and Markets Law relating to licensing, identification, and control of dogs; maintaining records of a seized dog;<sup>14</sup> and seizure of a dog.<sup>15</sup>

For purposes of this determination, the profession of “animal control officer” is any animal control officer, dog control officer, or dog warden authorized or designated by local law or ordinance, or pursuant to section 113 of the Agriculture and Markets Law.

An article published by the Humane Society of the United States discusses at length the significant dangers that animal control officers can face while on duty and discusses several instances of an animal control officer being shot while on duty. The article states that “[u]nlike information on the deaths of police officers or firefighters, the records for animal control casualties have not been tracked or consolidated in any one location.” The article further states that animal control officers “have been beaten or shot by animal owners, accidentally shot with their own weapons, and by other officers on a call.” The article recalls: one shooting death of an animal control officer in an animal shelter in Texas in 2007; a serious hand injury as the result of a gunshot while an animal control officer was in his car, while investigating illegally kept dogs and seizing another dog, in Baltimore in 2009; and one animal control officer recalling having been shot at twice over sixteen years of service.<sup>16</sup>

Animal control officers can encounter high risk situations similar to police and peace officers. Locating an animal at large can involve entering private property, issuing tickets or taking possession of a dangerous animal can involve emotional altercations with the animal’s owner, and retrieving an animal from an abusive situation can also require entry onto private property or a residence and involve confrontation with an animal’s owner. As such, the profession of animal control officer sometimes requires individuals engaged or employed in that profession to put themselves in dangerous situations that may expose them to serious physical injury, and that such serious physical injury may be prevented or mitigated by the wearing of body armor.

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<sup>12</sup> Code of the Village of Menands § 77-4; see Agriculture and Markets Law § 113(2).

<sup>13</sup> See *e.g.*, Agriculture and Markets Law § 353-d, 371,

<sup>14</sup> Agriculture and Markets Law § 113(3).

<sup>15</sup> Agriculture and Markets Law § 117.

<sup>16</sup> The Human Society of the United States, Mark Kumpf, Lives on the Line (), available at <https://humanepro.org/magazine/articles/lives-line>.

## Determination

The information set forth above supports a determination by the Department that the duties of the profession of animal control officer sometimes requires individuals engaged or employed in that profession to put themselves in dangerous situations that may expose them to serious physical injury, and that such serious physical injury may be prevented or mitigated by the wearing of body armor.

Based on the foregoing facts and the requirements of Executive Law §144-a and 19 NYCRR Part 905, the Department has designated the profession of animal control officer as an eligible profession and adds such profession to the Department's list of eligible professions.