

May 17, 2005

The Honorable Rick Santorum, Chairman
Senate Subcommittee on Research, Nutrition and General Legislation
328A Russell Senate Office Bldg.
Washington, DC 20510

Dear Senator Santorum:

We are writing to you with great respect to ask that the subcommittee hold hearings on the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service's (APHIS) failure to adequately oversee research facilities.

Our organization is fortunate to have more than 800,000 members and supporters who seek to end the suffering of animals where possible and to lessen it where it is clear that it cannot be stopped immediately. One example of the latter is the use of animals in laboratories. We know that animal research will continue for the time being despite the clumsy, misleading, and often erroneous data generated by the practice. Until the time when animals are not used to test drugs or medical devices, the least we can do for them is ensure that the USDA is adequately enforcing the federal Animal Welfare Act (AWA).

There are 101 USDA inspectors for a total of 9,600 licensees that represent 12,965 sites. It is little wonder that the agency is not effective. But there is more to this problem than just a dearth of inspectors. Over the years, the USDA has become far too willing to help research facilities and other licensees exempt themselves from public scrutiny. This overprotective attitude of regulators toward the regulated has resulted in everything from advance notice of inspections to inappropriate policies that harm animals.

The USDA Coddles Academic Facilities

For egregious violations of the AWA, the USDA has handed out paltry fines, a very recent example (May 2004) being the absurd \$2,000 charge to Columbia University based on our and a Columbia veterinarian's September 23, 2003, complaint documenting how Columbia killed an entire litter of puppies using outdated euthanasia solution injected into their hearts without sedation, a method condemned by the American Veterinary Medical Association because it is so painful. The \$2,000 fine also covered Columbia's Institutional Animal Care and Use Committee's failure to appropriately review animal-experimental protocols. The fine was paid by Columbia to avoid an Administrative Court hearing.



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ORGANIZATION DEDICATED
TO PROTECTING
THE RIGHTS OF ALL ANIMALS

Prior to our September 2003 complaint, Columbia had allowed baboons, dogs, and other nonhuman primates to die slowly in their cages without veterinary care. The left eyes of the baboons were cut out in a federally funded stroke experiment, yet the animals received no post-surgical pain relief or veterinary care. The suffering of these animals is recounted in the enclosed letters that we sent to the NIH in January 2003 and to the USDA in September 2003, as well as November 2004, when we asked the USDA to reopen its investigation into Columbia and reconsider its inaction.

In October 2002, before PETA involved itself in the Columbia case, complaints about animal care were brought to both Columbia's and the USDA's attention by a post-doctoral veterinarian who blew the whistle on inept veterinarians and indifferent employees and principal investigators. The whistleblower veterinarian, Dr. Catherine Dell'Orto, contacted PETA in December 2002 when her complaints were ignored. The USDA failed to interview Dr. Dell'Orto until PETA complained. This inexcusable conduct on the agency's part comes from the Eastern Regional Office. We have recently been made aware that the USDA's Office of Inspector General is preparing a report on the disparity between the Western and Eastern Regional Offices' enforcement of the AWA, the impetus being that the Eastern office appears to be soft on licensees.

An internal investigation of Columbia, prompted by the veterinarian's complaint, revealed monumental disregard for animal health and well-being. The USDA argued that it should not cite and fine the university for the numerous serious violations of the AWA found during the investigation because the university had investigated and policed itself. This is a tremendous and undeserved favor bestowed upon Columbia University, which, in January 1986, was stripped of its ability to conduct animal research by the NIH because the animal care violations found during an inspection were so serious. The violations found at Columbia in 2003 were no less grave. After our investigation into Huntingdon Life Sciences in 1995-1996 revealed numerous violations of the AWA, the USDA levied only a \$50,000 fine against the contract laboratory. In many ways, the violations of law at Columbia were worse than those we found at Huntingdon.

The USDA recently refused our request to reexamine its handling of the Columbia case.

The USDA Coddles Industry and Engages in Special Treatment of Its Lobbying Associations

In a February 2002 memo from Chester Gipson, Acting Deputy Administrator of Animal Care to Bobby R. Acord, Administrator of Animal care, Dr. Gipson recounted his meeting with industry groups at which the Electronic Freedom of Information Act (E-FOIA) was discussed. The memo announced the end of the availability of research-facility inspection reports on the USDA's Web site because of "potential safety concerns to humans and property." Industry groups had shamelessly used the tragedy of September 11 to further their own interests, and they succeeded very easily in their meeting with the USDA. Other stakeholders were not given the opportunity to have any say in the issue.

Inspections of facilities are conducted once a year—or less frequently if the USDA does not cite the laboratory for violations of the AWA. Inspection reports are the only tool that the public and organizations such as PETA, the Animal Welfare Institute, and the Humane

Society of the United States (HSUS) have to determine whether a research laboratory is complying with the AWA. Obtaining inspection reports and other information through the USDA's FOIA office already takes up to two years. We routinely receive letters from the USDA's FOIA office asking if we are still interested in receiving the documents that we requested two or even three years prior. The advent of E-FOIA resolved part of the serious backlog in the USDA's FOIA office and provided the public a valuable tool. Yet in just one meeting with industry groups, it was taken away. The HSUS filed suit against the USDA, and it was recently decided that the inspection reports will go back online.

The APHIS Administrator Has a History of Preferential Treatment of Licensees

In January 1996, William Ron DeHaven, D.V.M., then-director of the Western Region of Animal Care, wrote a "To Whom It May Concern" letter on behalf of Bobby Berosini, a man caught on videotape—twice a night for seven nights in a row—punching, kicking, and beating (with a metal bar) the endangered orangutans he used in his casino act. After we exposed this cruelty, Congress joined us in asking the U.S. Fish and Wildlife Service to revoke Berosini's Captive Bred Wildlife permit. That revocation action was taken, but DeHaven, on behalf of the USDA, wrote in his January 1996 letter: "This office has no reason to believe that Mr. Berosini's nonhuman primates are receiving anything less than the excellent care observed during our last inspection of his premises and animals." Dr. DeHaven knew at the time that Berosini beat his animals and that the solid metal cages (with airholes only at the top) in which he kept the orangutans between performances did not meet even the minimum requirements for space. Ron DeHaven is now the administrator of APHIS.

The USDA Has Failed to Act on Congress' 1985 Intent to Provide Socialization and Enrichment for Primates Used in Research

In 1985, Congress approved a long-overdue amendment to the AWA, which stated that the Secretary of Agriculture "shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities and exhibitors," and directed that those standards should include "minimum requirements ... for a physical environment adequate to promote the psychological well-being of primates." (7 U.S.C. § 2143(a).)

Six years later, in 1991, APHIS promulgated the regulation found at 9 C.F.R. § 3.81, entitled "Environment enhancement to promote psychological well-being." But instead of setting standards that would hold facilities accountable for meeting minimum criteria for the socialization and enrichment of captive primates, APHIS' § 3.81 simply says that the regulated entities must show that they are achieving results that indicate that they are meeting the psychological well-being mandate. In other words, APHIS created a "performance standard" rather than an "engineering standard."

By 1996, it was apparent that APHIS inspectors could not judge whether the enrichment programs were actually being implemented at research facilities. In an internal report, APHIS admitted that its inspectors perceived the performance standards to be unenforceable. According to the report, inspectors found well-being for primates particularly bleak at research facilities.

In July 1999, APHIS published a proposed policy in the *Federal Register* that would address the problems associated with the vague performance standards. APHIS explained that the policy would clarify what the agency considered essential in order to adequately promote primate psychological well-being. The essential areas were determined to be: 1) the social needs of nonhuman primates, 2) the special needs of infants and young juveniles, 3) adequate housing that would allow primates to engage in species-specific typical movements including exploring, feeding, and play, 4) “time-consuming” food-foraging opportunities, and 5) habitat enhancement that would provide for primates’ inclinations to manipulate things with their hands.

The agency put the public through the long and arduous exercise of researching and writing public comments but, as of this date, APHIS has yet to make any decision on the policy. We believe that APHIS is delaying in order to accommodate licensees that do not wish to comply with the standards within the policy.

PETA’s Investigation Into the Vienna, Va., Covance Laboratory Reveals the Serious Consequences of the USDA’s Inaction

Just today, PETA held a news conference to bring the results of the USDA’s inaction to the public’s attention. Our 11-month investigation reveals that primates who have had no enrichment or socialization at Covance have gone insane from their isolation and boredom, resulting in rocking, circling, back-flips, and self-mutilation. Primates at Covance are rarely pair-housed, even though there is plenty of opportunity to do so—it is apparently just too much trouble for supervisors and management at Covance, and they certainly do not demand that staff commingle the animals. Having a partner to groom and hold on to when frightened is of utmost importance to primates, as experts have known for decades.

The day before an announced inspection visit from the American Association for Accreditation of Laboratory Animal Care (AAALAC), Covance bought toys for the primates and put them in the cages. Before AAALAC’s visit, the monkeys had pieces of PVC pipe for their “enrichment.” As a supervisor at Covance so aptly pointed out, AAALAC accreditation means “nothing” but Covance “wouldn’t get work if we didn’t have it, basically.” AAALAC oversight of research laboratories is as minimal and meaningless as is the USDA’s, but having its accreditation is often held up as a “gold standard” to the public.

Our investigation also reveals that cruel treatment is an everyday occurrence at Covance. We found the same type of treatment at Huntingdon. Workers slap and choke monkeys and hit them with hard objects. They swing them in the air and frighten them out of their wits with verbal abuse and direct eye contact, which is about as threatening as you can get when it comes to nonhuman primates. One of the Covance technicians responsible for this abuse is the president of the local chapter of the American Association of Laboratory Animal Science (AALAS). He is seen in the enclosed DVD slamming cages full of terrified monkeys into a wall in a wrongheaded attempt to scare an escaped monkey from behind the cage racks. AALAS certification is used as another assurance to the public that animals in laboratories are treated humanely.

During our investigation, we called the USDA and asked that it make an urgent visit to Covance in order to look into the suffering of monkeys used in lethal irradiation experiments. The animals had developed necrotic open wounds on their stomachs. We contacted the USDA on November 4, 2004, but it did not visit Covance until five days later. The USDA inspector is alleged to have said that she “takes PETA complaints with a grain of salt.” At the end of her visit, she told Covance that she would see them in November 2005. When we called the USDA to follow up on this complaint, we were told that the animals had been receiving proper veterinary care—both painkillers and antibiotics—but technicians at Covance disputed this during the investigation.

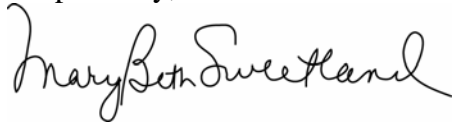
USDA inspections, AAALAC accreditation, and AALAS certification failed to protect the animals at Covance from cruel treatment and have certainly failed miserably to provide them with socialization and enrichment. We believe that this is most likely the case across the board for the majority of animals used in experiments. In our letter to Secretary Johanns (enclosed) about the wrongdoings at Covance, we asked him when the USDA will recognize the fact that we find violations of federal law in every laboratory that we investigate. These are not housekeeping violations—they are violations of the fundamental standards that were approved by Congress for offering minimal protection to animals used in laboratories.

Hearings Will Clarify Agency Needs and Illuminate Enforcement Problems

Senator Santorum, we believe that APHIS needs increased funding and more inspectors, but acquiring such is no guarantee that the agency will function as Congress intended. PETA is not alone in its criticisms of the agency, and so we have only pointed out a few examples in this letter. The Animal Welfare Institute, which was run by Christine Stevens until her recent death, is expert in matters of AWA regulations and enforcement of the AWA. The Animal Welfare Institute is also expert in the sad state of affairs concerning enrichment and socialization for primates in research laboratories.

Please give nongovernmental organizations the opportunity to air these matters before your subcommittee. We realize that you have many important issues on your plate, but we hope that the enclosed DVD and photographs will convince you that your help is needed. Thank you so much.

Respectfully,



Mary Beth Sweetland, Senior Vice President
Director, Research & Investigations Department