

*Good Afternoon...*



# Working together to prevent Animal Cruelty Seminar



13 - 04 - 2016

**POLÍCIA**  
SEGURANÇA PÚBLICA

Pedro Leal, Inspector

### Summary:

1. LEGISLATIVE CHRONOLOGY;
2. CONCEPT OF “COMPANION PETS”;
3. PENAL CODE;
4. STATISTICS.



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“First it was necessary to civilize man in relation to man. Now it is necessary to civilize man in relation to nature and animals ”

Victor Marie Hugo



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Decree nº 13/93, 13ABR - Ratified the European Convention for the Protection Companion Pets of November 13, 1987.

Law n.º 92/95, 12SET – Prohibits behavior and imposes rules on trade and animal shows , defines the role of local authorities and zoophiles associations ( refers to special law sanctioning ).

Law n.º 19/2002, 31JUL: Amends Law n.º 92/95, 12SET, punishing as administrative offense bullfighting shows that inflict death to cattle.

Petition n.º 173/XII, 4OUT from Animal Association, probably was the burst for criminalization of mistreatment of pets , which was followed by :

- Law Bill n.º 474/XII from Socialist Party, which seeks the approval of the penalties applicable to mistreatment of animals and extension of the rights of zoophile's associations.
- Law Bill n.º 475/XII from Socialist Party, with purpose amend the Criminal Code , criminalizing the mistreatment of companion pets.

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Law n.º 69/2014, 29AGO – 33th amendment to the Penal Code, introduces the new Title VI, "Crimes Against Companion Pets", composed of three articles and amending Law n.º. 92/95 of 12 September on animal protection, previously amended by Law n.º. 19/2002 of 31JUL.

Law n.º 110/2015 of 26 / Aug - 34th amendment to the Penal Code criminalizes sanctions relating to mistreatment authors to companion pets.

The Portuguese legislative process culminating in Law n.º. 69/2014 , 29AGO , began with Law n.º 92/95 , 12SET .

1995 - 2014

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WHAT IS THE CONCEPT OF "COMPANION PETS " ?

1st All animals to be held by humans for their entertainment and company, whatever its specific destination?

2nd ... or only those assigned with that specific purpose?

Law-Decree 276/2001, 17OUT REFERRED A COMPANION PET DIVERSITY;

“Even the wild animals that are not under international conventions or national legislation which gives them specific protection can be contemplated”.

It excludes from its scope, by the same guideline, only "species of native and exotic wildlife and their offspring bred in captivity, subject to specific regulations, and fighting bulls.“

(Paragraph 2, 1st article same Law-decree)



In the 2nd issue only exist punishment when a dog, for instance, was already held by someone for entertainment and company or while still in possession of the maker or seller.

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IF ANY DOUBTS PERSIST ... ?!

## Chapter III

Standards for breeding housing, procreation, maintenance and sale of pet animals

26<sup>th</sup> article - Small Rodents and rabbits;

27<sup>th</sup> article – Dogs and cats;

28<sup>th</sup> article – Birds;

29<sup>th</sup> article – Reptiles;

30<sup>th</sup> article – Amphibian

31<sup>th</sup> article - Phishes

Annexes I and II LD 276/2001, 17OUT



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Penal Code

Title VI

"Crimes Against Companion Pets"

389<sup>th</sup> article

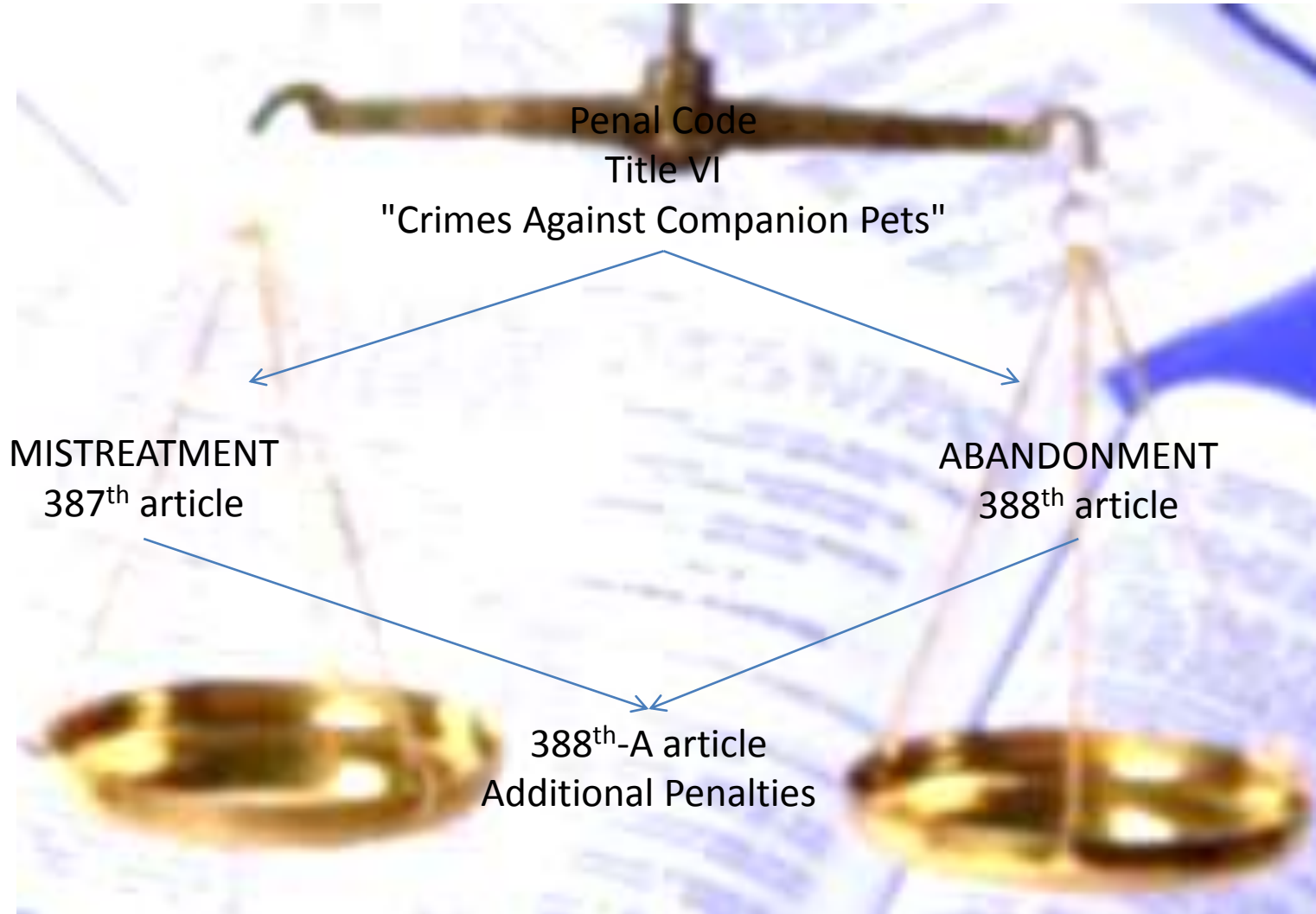
“Concept for companion pet:

Paragraph 1 - For the purposes of this title , it is understood by pet any animal owned or intended to be held by human beings, including in your home , for your entertainment and company.

Paragraph 2 - The preceding paragraph shall not apply to facts related to the use of animals for farming , livestock and agro-industrial , and does not apply to facts relating to the use of animals for trade show purposes or other legally intended purpose.”.



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### MISTREATMENT 387<sup>th</sup> article

Paragraph 1 of 387<sup>th</sup> article of the Penal Code establishes the crime base type of mistreatment companion pets:

"Who, without legitimate cause, inflicts pain, suffering or any other physical abuse to a companion pet is punishable with imprisonment up to one year or a fine of up to 120 days."

- Consists in a crime which is accomplished with the actual occurrence of pain or suffering of the animal, or any other physical abuse;
- The crime agent can be anyone, including the owner;
- A single act of the agent fills in the type of crime.



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### MISTREATMENT

#### 387<sup>th</sup> article

Paragraph 2 of 387<sup>th</sup> article of the Penal Code Says that:

"If from facts provided in the preceding paragraph results in death of the animal, the deprivation of important organ or limb or serious and permanent allocation of their walking ability, the offender shall be punished with imprisonment up to two years or a fine of up to 240 days "

This is a non-intentional type, the crime committed by bad faith- mistreatment – produces, negligently, outcome not intended by the agent :

- death of a pet;
- deprivation of important organ or limb;
- or serious and permanent allocation of their walking ability.

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### ABANDONMENT

#### 388<sup>th</sup> article

According to 388<sup>th</sup> article of the Penal Code:

"Who has the duty to guard , watch or assist a pet , leaving him , thereby putting in danger their food and care that are due, shall be punished with imprisonment up to six months or with a fine up to 60 days."

➤ The sphere for punishment is up to the animal holding level.

It means that the type of crime is not just with the mere abandonment of the pet, it is necessary from the abandonment of the pet its in danger their food and care that are due.

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### 388<sup>th</sup>-A article Additional Penalties

#### Paragraph 1 -

Depending on the seriousness of the infringement and the agent's fault , they can be applied together with the penalties for the crimes referred to in Articles 387 and 388 , the following additional penalties:

- a) Deprivation of the right of pets detention for a maximum of five years ;
- b) Deprivation of the right to participate in fairs , markets, shows or contests related to pets;
- c) Closing of the establishment related to pets whose operation is subject to authorization or administrative license
- d) Suspension of administrative permissions , including permits, licenses related to pets .

Paragraph 2 - The accessory penalties referred to in subparagraphs b), c) and d) above have a maximum duration of three years, counted from the decision

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### Penal Code

Crimes against pets are public nature, prosecution may be initiated by official report prepared by a judicial authority, criminal police or other law enforcement Agency's (Article 243 Procedure Penal Code - PPC ), or by complaint made by anyone who has crime news (article 244 PPC).

But in the case of accessory penalties the application it is for the judicial authorities, which doesn't help in the withdrawal of the animal preventively.

Note however that 178<sup>th</sup> article, paragraph 1 of the PPC says: "Objects are seized when have served or were intended to serve the practice of a crime, that constitute their product, profit, price or reward, and as well as all objects that have been left by the agent at the crime scene or any others likely to serve as proof".

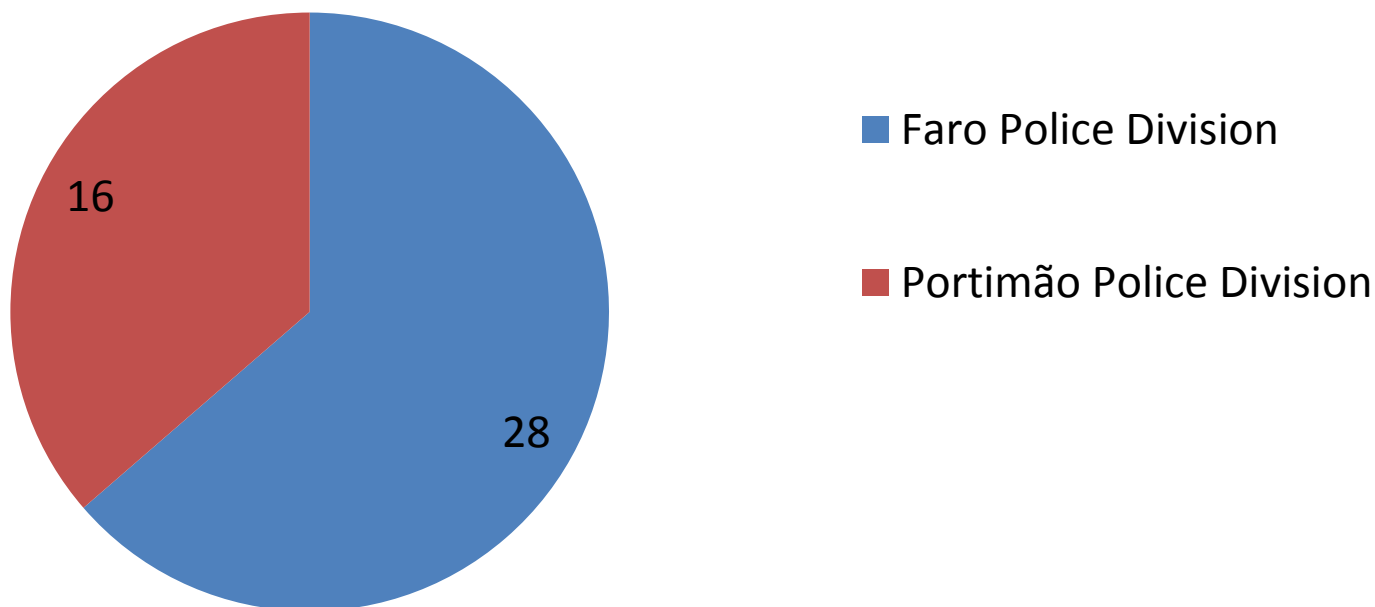
The conception (yet) of a pet as "thing" can allow the seizure of the animal involved in the crime, appearing this way, although not as preventive measure, an animal removal mechanism relatively to the offender.



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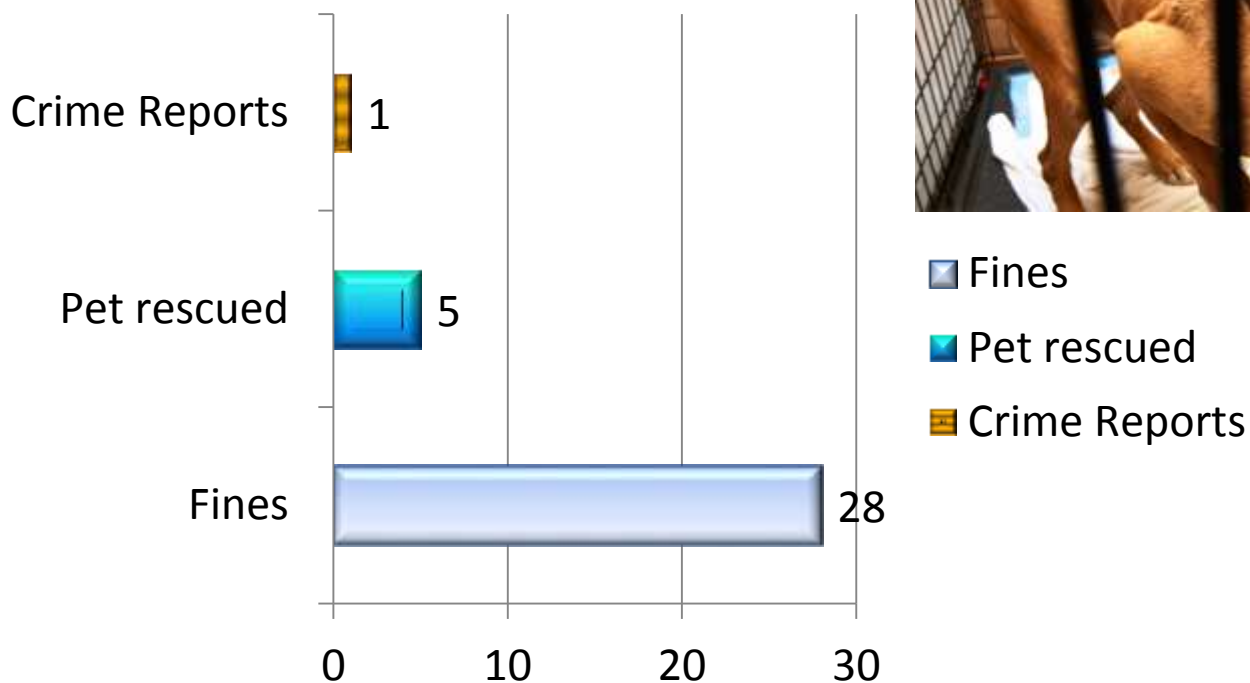
### PSP Algarve Animals Inspections

From 01JAN15 to 31MAR16



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**Faro Police Division**  
From 01JAN15 to 31MAR16



- ▣ Fines
- ▣ Pet rescued
- ▣ Crime Reports



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## Portimão Police Division

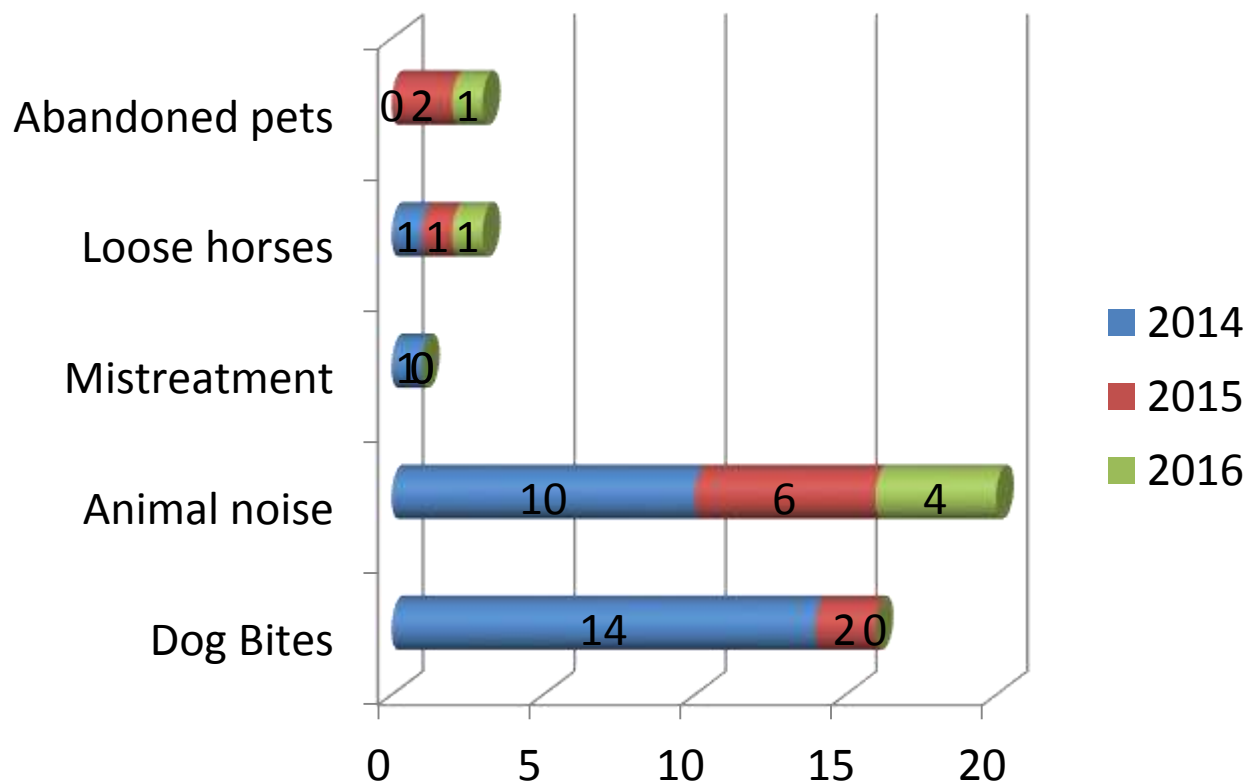
Major animal - related problems

- Pets at home
- Pets in gipsy camps
- Loose Horses



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## Portimão Police Division Police Reports (From 2014 to March 2016)

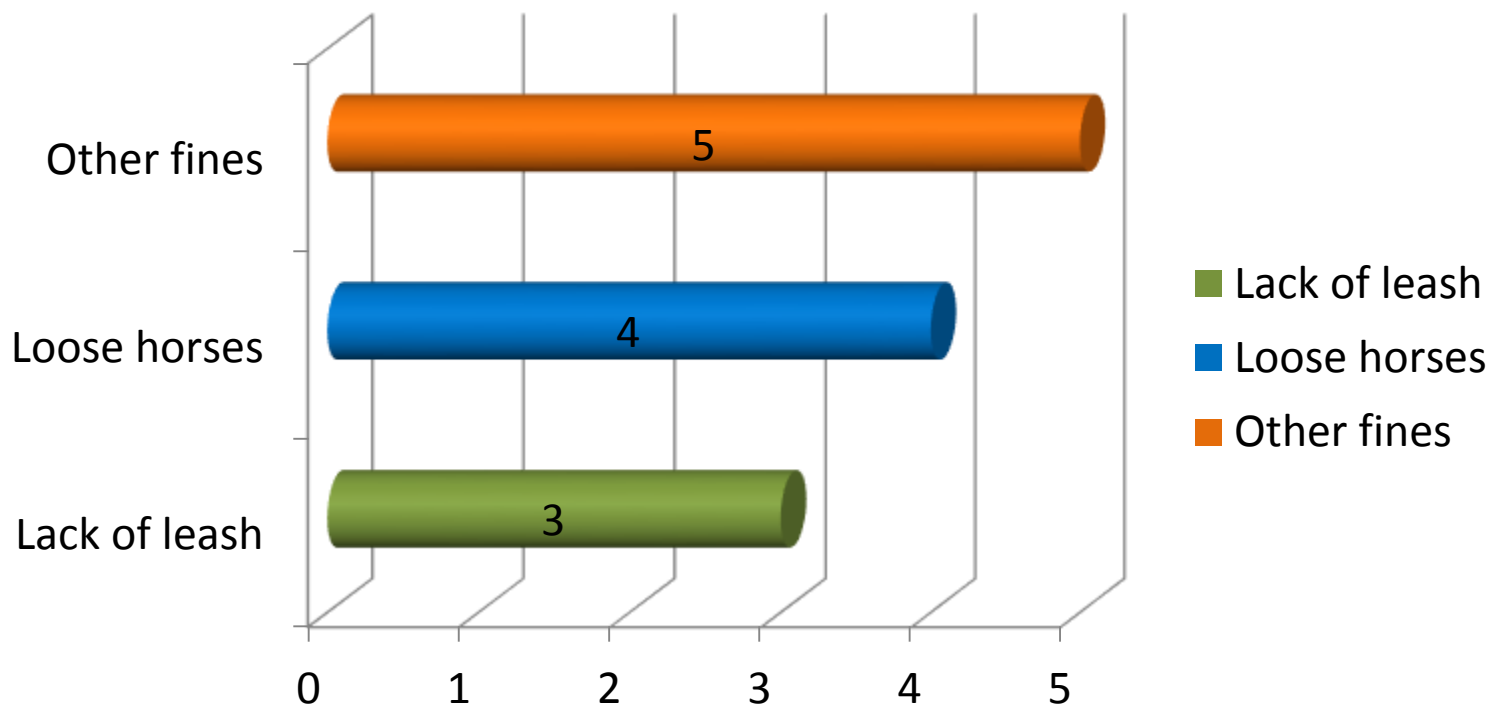


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## Portimão Police Division

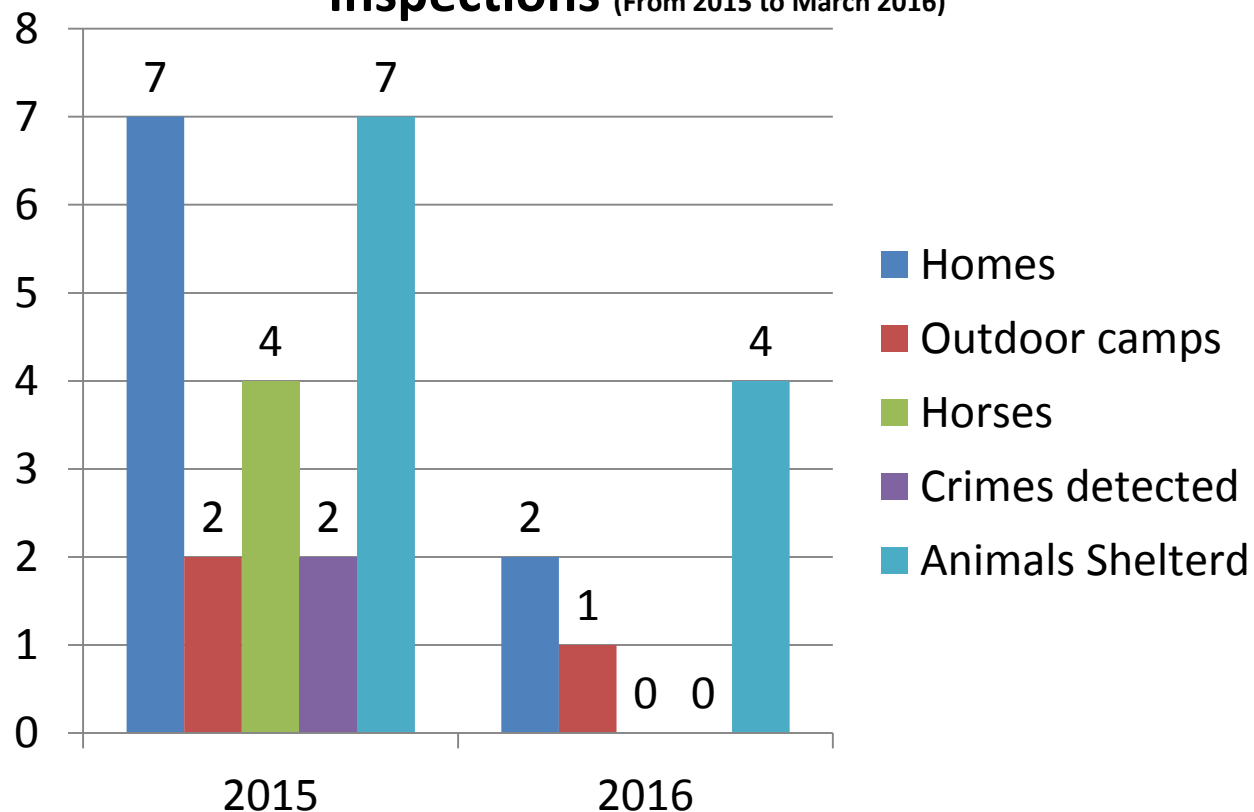
Fines (From 2014 to March 2016)

Last 3 years



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## Portimão Police Division Inspections (From 2015 to March 2016)



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13-04-16

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ANIMALS SNIFF PEOPLE MILES AWAY!!



THANK YOU FOR YOUR ATTENTION.



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