

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0088-21

**DATE:** June 2, 2021

**TITLE OF RESOLUTION:** 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

**PURPOSE:** The purpose of this emergency legislation is for the Navajo Nation to approve amendments to Title 17 of the Navajo Nation Code (the Criminal section of the Code), which would make it a criminal nuisance for a person to allow a dog to run at large if that dog injures or kills someone, and would give Animal Control Officers the authority to destroy dogs that are running at large and are deemed a danger to the public. The amendments would enact penalties of a minimum of 30 days in jail and a \$1000 fine for each offense, and would require the offender to pay \$3000 for the victim's funeral expenses.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>rd</sup> NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0088-21

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

BE IT ENACTED:

**SECTION 1. 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.

1 D. This tragedy demonstrates the current danger to Navajo Nation residents and visitors  
2 alike, presented by dog packs that are running at large on the Navajo Nation. All people  
3 on the Navajo Nation are entitled to government services that protect the public's  
4 health, safety, and welfare, and the lack of such services is a direct threat to the  
5 sovereignty of the Navajo Nation.

6  
7 **SECTION 2. FINDINGS.**

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

13 B. In April 2021, Navajo Nation Animal Control manager Kevin Gleason reported to the  
14 Associated Press that the reservation dog population is back up to about 250,000 dogs.

15 C. According to the website for the Navajo Nation's Animal Control Program: "[t]he  
16 Navajo Nation currently lacks an effective Animal Control Program and adequate  
17 Animal Shelters. Because of this, we are unable to provide services in a variety of areas  
18 such as: aggressive enforcement of laws, vaccinations, livestock damage investigations,  
19 animal-bite investigations, quarantines, adoptions, pick-up of stray/unwanted animals,  
20 dead animal disposal, and assisting with spay/neuter clinics. As a result, over 3,000  
21 individuals are treated each year at hospitals and clinics for animal attacks and bites.  
22 The majority of victims are children and elderly. Some of these victims are transported  
23 to other hospitals for special treatment." **Exhibit A.**

24 D. The website continues: "[c]urrently there are only five Animal Control Officers  
25 employed to address animal control issues for the entire Navajo Nation. These Officers  
26 can only provide services that have been determined as priority, such as bite cases and  
27 livestock damage. Officers are stationed in each of the five agencies (Ft. Defiance,  
28 Chinle, Shiprock, Tuba City and Crownpoint). Without an adequate Animal Control  
29 Program, we place the public's health and safety at risk." **Exhibit A.**

30 E. According to the Navajo Times (May 18, 2021 issue), if the most recent death is

1 confirmed to be the result of a dog attack, the victim will be the fifth person killed by  
2 dogs on the Navajo Nation since 2010. The victims include a 56-year-old man near  
3 Gallup, New Mexico in 2010, an 8-year-old boy in Pine Hill, New Mexico in 2012, a 3-  
4 year-old boy in Seba Dalkai, Arizona in 2016, and a Kayenta woman last fall.

5 F. The most recent comprehensive study on this problem was addressed in a White Paper  
6 Analysis done in January of 2017 by the Navajo Nation Animal Control Program. In  
7 this paper, the Program stated: “[o]ver the last five years there has been increase in the  
8 severity of dog bite cases. The Animal Control Officers agree that the dogs are  
9 becoming more vicious and aggressive.” **Exhibit B.** This White Paper was attached as  
10 an Exhibit to Resolution No. CJY-64-18, adopted in the Summer of 2018, that amended  
11 Title 3 and Title 13 of the Navajo Nation Code to address the roaming dog problem on  
12 the Navajo Nation. However, CJY-64-18 did not amend the Navajo Nation’s criminal  
13 code to address the problem.

14 G. Tragic deaths from dog attacks are avoidable, if the Navajo Nation implements severe  
15 penalties that would discourage the keeping and breeding of vicious dogs. Severe  
16 penalties would also deter offenders from allowing their potentially dangerous dogs to  
17 run at large. Animal Control Officers should be given the authority to shoot on site  
18 vicious and dangerous dogs that are running at large.

19 H. Currently, Navajo Nation law does not provide any criminal penalties that would deter  
20 offenders from keeping vicious dogs that attack persons. Neither does the Navajo  
21 Nation make it a crime to allow vicious dogs to run at large with resulting injuries or  
22 deaths to persons. Therefore, an amendment to the Navajo Nation Criminal Code is  
23 urgently needed to protect the public and ensure that no one is ever mauled to death by  
24 dogs running at large on the Navajo Nation.

25  
26 **SECTION 3. AMENDING TITLE 17 OF THE NAVAJO NATION CODE.**

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

28  
29 TITLE 17 NAVAJO CODE § 486  
30 **§ 486. Criminal nuisance; Vicious dogs**

1 \* \* \* \*

2 A. Offense. A person commits criminal nuisance if:

3 1. By conduct either unlawful in itself or unreasonable under all the circumstances, he or  
4 she knowingly or recklessly creates or maintains a condition which endangers the  
5 safety or health of others; or

6 2. He or she knowingly conducts or maintains any premises, place or resort where  
7 persons gather for purposes of engaging in unlawful conduct; or

8 3. He or she knowingly or recklessly allows a dog to run at large, and while running at  
9 large such dog physically inflicts bodily injury or death upon any person.

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

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

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

17 (d) At the discretion of the Prosecutor, the offense of criminal nuisance may be  
18 charged in lieu of, or in addition to, the civil offenses provided for in 13 N.N.C.  
19 §§1702-1715.

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

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

29 B. Sentence.

30 1. The trial court shall review all charges to ascertain whether there is a personal victim

1 of the offense(s) and whether restitution or nályééh shall be paid to the victim(s).

2 2. The trial court may utilize the services of the Navajo Peacemaker Court to determine  
3 nályééh and make a sentencing recommendation regarding that sentence, and the trial  
4 court may require the defendant to pay the fee of the peacemaker.

5 3. The trial court may consider the imposition of a peace or security bond upon the  
6 defendant, including the pledges of family or clan sureties.

7 4. Upon the imposition of a bond or security pledges, the district Office of Probation and  
8 Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

9 5. The trial court shall consider the utility of labor or community service sentences,  
10 under the supervision of the Navajo Nation Department of Public Safety or a public  
11 or private organization, including the chapter in which the defendant resides.

12 6. Any person found guilty of criminal nuisance pursuant to § 486(A)(3) shall be  
13 sentenced, for each offense, to imprisonment for a term of incarceration not less than  
14 30 days and not more than 365 days, or shall be ordered to pay a fine not less than  
15 one-thousand-dollars (\$1000) and not more than five-thousand-dollars (\$5,000), or  
16 both. The minimum sentencing provisions herein shall be imposed notwithstanding §  
17 486(B)(1-5), and notwithstanding any civil fines provided for in 13 N.N.C. §§1702-  
18 1715. For multiple separate offenses, the trial court shall impose the imprisonment  
19 terms consecutively and the fines cumulatively. If the criminal nuisance has resulted  
20 in death, the dog's owner or the dog owner's designee shall pay \$3000 for the  
21 victim's funeral expenses. The \$3000 payment will not shield any offender found  
22 guilty under this Section to damages in a civil complaint.

23 \* \* \* \*

24  
25 **SECTION 4. CODIFICATION**

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

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**SECTION 5. 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 6. EFFECTIVE DATE**

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

## 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

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## Navajo Nation Animal Control Program

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Glenda Davis, Program Manager

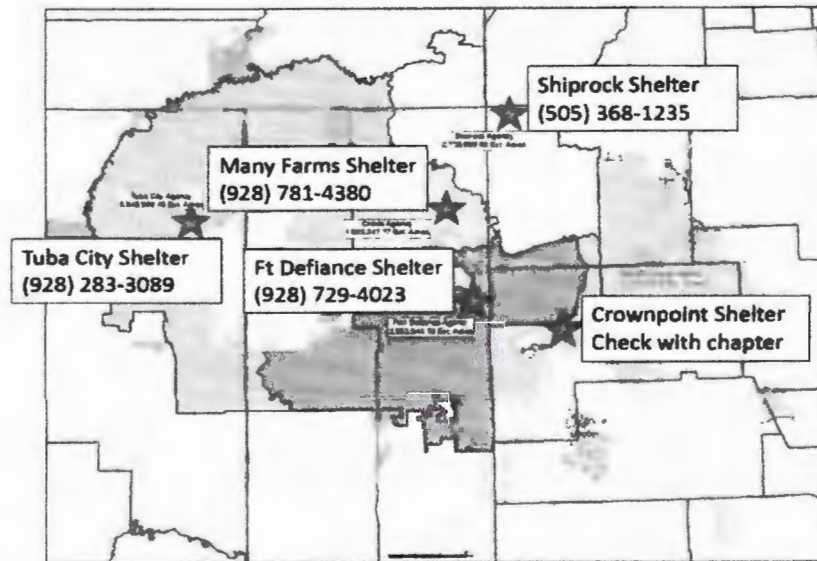
January 17, 2017



## Navajo Nation Animal Control Program

PO Box 1480  
Window Rock, AZ 86515

[www.nndfw.org](http://www.nndfw.org)  
Animal Control Program

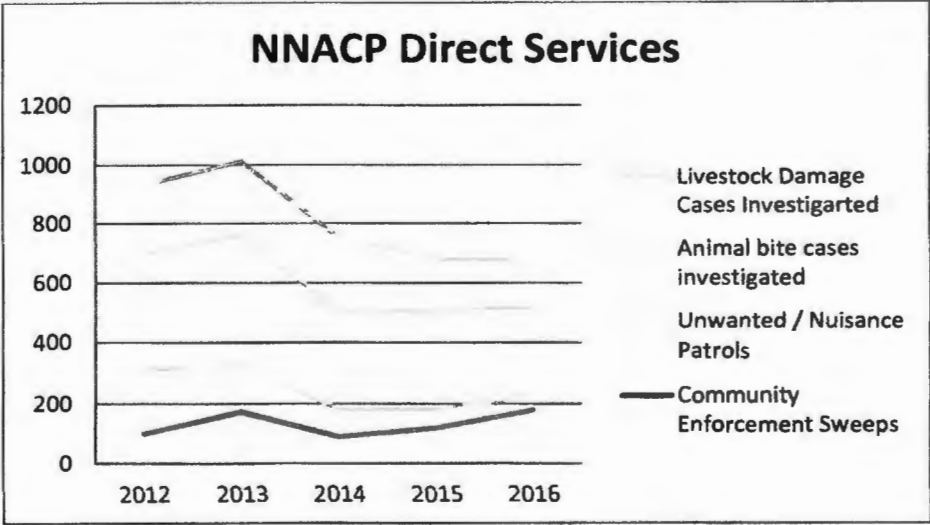


### Introduction

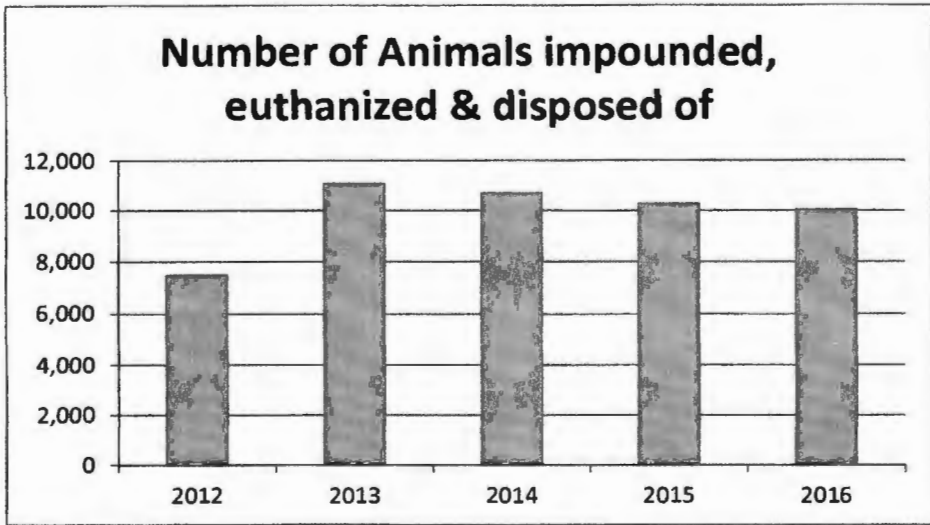
The purpose of the Animal Control Program is to enforce the animal control laws established by the Navajo Nation Council, to protect the health, safety and property of people and animals, address responsible pet ownership, over population, disease and neglect of animals through education, and in the 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.

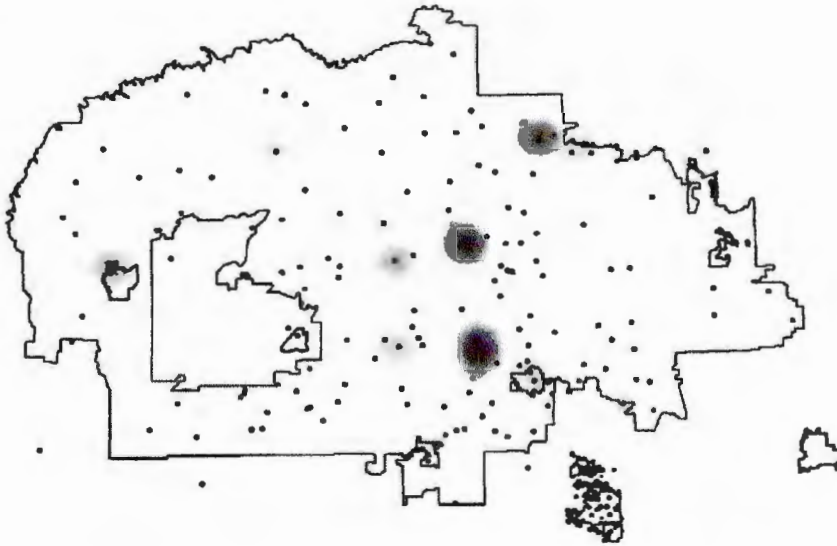


A Navajo Nation wide effort for Rocky Mountain Spotted Fever Prevention and the coordination of Navajo Nation Programs demonstrated an increase in direct services across all direct service avenues in 2013. The additional funding in 2013, made a remarkable difference in direct services and cases investigated. 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.

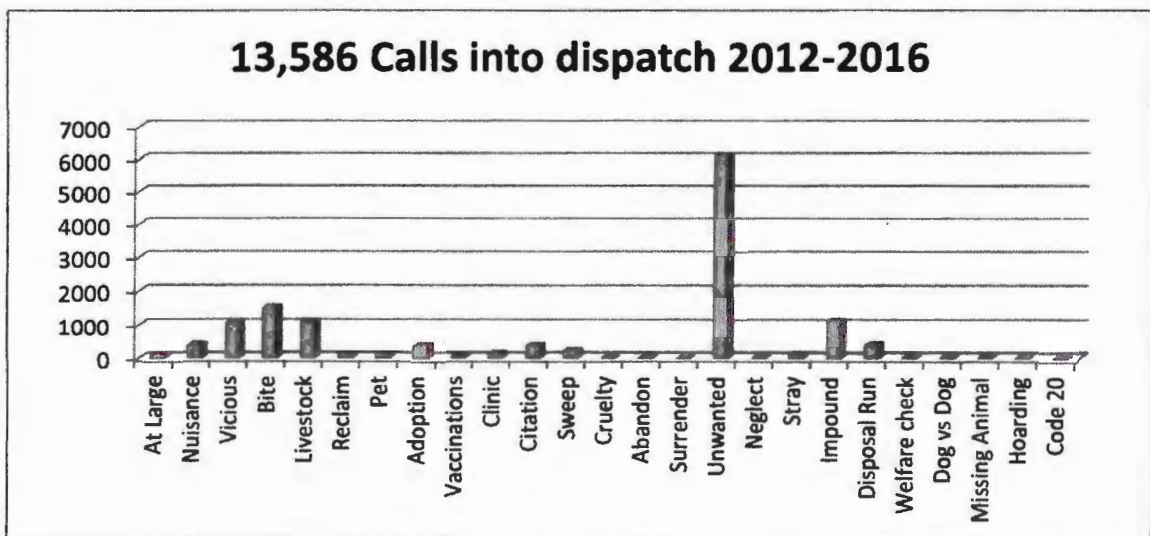


Given that on an annual basis, over 10,000 animals are impounded, euthanized and disposed of brings to question if we truly have any control of our animal population.

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



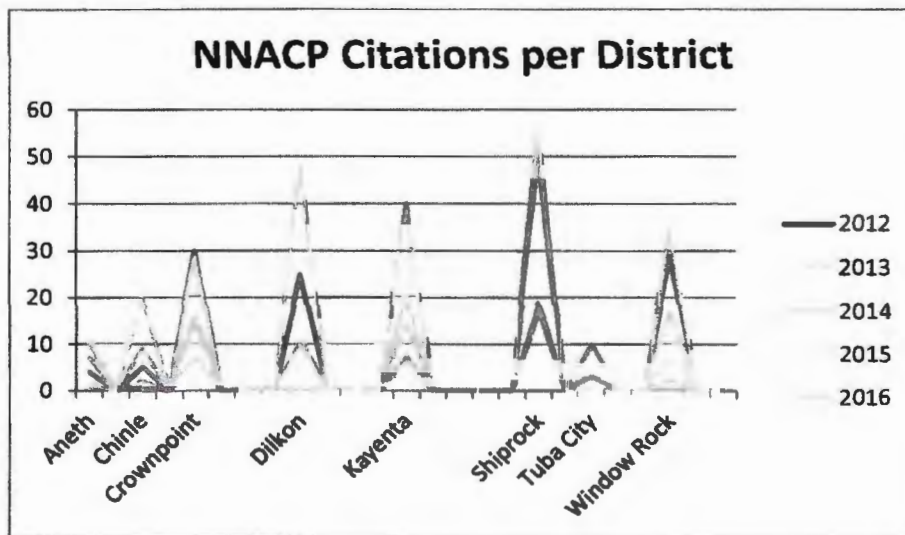
\*Breakdown of calls – TOP FIVE: 6,078 Unwanted animals, 1,529 Bite cases, 1,135 Impounded animals, 1,118 Livestock Damage and 1,087 Vicious dogs.

## 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.

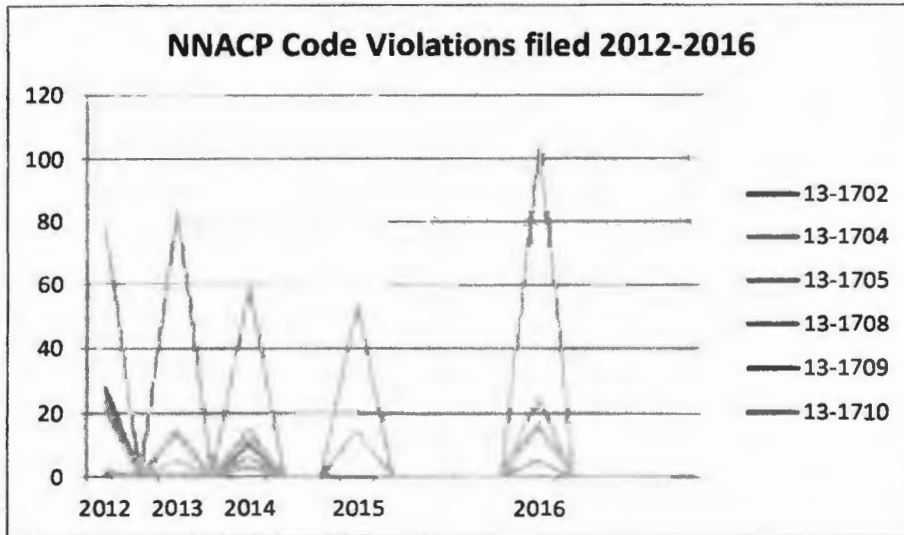
An official review of our citations was requested and compiled by Melanie A. Price. The report was received January 19, 2017. The following information is a summary of the data.

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.



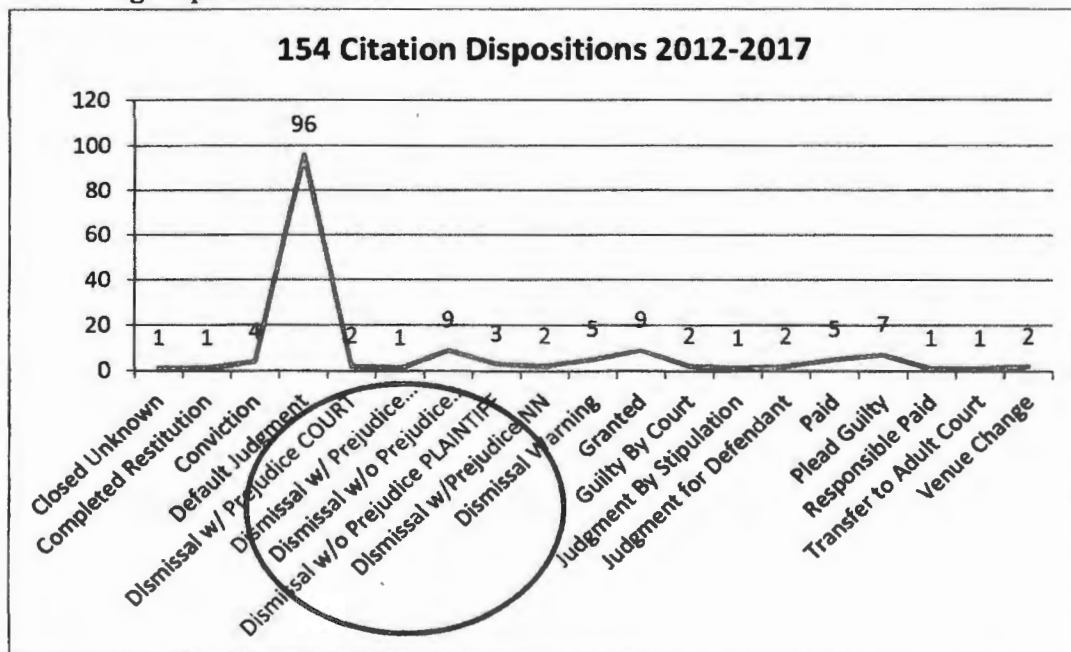
\*Window Rock (District 1) – 90 cases filed, Shiprock (District 2) - 162 cases filed, Crownpoint (District 3) - 96 cases filed, Tuba City (District 4) - 13 cases filed, Chinle (District 5) - 37 cases filed, Kayenta (District 6) - 87 cases filed, Dilkon (District 7) - 94 cases filed, and Aneth (District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

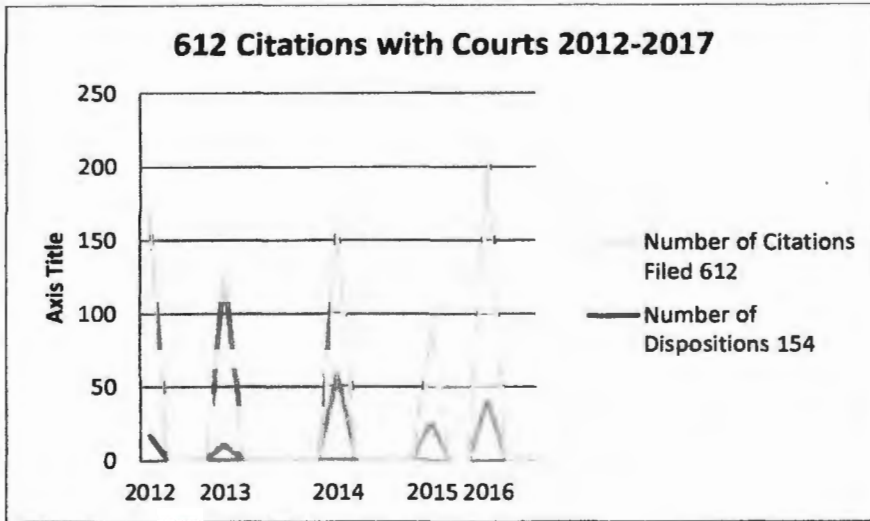


\*13-1702 Animal Licenses - 68 citations (11% of 612 citations), 13-1704 Rabies Control - 68 citations (11% of 612 citations), 13-1705 Animal Bites Cases - 5 citations (1% of 612 citations), 13-1708 Nuisance Animals - 13 citations (2% of 612 citations), 13-1709 Restraint of Animals - 378 citations (62%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

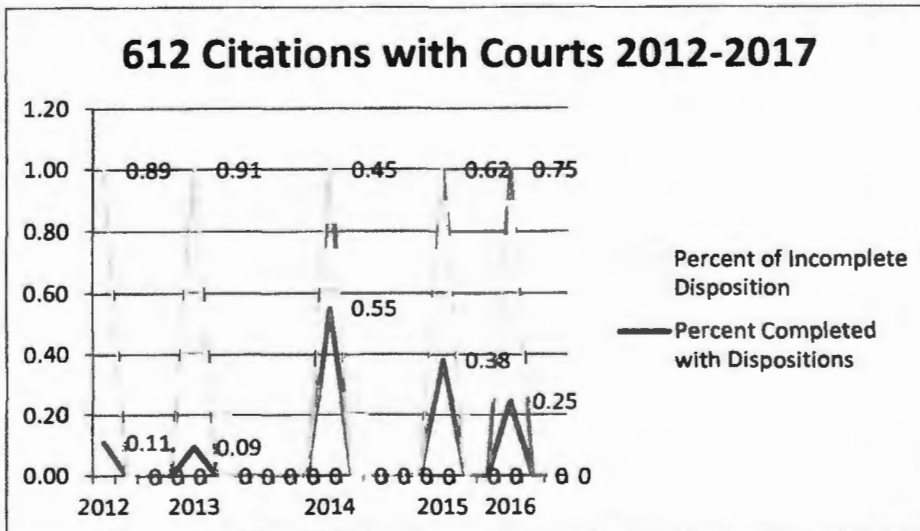
The report was analyzed and reported that only 154 citations received dispositions of the 612 citations filed with the courts. Surprisingly 96 of the 154 cases had default judgements with 22 varied dismissal judgements, following by the remaining disposition results.



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.

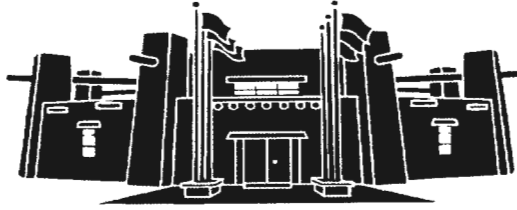
Over the three year period, the Animal Control Program reports that 1,024 citations were filed by the officers where only 340 citations were received by the courts.

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.

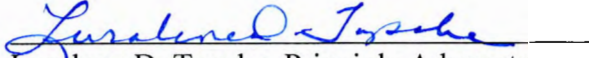
The humane education effort of the Animal Control Program requires cooperation and acknowledgement that **our animal issues are really - People Issues.**

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



**MEMORANDUM**

**TO :** Honorable Eugene Tso, Delegate  
24<sup>th</sup> Navajo Nation Council

**FROM :**   
Loralene D. Tapahe, Principle Advocate  
Office of Legislative Counsel

**DATE :** June 2, 2021

**SUBJECT :** 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

I have prepared the above referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, however, you are encouraged to have the Department of Justice review it. As with any legislation, it can be subject to review by the courts in the event of a proper challenge. Also, please understand that the Speaker is authorized to refer this proposed resolution to committees other than the Council.

You are advised and encouraged to review the proposed resolution to ensure it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as “sponsor” and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahe’he’.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_008-21\_

SPONSOR: Eugene Tso

**TITLE: 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**

***Date posted:*** June 3, 2021 at 10:26 PM

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

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