

# AAV

*magazine*

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## THE ANIMAL WELFARE ACT AT 50



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THE AWA**

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**CREATING  
THE 1985  
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American Anti-Vivisection Society



2017 Issue 1

# The Animal Welfare Act at 50

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Founded in 1883, the American Anti-Vivisection Society’s (AAVS) mission is to unequivocally oppose and work to end experimentation on animals and to oppose all other forms of cruelty to animals. AAVS is a nonprofit education organization using legal, effective advocacy to achieve meaningful, lasting change.

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## First Word

IT'S AN UNDERSTATEMENT TO SAY that our country's Animal Welfare Act (AWA) is not what we would like it to be. Yet, when properly applied, the AWA and other laws can be the most powerful tools for protecting animals, separating the legal from the illegal, and authorizing government oversight and intervention.

Last December, a conference was held at Harvard Law School to observe the 50th anniversary of the AWA's initial passage, and to exchange ideas about how to leverage the current law to improve its effectiveness. I was honored to present on the status of mice, rats, and birds (see pg. 12) due to our organizations' extensive efforts advocating for their inclusion in the Act's provisions. Other speakers at the event wrote articles for this issue, and I am very grateful for their contributions.

The conference attracted hundreds of attendees, including many who are involved in the growing field of animal law, which is taught across the country, addressing the ways animals are affected—and neglected—by the legal system. AAVS has had the privilege of working with some outstanding attorneys in the field in order to advance our initiatives: petitioning federal agencies, filing lawsuits, and negotiating agreements. They've done great work for us, and we bring our expertise and resources to help them get the job done well. I've learned that just the right amount of legal pressure at the right time can push an issue over the line to save animals.

It's this commitment to work for lasting, meaningful change through legal, effective advocacy that helps distinguish AAVS. We are uniquely situated to apply sustained effort to guide the giant ship of science in a better direction, away from animal use. We're absolutely dedicated to that goal and are not going away until we get there.

AAVS is very fortunate that our members fully support that vision. I know it's true, because many wonderful people have provided for us in their estate and retirement plans. That support through planned giving means so much, and I thank all of you who have done so. Members who leave a legacy to AAVS make us "strong to last long."

Thank you for caring,



Sue A. Leary, President,  
American Anti-Vivisection Society



PLAN ON MAKING  
A BETTER TOMORROW,  
TODAY!

[AAVS.org/PlannedGiving](http://AAVS.org/PlannedGiving)



# Briefly Speaking

NEWS YOU NEED TO KNOW



“Chimera” experiments performed in pigs aim to grow organs for transplantation to humans.

## HARVESTING “HUMAN” ORGANS FROM ANIMALS

**SCIENTISTS AT THE SALK INSTITUTE** have discovered a way to grow human cells in animal embryos, and hope to someday produce human organs in animals to harvest for transplantation. These human-animal hybrids are called chimeras, and research in this area is highly controversial. Published in the journal *Cell*, the recent study subjected more than 200 pigs to invasive surgery, and well over 1,000 embryos failed to fully develop.

The Salk scientists started with 167 pigs who were artificially inseminated. Pregnant sows then had approximately 2,000 embryos surgically removed and injected with three to 10 human cells. After growing in petri dishes, 30-50 of these embryos were then surgically inserted into each of 41 more sows who acted as surrogates. After 21-28 days of gestation, the sows were anesthetized and killed using a bolt pistol, and 186 live embryo chimeras (12 percent) were surgically harvested.

The researchers acknowledged that after “evaluating the developmental status of the obtained embryos, more than half showed retarded growth,” and that identification of human cells in the chimeras was rare. Scientists say this may be because human gestation (280 days) is more than twice as long as that of pigs (114 days). Although animals are not good models of human conditions, the researchers are continuing their work.

In 2015, the National Institutes of Health (NIH) announced a moratorium on funding research that involves inserting human cells into animal embryos, and says it wants to “evaluate the state of the science in the area, the ethical issues that should be considered, and the relevant animal welfare concerns associated with these types of studies.” The chimera research at the Salk Institute receives private funding, so NIH’s policy does not apply to it.

## Biopathogen Lab Pending in China

**A** laboratory that will be used to study some of the world’s most dangerous pathogens, such as SARS and Ebola, will soon be operating in China, according to the February 2017 issue of *Nature*. The lab has been categorized at biosafety level 4 (BSL-4), the highest level of biocontainment, requiring stringent safety precautions such as special protective suits for scientists, protocols for decontamination, filtering for air, water, and waste, and high levels of security to control access to the facility. The Chinese aim to eventually build five to seven BSL-4 labs, including one that will use primates, by 2025.

Bruno Lina, Director of the VirPath virology lab in France that is coordinating this effort with China, says that there is an advantage to building a primate lab in China because “researchers face less red tape than those in the West when it comes to

research on primates.” Lina adds, “If you want to test vaccines or antivirals, you need a nonhuman primate model.”

Interest in conducting animal research in China has been a growing trend in recent years, and easy access to primates seems to be one reason. AAVS’s 2011 “Primates by the Numbers” report found that China has “at least 40 monkey-breeding facilities” that house tens of thousands of primates for use in research, some of whom are also exported to U.S. labs.

Researching deadly biopathogens can involve enormous animal suffering that is sometimes not alleviated until the animal is near death, if at all. China is known to have lax or nonexistent animal welfare laws, making a BSL-4 lab using animals all the more worrisome. There are several BSL-4 labs in the U.S., and although primates are covered by the Animal Welfare Act, these experiments are highly invasive.

# USDA BLOCKS ACCESS TO ANIMAL WELFARE RECORDS

ON FEBRUARY 3, THE U.S. DEPARTMENT OF AGRICULTURE (USDA) abruptly removed from its website thousands of public records, including inspection and enforcement reports and information about legal cases alleging severe animal cruelty and neglect at facilities covered by the Animal Welfare Act or the Horse Protection Act. It also blocked access to its online database, which housed information on these regulated facilities, such as laboratories, dealers, and circuses, in a searchable format. The USDA claimed that the move was made while maintaining its “commitment to being transparent” and “responsive” to the public, but AAVS, other animal advocates, and the media immediately raised objections.

“The removal of all this animal welfare information and the USDA’s claim about being transparent is outrageous,” said AAVS Outreach Director Crystal Schaeffer. “We rely on the USDA to disclose this information, which by law is required.”

AAVS has utilized USDA reports to provide evidence in its campaigns. For example, such information has been used to effectively expose random source Class B dealers and their animal welfare violations, including the illegal acquisition of dogs and cats for research. USDA reports also helped document the use of random source Class B dealers as a source for animals in education, as reported in “Dying to Learn: Exposing the Supply and Use of

Dogs and Cats in Higher Education,” produced by AAVS’s education division, Animalearn.

Although the USDA has reposted much of its information on its website, inspection reports—including those for certain random source Class B dealers with current licenses—remain offline. As we go to press, there are no inspection reports posted for any laboratory facilities in Oklahoma or for some other labs, including the Meat Agriculture Research Center, which was the center of controversy in a 2015 *New York Times* investigation. Significantly, access to the USDA’s searchable database, which can be a valuable investigative tool, remains blocked.

While the USDA notes that this information can be obtained through Freedom of Information Act (FOIA) requests, Schaeffer maintains that is impractical. “AAVS has waited months, even years, for FOIA requests to be fulfilled,” she said. “With animal lives at stake, that’s just not acceptable.”

## Update: Chimps Move to Sanctuaries!

CHIMPANZEES RETIRED FROM research continue to be moved from laboratories to their sanctuary homes. AAVS launched our Build It! campaign to help sanctuaries like Chimp Haven expand to care for more animals, and to provide support for a new sanctuary called Project Chimps.

Located in Louisiana, Chimp Haven is the National Chimpanzee Sanctuary and is home to more than 200 chimpanzees. Ten newly retired chimps arrived most recently, and the sanctuary expects to welcome more than 50 animals before the end of this year, from the Alamogordo Primate Facility in New Mexico.

Project Chimps opened in Georgia in 2016 and already is home to 23 chimpanzees, all from the New Iberia Research Center. A group of six males just arrived in May. At the lab, the chimps have been living in single-sex groups to prevent breeding. Project Chimps staff have started to slowly introduce females (who are on birth control) and males in the hopes of cultivating new social groups.

Although there is a long way to go, your donations to Build It! and AAVS’s Sanctuary Fund have helped make these new homes possible.

TO CONTRIBUTE, PLEASE VISIT [AAVS.ORG/BUILDIT](http://AAVS.ORG/BUILDIT)



Emma and Samira were among the first group of females to arrive at Project Chimps.



Because primates are social animals, companionship is one of the best ways to provide enrichment.

# EVOLUTION OF THE AWA

BY CRYSTAL SCHAEFFER

A significant turn of events for animals in laboratories occurred on August 24, 1966, when the Animal Welfare Act (AWA) was signed into law. Its creation was spurred in part by the death of Pepper, a Dalmatian who was stolen from her family in Pennsylvania, transported to New York, sold to a lab by an animal dealer, and then killed during an experiment. In an effort to help prevent another tragic story like Pepper's, the AWA authorized the U.S. Department of Agriculture (USDA) to regulate the sale, transport, and use of dogs and cats, as well as certain other animals, in research. Over the past 50 years, the law has been amended several times in reaction to pressing problems of the day.

## THE ORIGINAL

Originally, the AWA covered dogs and cats, and, in some instances, primates, guinea pigs, hamsters, and rabbits, who were “intended to be used for purposes of research.” The law explicitly avoids regulation of scientific procedures, saying, “Nothing in this Act shall be construed as authorizing the

Secretary to promulgate rules, regulations, or orders for the handling, care, treatment, or inspection of animals *during* actual research or experimentation.” *[emphasis added]*

The USDA Secretary was directed to establish standards for the “humane handling, care, treatment, and transportation of animals by dealers and research facilities.” These minimum requirements included “housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperature, separation by species, and adequate veterinary care.”

Although humane care and treatment were extended to all the above-listed animals, most of the language of the original AWA narrowly focused on dogs and cats. For example, only dealers profiting from “transport[ing]...buy[ing] or sell[ing] dogs or cats...for research purposes” were required to be licensed. Likewise, only labs “us[ing] or intend[ing] to use dogs or cats in research” needed to register with the USDA, and could purchase dogs and cats only from dealers holding a valid license.

PHOTO BY ISTOCK (THIS PAGE) AND COURTESY OF THE ANIMAL WELFARE INSTITUTE (OPPOSITE)

Registration and licensing was a way to help deter the use of lost and stolen pets in research. Record-keeping was also important to create a paper trail back to an animal's original source, so research facilities and dealers were required to "retain...records with respect to the purchase, sale, transportation, identification, and previous ownership of dogs and cats but not monkeys, guinea pigs, hamsters, or rabbits."

### 1970

In 1970, the scope of the AWA was expanded beyond regulating just dogs and cats. Licensing and registration was now also required for any labs and dealers using primates, guinea pigs, hamsters, rabbits, and "other warm-blooded animal[s], as the Secretary may determine [are] being used, or [are] intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet." So in addition to dealers selling these animals, exhibitors (such as zoos and circuses) and breeders were required to be licensed. Laboratories were also required to submit annual reports to show they were following AWA standards.

Another significant change was defining which animals the AWA specifically excluded: "horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use" as food or in agriculture research. In corresponding regulations enacted in 1972, the Secretary of Agriculture took an extraordinary step to also exclude rats, mice, and birds from AWA protection.

Although the 1970 amendment again emphasized that the AWA was not meant to regulate experiments themselves, it did include "the appropriate use of anesthetic, analgesic, or tranquilizing drugs...during actual research." However, such use was based on "the opinion of the attending veterinarian of such research facilities," and not necessarily by objective measures.

### 1976

Humane standards and requirements were extended with the 1970 amendment, but a serious omission in the law left animals transported by airlines and other carriers without AWA protection. At the time, there were numerous reports of animals (particularly dogs) becoming injured, sick, and even dying while in the care of airlines. Such instances involved animals who were too young or unhealthy, packed in flimsy shipping containers, and/or left unattended for long periods of time without food, water, and protection from extreme temperatures. To address this alarming situation, the Act was amended again in 1976 to require carriers (airlines, railroads, shipping lines) and intermediate handlers to register with the USDA and adhere to humane standards, particularly regarding "containers, feed, water, rest, ventilation, temperature, and handling."

### 1985

As the modern animal rights movement emerged in the 1980s, the public became more aware of what happened to animals in labs, and empathy and concern for these animals grew. This changing view was reflected in the 1985 amendment, which stated that the AWA should set humane standards to "help meet the public concern for laboratory animal care and treatment." Titled the Improved Standards for Laboratory Animals Act, it is perhaps the most significant amendment benefiting animals used in research and testing. It directs the USDA to "inspect each research facility at least once each year," and further expanded minimum standards of care and treatment to include exercise for dogs and "physical environment[s] adequate to promote the psychological well-being of primates."

While still not meant to regulate actual protocols, the AWA also, for the

**"...SCIENCE AND RESEARCH DO NOT COMPEL US TO TOLERATE THE KIND OF INHUMANITY WHICH HAS BEEN INVOLVED IN THE BUSINESS OF SUPPLYING STOLEN ANIMALS TO LABORATORIES..."**

— PRESIDENT LYNDON B. JOHNSON, WHO SIGNED THE ORIGINAL ANIMAL WELFARE ACT ON AUGUST 24, 1966



first time, set parameters for research, specifically regarding animal pain and distress. For example, “assurances demonstrating that the principal investigator considered alternatives to those procedures” and “an explanation for any deviation from [AWA] standards” are to be reported to the facility’s Institutional Animal Care and Use Committee (IACUC) for approval and made available to the USDA.

An IACUC is a self-policing internal committee whose role is to “assess animal care, treatment, and practices in experimental research” and “represent society’s concerns regarding the welfare of animal subjects used at such facility.” Inspections of laboratories are conducted at least twice a year to review “practices involving pain to animals, and the condition of animals, to ensure compliance with the provisions...to minimize pain and distress to animals.” Inspection reports included “deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions, and any corrections made thereafter.” This process essentially gives oversight to the IACUC.

Researchers are required to “ensure that animal pain and distress are minimized” and use “anesthetic, analgesic, and tranquilizing drugs, or euthanasia.” Despite an emphasis on pain and distress, the law stops short of preventing it.

Acknowledging the increasing development of alternatives, the 1985 amendment states that “methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing.” To help facilitate the use of alternatives, the USDA established a resource center at the National Agriculture Library to provide training and information on “improved methods of animal experimentation...that could reduce or replace animal use; and minimize pain and distress to animals, such as anesthetic and analgesic procedures.”

## 1990

Although the AWA was first enacted to help prevent the use of stolen pets in research, the issue remained a problem into the 1990s, and random source Class B dealers were a point of controversy. Random source dealers obtain dogs and cats from pounds, auctions, or individuals and then sell the animals to laboratories. The record-keeping requirement for these dealers was proving to be inadequate, so in 1990, the Protection of Pets amendment required shelters to hold any “dog or cat for a period of not less than five days to enable such dog or cat to be recovered by its original owner or adopted by other individuals” before being sold to a dealer.

Additionally, in order to sell these random sourced dogs and cats, dealers must have a certification with detailed descriptions of the animals (breed, sex, color, distinctive markings), license/registration numbers, addresses, date of purchase, and assurance that the original legal owner was “notified that such dog or cat may be used for research or educational purposes.” If it’s discovered that a lost or stolen pet has fallen victim to such busi-

ness dealings, this information can be used to locate the animal’s owner. A dealer that violates the provision “three or more times shall have such dealers license permanently revoked.”

Requiring this additional record-keeping made a difference. In the early 1990s, the USDA started to trace records to see if dealer sources were legal, but could confirm only 40 percent of listed sources. However, by 1999 the agency was successful in 95 percent of such traces.

## 2002

As mentioned earlier, in 1972, the USDA Secretary specifically excluded rats, mice, and birds from AWA regulation and protection, despite the fact that these animals fall within the legal definition of “animal” as they can clearly be characterized as “other warm-blooded animal[s].” (See *“The Exclusion of Mice, Rats, and Birds,”* p. 12) Following a lawsuit, the USDA entered into a settlement agreement with the Alternatives Research & Development Foundation (an AAVS affiliate) in 2000 to include rats, mice, and birds under the Act’s definition of animal. However, after two years of delays and lobbying by vocal members of the biomedical research community, the AWA was amended in 2002 to specifically exclude “birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research.” While this change gives birds in exhibition and in the pet trade protection, it denies tens of millions of animals the minimal standards of care and treatment afforded to other animals in labs. This omission is significant because researchers who use rats and mice are not required to consider and use alternatives to painful procedures.

## TODAY

Like any law, the Animal Welfare Act will only be effective if it is enforced and stiff penalties are levied. In the past, the USDA has been rightfully criticized for being too soft on violators, resulting in fines that research institutions considered just part of the cost of doing business. In 2008, fines increased from \$2,500 to “not more than \$10,000 for each such violation.” Although the USDA hasn’t been penalizing violators to the fullest extent, it has imposed harsher fines recently. Last year it fined Shin Nippon Biomedical Laboratories \$185,000 for violations leading to the deaths of 25 macaques during transport, and Santa Cruz Biotechnology was levied the largest USDA fine ever—\$3.5 million—for its apparently deliberate deception of USDA inspectors and severe neglect of hundreds of goats.

While at the time these substantial fines were encouraging, there are new concerns about enforcement, including the USDA’s lack of transparency. The agency has blocked public access to important records and legal information documenting severe animal cruelty and neglect at such facilities as laboratories, dealers, and breeders. Furthermore, with significant budget cuts proposed for the USDA, it seems doubtful that there will be resources to enact new regulations that could help the agency be more effective. **AV**

*Crystal Schaeffer, M.A. Ed., M.A. IPCR, is the Outreach Director for AAVS.*

# Creating the 1985 Amendments to the Animal Welfare Act

By Bernard E. Rollin



**M**y involvement in drafting the 1985 amendments to the Animal Welfare Act resulted from a series of converging circumstances during the 1970s. I had taught the history of Western philosophy for many years, and was dismayed to learn that virtually no attention had been paid to the issue of human obligations to animals. Consequently, I began to work on a book dealing with animal ethics. Second, I was asked to teach the world's first course in veterinary medical ethics at Colorado State University (CSU) in 1978. My co-teacher, Dr. Harry Gorman, was arguably one of the greatest veterinarians of the 20th century, having invented the artificial hip joint and run the aerospace program's use of animals. Third, CSU had acquired a new veterinarian in charge of laboratory animals, Dr. David Neil, who enjoyed considerable experience in Britain, Canada, and the U.S. Both of these men had a deep commitment to the well-being of laboratory animals.

When I began to teach the ethics class, the veterinary students informed me of a significant number of highly invasive and ultimately outrageous laboratory exercises they were forced to perform on animals. For example, in the third week of their first year, each group of three students was required to feed a young cat cream and then do visceral surgery on the cat, though they had learned nothing about surgery yet, ostensibly to watch the transport of cream through the viscera. Furthermore, the procedure was performed with the use of a restraint drug, which had no visceral analgesic properties whatever.

I in fact watched the lab, which not surprisingly turned out to be a horror show, with the animals vocalizing in pain, and the students being appalled and learning nothing. When I asked the professor who had created the lab the point of this exercise, he informed me that "it is to teach the students that they are in veterinary school now, and if they are soft, get the hell out early."

It was ironic that even though the demography of clients for veterinary services had shifted in the 1960s to companion animal owners away from agriculture, with owners at our veterinary cancer clinic spending

more than \$100,000 on treatment for their animals in 1980, brutalization of student sensitivities by requiring such exercises on dogs and cats was the order of the day.

Even worse, the students later told me how they were taught surgery. Each small group of students was given a pound dog and required to perform nine surgical procedures on the animal over the course of three weeks. One older student urged me to visit the ward where the dogs were kept and to see for myself. I did so, and witnessed a horrendous, horrible scene that could have been drawn from a painting of hell by Hieronymous Bosch. The animals were crying and moaning, and had been provided with no pain relief, not even an aspirin!

I later found out that such an approach to veterinary education was ubiquitous across all veterinary schools, and across human medical schools as well. I also found out that both medical students and veterinary students were routinely forced to exsanguinate a dog in order to learn that if an organism loses all of its blood, it dies! Poisoning of animals was also a routine “educational”

## **The maintenance of unnatural conditions for laboratory animals is one of the biggest failings in the Animal Welfare Act, both from an ethical and scientific perspective.**

protocol. If a student refused to participate in these labs, they were thrown out of school.

As a result of such procedures, many of the best students were culled and lost to the medical professions. And many students who did survive feel to this day that they suffered a black mark upon their soul. None of this violated the law! None of the aforementioned exercises were unlawful or violative of the Animal Welfare Act, created in 1966 primarily to reassure pet owners that their animals would not be stolen and sold to research labs. Over the next year, I was successful in convincing the veterinary school to abolish these brutalizing exercises.

Outraged, I discussed these issues with Dave and Harry, who informed me that the use of analgesia was virtually nonexistent in veterinary medicine, and in research, and was not taught in veterinary school. We resolved, naïvely, to rectify this intolerable situation by writing legislation for the state of Colorado. Not surprisingly, we were defeated in the state legislature, but later received a call from U.S. Rep. Patricia Schroeder, pointing out that such law needed to be federal, and offering to carry it forward.

### **CONTROLLING PAIN AND DISTRESS**

Among other things, our law required the control of pain and distress in animals when such states resulted from experimentation or teaching, as well as a ban on multiple invasive uses of animals. In 1982, when I was defending our bill before Congress, I was called before Rep. Henry Waxman’s committee to defend our amendment. Waxman informed me that the medical research community was vigorously opposed to any legislation constraining the use of animals in research, and also claimed to be using copious amounts of analgesia. When I protested that the latter was a lie, he told me that the burden of proof was on me to show that.

It dawned on me that if there was indeed significant use of analgesia in research, there would be a literature documenting the protocols.

I approached a friend of mine who was a librarian at the National Agricultural Library, and who had access to a very powerful computer, and asked him to do a literature search on “analgesia for laboratory animals.” He called me back shortly thereafter to let me know that he had found no papers whatsoever on the subject! When I expanded the search to “analgesia for animals,” two papers were found, one of which said “there ought to be papers,” and the other said “there is virtually no knowledge of the subject.” When I informed Waxman, he responded that I had indeed proven my point, and that the bill would move forward, which it did thanks to the Herculean and courageous efforts of people in Congress such as Doug Walgren, George Brown, Bob Dole, Pat Schroeder, John Melcher, and Mickey Leland, who eloquently demonstrated that courage and compassion transcend party lines.

After years of powerful opposition to the bill by numerous pro-research groups (and after I was described in the *New England Journal of Medicine* as “an apologist for the lab trashers”), despite the fact that even then there was documentation in scientific literature that failure to control pain and distress seriously skewed numerous experimental variables in animals, the bill passed in 1985. Contrary to what we had written, the regulations continued to exclude rats, mice, and birds from the protection of the law. In 2002, an amendment to the Farm Bill by Sen. Jesse Helms reaffirmed the exclusion of rats, mice, and birds. However, a second law, the NIH Reauthorization Act, did encompass any animals used in research at an institution receiving federal funding.

### **HOUSING, HUSBANDRY, AND TELOS**

We had also requested in our draft that accommodations—housing and husbandry—of all laboratory animals be designed to fit their telos, i.e., their psychological and biological needs and natures. Unfortunately this too was struck down by Congress, which instead mandated only “exercise for dogs” and living condi-

tions for primates that “enhanced their psychological well-being.” In my view, the maintenance of unnatural conditions for laboratory animals is one of the biggest failings in the Animal Welfare Act, both from an ethical and scientific perspective, as a result of the significant stress engendered by insufficient accommodations. As I have argued in a new book, *A New Basis for Animal Ethics: Telos and Common Sense*, respect for an animal’s biological and psychological nature is a fundamental component of animal welfare.

The other major feature of the 1985 Amendment to the law was the required creation of Institutional Animal Care and Use Committees to review protocols, and inspect research facilities for accord with the law. As one Australian sociologist put it to me, this was “enforced self-regulation.” By mandating these committees, we hoped to make ethics and animal welfare part of the consciousness of scientists.

The law is by no means ideal—I have already mentioned some of its deficiencies. But it seemed to be the best one could achieve. I was privileged to be able to carry the concept to other countries, where it was adopted as well. These include the Netherlands, Australia, and Brazil, and it is also operative as a supplement to British law.

Under the influence of the law, pain control (and to a much lesser extent, control of distress) has assumed a

new degree of prominence in animal research, biomedical education, and veterinary training and practice.

Some years ago, I was invited to a scientific conference in Italy to explain how we accomplished this. In preparation for my talk, I redid the literature search on analgesia that I had done in 1982 for Waxman. *Mirabile dictu*, this time I found 12,000 papers!

Clearly, legislation alone cannot provide the sensitivity and ethical concern required on the part of researchers for animal research to be a truly moral science. Education is also needed to help shape the thinking of nascent researchers away from long-established scientific ideology. I am not talking simply about meeting the new federal requirements for teaching what is barba- rously called “the ethics of regulatory compliance.” I am rather talking about teaching the ethical problems in animal research in particular and science activity in general, along with the scientific material being introduced. To put it in a fairly picturesque way, concern with ethical issues must become part of the “cake” of scientific teaching, not merely the “frosting” put on the cake as an afterthought. This something I have done for 40 years, teaching basic biology, veterinary ethics, animal sciences, and care of laboratory animals—and it works. **AV**

*Bernard E. Rollin, Ph.D., is a University Distinguished Professor at Colorado State University.*

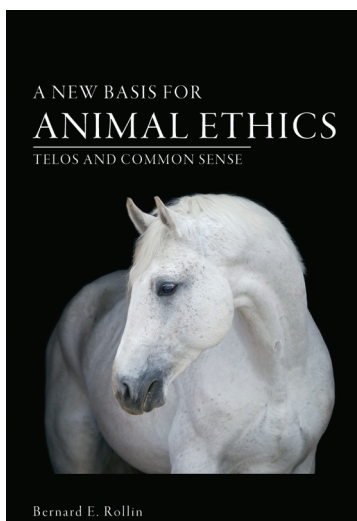
## A New Basis for Animal Ethics: Telos and Common Sense

THERE IS NO SINGLE SCIENCE of everything. All things are best explained in terms of functions and purposes. A human artifact, such as a knife, is best explained by its function—to cut, which is its telos. A living thing, be it mammal, bird, plant, [or] insect, has a unique set of functions, making up its telos, or unique nature.... Every living thing is constituted of a set of functions making it a living thing and a unique living thing. All living things nourish, locomote, sense and perceive, excrete, and reproduce. How each living being actualizes those functions determines its telos. The science of biology is therefore the study of how each sort of living thing fulfills its “living,” or way of life, or telos....

All forms of “mattering” to an animal are determined by its telos. Some violations of telos ramify in conscious mattering. On the other hand, some living things do not register violations in consciousness. Plants require water and sunlight to actualize their teloi. But it is unlikely that they are aware of such mattering. Withholding water and sunlight from plants “matters” to them in the sense that they shrivel and die, albeit most likely without conscious awareness. Withholding water from an animal will also lead to the animal’s shriveling and dying, but accompanied by negative feelings in animals quite capable of awareness and consciousness....

As Aristotle pointed out, living beings have unique strategies for solving the problems inherent in living—sensing, moving, reproducing, nourishing themselves—the thwarting of which matters to them. The only way to avoid such a conclusion is to deny that certain things matter to animals, to affirm that they are nonconscious machines, a conclusion that is highly repugnant to ordinary people and common sense. The Aristotelian notion of telos thus becomes central to animal ethics.

*Excerpted from A New Basis for Animal Ethics: Telos and Common Sense, by Bernard E. Rollin (University of Missouri Press, 2016).*



# Key Legal Terms

Discussions and debates regarding the Animal Welfare Act often center on the legal definitions in the Act's provisions. Here are some key terms to know, and what their relevance is.

*By Joyce Tischler*

## Animal

When the Animal Welfare Act was passed in 1966, the word “animal” only referred to a few listed species, such as dogs, cats, monkeys, and guinea pigs. In 1970, Congress amended the Act and broadened the definition to include all warm-blooded animals used in research and testing. However, the U.S. Department of Agriculture (USDA), which enforces the law, specifically exempted rats, mice, and birds from its definition of “animal” when it wrote the regulations required by the amendment to the Act. After much litigation aimed at clarifying this definition, Congress amended the Act in 2002 to formally exclude rats, mice, and birds from its protections.

Since rats and mice make up about 95 percent of all animals used in research and testing, this means that the Act only covers and protects 5 percent of the millions of animals who are used.



## REGISTERED VS. LICENSED

Owners and operators of businesses regulated by the Act must be licensed by or registered with the USDA. Laboratory animal breeders and dealers must be licensed. Certain businesses, such as dealers of non-regulated species, are exempt from the licensing requirement. Facilities that use regulated animals for research, testing, or teaching (i.e., research facilities) must be registered with the USDA. Federal agencies, small-scale diagnostic labs, agricultural research facilities, and facilities that use only dead animals or non-regulated species are exempt from registration. The same federal standards of care regarding animal handling, housing, sanitation, transportation, shelter, veterinary care, etc., apply to both licensees and registrants. Licensees who fail to comply with the Act may be subject to having their licenses suspended or revoked. Registrations can be cancelled at the request of the registered parties.

## PSYCHOLOGICAL WELL-BEING

In 1985, Congress amended the Act and instructed the USDA to pass regulations to ensure that primates used in research are given physical environments that promote their psychological well-being. This was the first time that Congress acknowledged that primates are capable of having the capacity to suffer psychologically. What followed was a tug of war between animal advocates and research institutions as to how this mandate would be carried out. In the final analysis, the research institutions won and the animals lost. While the USDA's proposed regulations specified that primates, being highly social beings, should be housed with other primates, the final regulations eliminated that requirement. Although the proposed regulations mandated larger cages, the final regulations did not.



# Legal Standing

“Standing to sue” means having the legal right to sue, which is often limited to individuals directly affected or harmed by an action. Most environmental laws have citizen lawsuit provisions built into them, giving citizens and environmental protection organizations the ability (standing) to sue to protect their interest in a healthy environment. But the Animal Welfare Act does not have a citizen suit provision. Thus, citizens and animal advocacy groups are generally denied standing to sue to protect animals used in research. Standing to sue is a complex and highly political area of the law. Because animals are legal “property” and are not considered persons under the law, they do not have standing to sue, or have someone else sue, on their behalf.

## Reporting

Licensees are required to file an annual report. Individuals licensed as dealers must report the dollar value of their sales of animals. Research facilities registered with the USDA and federal agencies must submit an annual report that includes minimal explanations of the species and numbers of regulated animals used, whether painful research was conducted, and if pain medications were withheld, an explanation of why. The reports required by the USDA are often criticized as lacking substantive information that would shed light on exactly how the animals are used and treated, and whether the Act and regulations are being complied with. By comparison, in the European Union, in addition to accurate numbers and types of animals used, the reports identify the specific purposes for which the animals are used, providing greater detail and transparency about animal care and treatment.



## Covered Purposes

The Animal Welfare Act begins with a Congressional Statement of Policy, invoking authority over interstate commerce, and in which the first stated purpose is to ensure that animals used for research, exhibition, or as companion animals are afforded humane care and treatment. Second, Congress seeks to assure that animals being transported are treated humanely. Finally, Congress seeks to protect the owners of animals from theft, by preventing the sale or use of stolen animals for the above uses. The Act was not intended to regulate the kinds of experiments that animals can be used in; rather, it sets standards for their maintenance before and after procedures are performed on them.

*Joyce Tischler, J.D., is the Founder and General Counsel of the Animal Legal Defense Fund.*



# The Exclusion of Mice, Rats, and Birds

By Sue A. Leary

The Animal Welfare Act (AWA) is the only federal law that has enforcement authority over the use of animals in a broad array of research settings. In the 1970 amendments, coverage under the Act was extended to any “warm-blooded animal that the Secretary [of Agriculture] may determine is being used...” However, in the process of writing the regulations to implement the law, the U.S. Department of Agriculture (USDA) chose to interpret that clause as having discretion to exclude

the vast majority of warm-blooded animals used in research: mice and rats. It certainly limited their work, but former Sen. Bob Dole wrote in a 2001 letter to the Alternatives Research & Development Foundation (ARDF, an AAVS affiliate), “As someone deeply involved with the process of revising and expanding the provisions of the AWA, I assure you that the AWA was meant to include birds, mice, and rats.”

After the Humane Society of the United States and the Animal Legal Defense Fund took legal action in 1991, a federal judge agreed with their interpretation, writing that the exclusion was “arbitrary and capricious and violates the law.” But due to the groups’ lack of legal standing [see “Key Legal Terms,” page 10], the USDA’s definition remained in effect.

When the ARDF sued the USDA in 1999, a judge’s award of standing to a co-plaintiff prompted a settlement in 2000 in which the USDA agreed to proceed with timely regulatory process.

The legislative and regulatory history of the AWA is generally one of expanding protections, but in 2002, leadership in the U.S. Senate allowed an amendment to the Act that explicitly and decisively reversed the USDA’s agreement.

## WHO SAYS RATS AND MICE ARE NOT “ANIMALS”?

The exclusion of mice, rats, and birds is covered in animal law classes and articles as an example of how U.S. laws fail animals in the most basic ways. Namely, if the most commonly used animals in research and testing are specifically excluded from the definition of “animal,” how can that law provide public reassurance that animals in labs are being provided basic protections? Further, how can that law claim a factual basis if its definition of “animal” excludes those who are clearly animals?

However, what many observers do not realize is that the scientific community was not united in opposition to covering mice, rats, and birds. While

### KEY EVENTS

#### DEC 1971

Regulations exclude mice, rats, and birds from AWA

#### JAN 1992

U.S. District Court calls USDA exclusion of mice, rats, and birds “arbitrary...and violates the law”

#### AUG-SEPT 2000

NABR and Johns Hopkins University file motions to intervene in ARDF/USDA case

#### SEPT 2001

NABR motion to dismiss ARDF/USDA agreement denied

#### DEC 1970

AWA expanded to cover all warm-blooded animals

#### DEC 1985

AWA amendment requires consideration of alternatives, establishes Institutional Animal Care and Use Committees

#### MAR 1999

ARDF sues USDA for inclusion of mice, rats, and birds in AWA

#### OCT 2000

USDA settles with ARDF, agreeing to initiate rulemaking including mice, rats, and birds in AWA

#### MAY 2002

Amendment excluding “birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research” from AWA signed into law

MORE THAN  
**93%**  
OF ANIMALS  
USED IN LABS  
ARE EXCLUDED  
FROM THE AWA

		2002	2005	2008	2011
EU	Total number of animals (millions)	10.7 <sup>i</sup>	12.1 <sup>ii</sup>	12 <sup>iii</sup>	11.5 <sup>iv</sup>
	Percent not covered by AWA	92.8 <sup>i</sup>	93.2 <sup>ii</sup>	93 <sup>iii</sup>	93.2 <sup>iv</sup>
U.S.	Total number AWA animals	1,137,580 <sup>v</sup>	1,177,566 <sup>vi</sup>	1,157,263 <sup>vii</sup>	1,117,265 <sup>viii</sup>
	Estimated total number of animals	15,799,722	16,139,581	16,532,329	16,430,368

*Assumes corresponding percentage of vertebrate (rats, mice, birds, fish, etc.) use in EU and U.S.*

animal research lobbyists—especially the National Association for Biomedical Research (NABR)—surely claimed on Capitol Hill to represent scientific interests, many in the research community supported covering mice, rats, and birds in AWA. Prominent organizations and companies endorsed ARDF’s position, and in a confidential poll, a majority of individual researchers did, too.

The inclusion of mice, rats, and birds in AWA coverage had the support of professional associations including the American Association for Laboratory Animal Science, the Scientists Center for Animal Welfare, and AAALAC International. Companies such as Colgate Palmolive and Procter & Gamble also supported inclusion, as did academics at the Center for Alternatives to Animal Testing at the Johns Hopkins Bloomberg School of Public Health.<sup>1</sup>

A 1999 national survey of IACUC members from 50 institutions showed that more than 73 percent supported the inclusion of rats and mice, and 69 percent supported including pigeons.<sup>2</sup>

## THE CONSEQUENCES OF EXCLUSION

AAVS and other animal advocates have long called for accountability and transparency in relation to the harmful use of animals in science. As a starting point, there should be a way to answer a basic question: How many animals are used in research and testing in the U.S.? The AWA requires annual reporting from registered research institutions, but only collects information on covered species. Some estimates can be made by extrapolating from the most recent European Union (EU) statistics, as shown in the table above. These calculations indicate that more than 93 percent of animals used in U.S. labs are not covered by the AWA. That includes genetically engineered mice, who have particular welfare concerns.

ARDF maintains that inclusion of rats and mice is also an “alternatives” issue, primarily due to the 1985 AWA amendment that requires consideration of alternatives to painful procedures—but only for

covered animals. Many alternative methods are designed to replace mice or rats in toxicity testing, and reporting numbers of animals could provide support for continued investment in alternatives and clarify which areas need priority. The new wave of alternative methods could have a significant impact on animal use, but it will be difficult to assess without data. For example, as a result of a 1997 ARDF petition, the National Institutes of Health (NIH) now instructs grantees that monoclonal antibodies (MAbs, a biological product widely used in research) should be produced *in vitro*, unless a scientific justification is given. ARDF estimated that one million mice a year<sup>3</sup> were used for this purpose before 1997, so the impact of NIH’s guidance should be significant. But without reporting on mice, it is not possible to measure the impact with certainty.

## ALIGNMENT AND THE PATH FORWARD

It is worth noting that other U.S. government departments recognize that all vertebrate animals deserve protection. For example, the Environmental Protection Agency and the Interagency Coordinating Committee on the Validation of Alternative Methods are actively working on encouraging alternatives and moving away from animal use. Further, governments and companies worldwide strive for international harmonization of testing policies and procedures in attempts to stabilize standards, reduce duplication, and promote efficiency. Aligning laws, policies, and standards about animal use makes sense in terms of ethics, science, and economics.

In the short term, ARDF recommends pilot programs of targeted reporting; for example, there could be incentives for a voluntary program of self-reporting animal numbers to a federal agency. In the long term, ARDF recommends that a working group of diverse stakeholders conduct a fair assessment of scientific consensus on extending AWA coverage to all vertebrates, and address the barriers to political acceptance, since it will require a change in the law. In our view, when institutions that use animals in research and testing more honestly account to the public, the use of alternatives will accelerate. **AV**

*Sue A. Leary, M.S., is President of AAVS and ARDF*

<sup>1</sup>Leary, S., Schaeffer, C., and Katrinak, V. (2011). Exclusion of Birds, Rats, and Mice from Legal Protection in the U.S. *AV Magazine*, 120 (1): 15-17.

<sup>2</sup>Plous, S. and Herzog, H. (June 1999). Should the AWA Cover Rats, Mice, and Birds? The Results of an IACUC Survey. *Lab Animal*, 28, 38-40.

<sup>3</sup>Statistic based on 1991 report by Business Communications Company, which estimated 2.6 million mice were used to manufacture MAbs worldwide. U.S. was 40 percent of world total.

<sup>i</sup> European Commission. COM(2005) 7 final.

<sup>ii</sup> European Commission. COM(2007) 675 final.

<sup>iii</sup> European Commission. COM(2010) 511 final/2.

<sup>iv</sup> European Commission. COM(2013) 859 final.

<sup>v</sup> USDA. (September 2008). Animal Care Annual Report of Activities, Fiscal Year 2007. p. 45.

<sup>vi</sup> USDA. (September 2008). Animal Care Annual Report of Activities, Fiscal Year 2007. p. 46.

<sup>vii</sup> USDA. (February 10, 2011). Annual Report Animal Usage by Fiscal Year. Total 2008. p. 2

<sup>viii</sup> USDA. (November 28, 2014) Annual Report Animal Usage by Fiscal Year. All Pain Types 2011.

# Who's at the IACUC Table?

By Alka Chandna

In the early 1980s, two People for the Ethical Treatment of Animals (PETA) exposés that helped shine light on the miserable plight of nonhuman primates in laboratories—the case of the Silver Spring Monkeys at the Institute for Behavioral Research in Silver Spring, Maryland, and a series of traumatic head injury experiments conducted on baboons at the University of Pennsylvania—rocked public consciousness and forced the attention of the U.S. Congress.

In response to the public outcry that followed these revelations of horrifying mistreatment and neglect, Congress passed the Improved Standards for Laboratory Animals Act and the Health Research Extension Act in 1985. In addition to implementing federal policies and principles related to the use of animals in laboratories, these laws required the establishment

**IACUCs serve as the last line of defense for animals in laboratories.**

of Institutional Animal Care and Use Committees (IACUCs) to oversee experiments on animals at federally regulated and funded facilities. Lawmakers envisioned that these committees would be the cornerstone of animal protection

in laboratories, ensuring compliance with federal regulations and guidelines. But have IACUCs lived up to the promise? A central aspect of the IACUCs' legally mandated responsibilities involved reviewing all proposed animal use at their respective institutions. The committees are charged with ensuring that procedures involving animals will avoid or minimize discomfort, distress, and pain; that the principal investigator (lead experimenter) has considered alternatives to procedures that may cause more than momentary or slight pain or distress; and that the principal investigator has provided written assurance that the proposed activities do not unnecessarily duplicate previous experiments. The committees are also responsible for ensuring that

any proposal to use animals must include a scientific justification for the number of animals to be used, as well as a complete description of the proposed use.

## HOW MIGHT AN IACUC AFFECT ANIMALS IN LABS?

If an experimenter proposes using monkeys in experimental brain surgeries and specifies a regimen for pain relief that doesn't reflect the best science, the IACUC can and should require that the experimenter modify the protocol to ensure minimization of pain.

If an experimenter proposes using rabbits to produce antibodies when non-animal methods could be used instead, the IACUC can and should require that the experimenter modify the protocol to use the non-animal method instead of harming animals.

If an experimenter refers to the amount of laboratory space or the number of cages available as justification for the numbers of animals to be used in the protocol, the IACUC can and should require a justification that's rooted in science—not expedience, convenience, or economics.

And if an experimenter throws together a protocol and leaves out critical details, such as what kind of pain relief will be used, which staff members will perform which procedures and what training they received, or how the animals will be killed at the end of the protocol, the IACUC can and should ask the experimenter to fill in all of these details so that harm to animals is minimized.

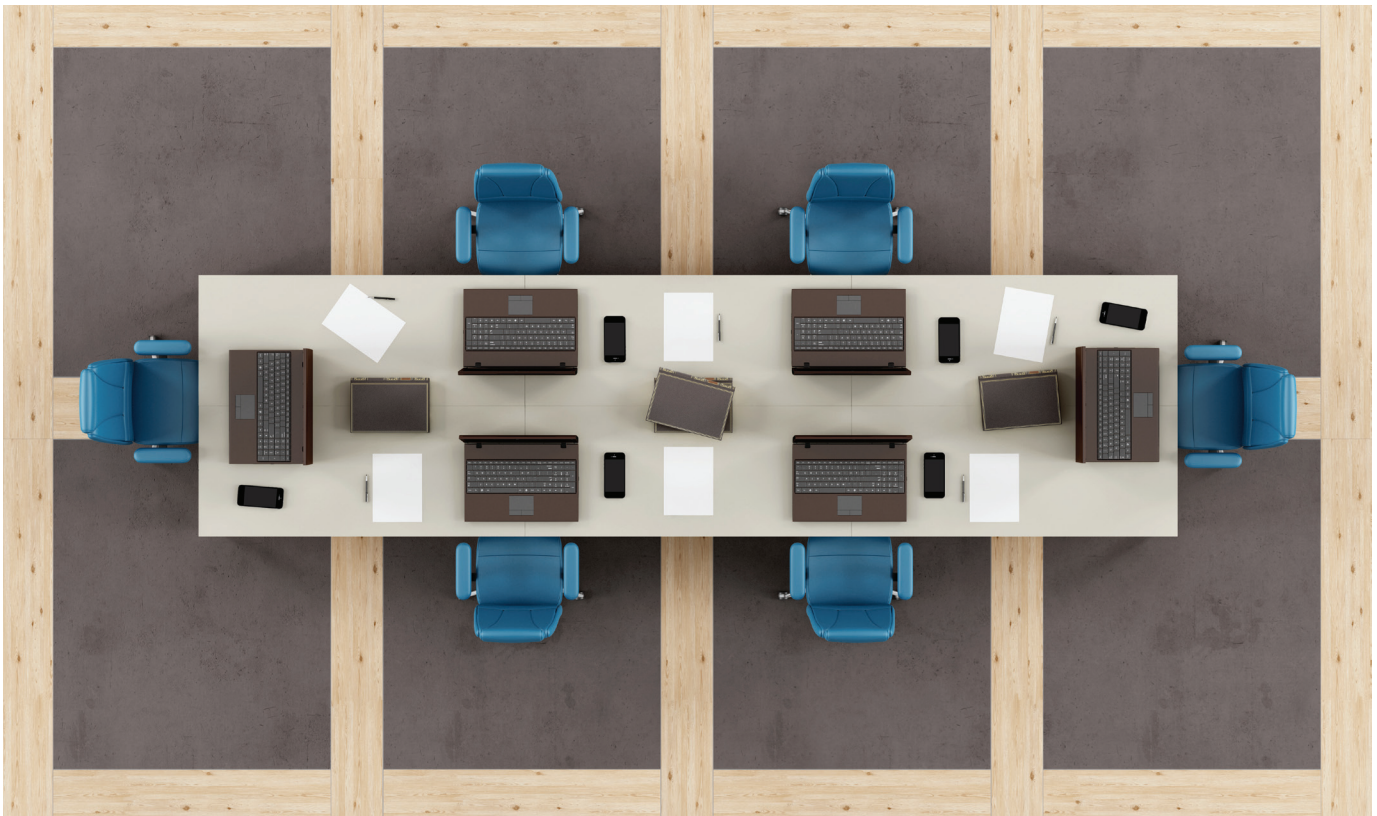
IACUCs serve as the last line of defense for animals in laboratories. They can ensure that the minimum number of animals are used in the protocol. They can lessen the pain, discomfort, and distress suffered by animals who are used in experiments. And they can reject a proposed protocol outright and keep animals from being used in the first place.

## A RECIPE FOR BIAS

In 2001, social psychologists Scott Plous and Hal Herzog published their seminal study on IACUC protocol reviews, in which they found that in-house IACUCs—where the voting members presumably knew the investigators whose protocols were being assessed—approved proposed protocols 98 percent of the time, while blinded IACUCs, whose members did not know the investigators, found the same protocols to be deficient 61 percent of the time because they were “not very understandable,” “not understandable at all,” had “poor” research design and procedures, or did a poor job of justifying the number and species of animals used. Other studies have found similarly staggering IACUC approval rates, in one case as high as 99.8 percent.

Audits conducted by the U.S. Department of Agriculture's Office of the Inspector General in 1995, 2005, and 2014 also found systemic inadequacies in the IACUC review and approval process at facilities across the country. They showed that IACUCs have failed to ensure that unnecessary or repetitive experiments would not be performed; that experimenters had searched for alternative methods; and that pain and distress to animals was minimized.

Could this failure of IACUCs to carry out their legally man-



dated responsibilities be rooted in the fact that IACUC members are heavily biased toward approving the experiments of their peers, even when the proposals under review are inadequate?

Federal regulations and policies provide minimal guidance on the composition of IACUCs. The AWA requires that each committee comprise at least three members, including one veterinarian and one person not affiliated in any other way with the facility, to represent the “general community interests in the proper care and treatment of animals.” The Public Health Service (PHS) *Policy on Humane Care and Use of Laboratory Animals* requires that committees at PHS-funded facilities consist of at least five members, including one veterinarian, a practicing “scientist” (defined as someone experienced in animal experimentation), a non-scientist, and a person not otherwise affiliated with the institution. However, beyond these rudimentary prescriptions, there are no further instructions on committee composition. IACUC membership requirements suggest that all of these voices are important, but these membership requirements do not require any sort of balance among the various members.

In 2012, my colleagues and I examined IACUC membership at the top 25 National Institutes of Health-funded institutions. Using the Freedom of Information Act, we obtained copies of the institutions’ committee rosters. Our analysis determined that on average, 67 percent of the committee membership at these institutions consists of animal experimenters. Some of the veterinarians represented on IACUCs are also directly engaged in animal experimentation, but they are not represented in the 67 percent figure. Meanwhile, non-scientists and nonaffiliated

members represent an average of just 18 percent of the committee membership. We also determined that nearly 93 percent of IACUC chairpersons are animal experimenters.

These data reveal that there is a preponderance of animal experimenters on IACUCs at leading U.S. institutions, and minimal representation from nonaffiliated members and non-scientists. In contrast, other countries require greater balance of the various interests on oversight committees. In Sweden, oversight committees must have an equal number of scientists and community members, and one-third of the community members must be animal welfare representatives. In Germany, one-third of the committee members must be animal welfare representatives, and in Australia, one-third of the committee must be composed of community and animal welfare representatives. Germany, Denmark, and Switzerland all require that appointments to the oversight committees include individuals from animal welfare organizations.

With non-scientists and unaffiliated members constituting a small minority of U.S. IACUCs—and with most committees not implementing unanimous anonymous voting—peer pressure (the human desire not to be the single dissenting voice), personal career interests, and loyalties among animal-using IACUC members may trump the guiding principles of the 3Rs (refinement, reduction and replacement of animal use) and contribute to the approval bias observed in previous studies. **AV**

*Alka Chandna, Ph.D., is the Senior Laboratory Oversight Specialist for People for the Ethical Treatment of Animals.*

# Delcianna Winders

Academic Fellow, Harvard Animal Law & Policy Program



"Animal welfare has always been a bipartisan issue," says Delcianna Winders.

**Delcianna Winders, J.D.**, is the Academic Fellow of the Harvard Animal Law & Policy Program, which is committed to analyzing and improving the treatment of animals by the legal system. She initiated the Animal Welfare Act at Fifty conference held last December, featuring presentations from more than two dozen experts representing organizations, universities, and federal agencies, to assess the impact of the Act and consider recommendations for its future.

**AAVS: Tell us about the Harvard Animal Law & Policy program and your role there.**

**DELCIANNA:** The Harvard Animal Law & Policy Program is a relatively new program aimed at raising the status of animal law within academia. My primary task is to generate scholarship—law review articles—and publish them in top journals, the generalist journals that hopefully reach a broad audience. We're also trying to expand the animal law curriculum at the law school, and then separately we're doing a lot of policy work working with other organizations. We have a policy fellow working on the [federal] Farm Bill and the animal welfare implications of that. So there are really a lot of pieces; it's growing really quickly, and it's very exciting.

**What courses and topics do you cover?**

We currently have three courses on the curriculum. We have a general animal law survey course, which is your standard animal law class, which is taught now at more than 100 schools. We also have a wildlife law class, and that touches on a wide variety of issues, including captive wildlife. And we're adding a farmed animal course that focuses on animals raised for food. Of course, we interact with animals in so many different ways in our lives, there are lot of classes we could and may add in the future, but that's the core right now.

**What was the inspiration for the Animal Welfare Act at Fifty conference, and what did you hope to do?**

It was my idea because I've worked on issues involving the Animal Welfare Act for more than 10 years, and I've banged my

## ...the ultimate goal was to start a dialog that would lead to some real tangible changes in how this Act is being implemented.

head against the wall infinitely since I started doing it. My scholarship at Harvard focused on the Animal Welfare Act. I remembered that it was going to be turning 50 and I wanted to have a big conference that set off the program and it just seemed like the perfect opportunity.

There were several goals, but the ultimate goal was to start a dialog that would lead to some real tangible changes in how this Act is being implemented. Because in all of its years, it's never been properly implemented.

The topics were chosen based on the submissions we got. We did a call for papers; we tried to open it up to anything. We reached out to industry folks [and] we reached out to government, to try and get a diverse representation of voices. And from there we took the strongest submissions and put them together in topic-oriented panels.

We got a lot from academia, we got a lot from advocacy, [and] we worked with government to get some voices there. We had some industry voices, but ideally we would have liked to have more.

### How do you think it went?

I'm very pleased with how it went. I think it was a great dialog. I'm really looking forward to the next step and building on it and seeing what we can do. We've talked with the USDA about meeting with them about how we can build on this. We've talked about potential smaller events that home in on subtopics that arose out of the conference, so I'm really excited about that. I think it's generated a lot of momentum. It's a little challenging, given the new administration, to know what's really viable going forward, but we're trying to take a long view. This is a statute that's been around a long time and will be, and I think there are things we can do right now. But I think we're in a different territory than we were a couple of years ago.

### What are the hot topics regarding the Animal Welfare Act right now?

The hottest topic is the fact that [in February] the USDA deleted thousands of records from its website, and has been [re]posting some in drips and drabs—totally inadequate amounts. That's the thing everyone's mobilizing around right now, including industry and members of Congress. My hope is, of course, that we can get the records back—the law clearly requires that, in my view—but hopefully we can use this energy and focus to turn toward the substantive problems with implementation of the Act that we've had for so many years that no one's really been paying a lot of attention to, despite a series of inspector general reports.

As far as the core issues, the automatic renewal of licenses under the Act has gotten a relatively good amount of attention lately because of a series of lawsuits, and that's something the inspector general condemned a quarter of a century ago, but nothing happened. Something I'm focusing on, related to the [website] blackout, is the fact that the USDA relies on warnings as a primary enforcement mechanism, and that's not working. And then its other main tools are severely discounted penalties, which are really problematic.

### What is the relevance and importance of the Animal Welfare Act in 2017?

One of the main things that was hit on [at the conference] is that yes, there are some problems with the Act, but the animals who are regulated do have better lives than they would without it. And I think the rats, mice, and birds used for research without regulation, and the transparency around that, is a good example. I guess the most important takeaway for the public is that the Act was passed by Congress 50 years ago to ensure the humane care and treatment of animals, and in most instances it is not doing that. There is some modicum of improvement for these animals, but it's really not fulfilling its intent.

### Where do we go from here?

One important thing is to try to get the more than 100 members of Congress who have spoken out about the blackout to turn to the substantive issues I mentioned. Animal welfare has always been a bipartisan issue; Republican Sen. [Bob] Dole was the lead behind the 1985 amendment. I don't think there's a real good reason why we can't see some improvements made. Given that these members of Congress have shown they care about these issues, it's a great opportunity to push them to ideally make amendments to the Act—although that may be idealistic—but they can at least put heavy pressure on the USDA to change some of these practices that the inspector general has said over and over and over again are failing animals. Things like discounting penalties well over 80 or 90 percent in some cases; automatically renewing licenses when it's clear under the case law that they don't need to do that, and that doing so is harming animals.

Just allocating more resources to the agency would go far; the most recent stat I have is that there are 104 [USDA] inspectors for more than 15,000 locations. So there are some pretty straightforward things that members of Congress who have shown an interest could do, and I do think it's worth people reaching out to their senators and representatives. **AV**

LEARN MORE AT [HTTP://ANIMAL.LAW.HARVARD.EDU](http://animal.law.harvard.edu)

# Giving

SUPPORT THE AAVS MISSION

## The Caroline Earle White Society



IN 1998, AAVS launched Project Animal Welfare Act: An Act for All to gain legal protection for birds, rats, and mice excluded from the Animal Welfare Act since 1972. It has been recognized as a key battle for animals in labs, and its ultimate success will represent a remarkable legacy for AAVS.

And with that, consider your personal legacy. In joining AAVS, you affirmed your respect, compassion, and love for all animals. As an advocate and donor, you support our important mission to end the use of animals in research, testing, and education. You serve as an animal ambassador and a role model for others, and your strong values and posi-

tive principles should be perpetuated after you're gone.

AAVS created the Caroline Earle White Society to recognize members who have declared their ultimate commitment to our cause through a provision in their estate plans. Making such a decision ensures the continuation of your legacy, funds our work for years to come, and serves as an inspiration to others.

In addition to establishing a significant gift for AAVS in the future, your planned giving arrangements can benefit you and your family in the present through reduced taxes or additional income from a gift annuity. Whether a bequest, trust, life insurance, retirement fund, or real estate, your designation will make a tremendous difference to help us end animal exploitation.

AAVS's longevity is greatly attributable to gifts received as a result of planned giving. This is one of the most important decisions that you will make during your lifetime, and we—and the animals—are grateful for your careful consideration.

For information on planned giving, leadership gifts, recurring gifts, or other support, contact Chris Derer, Director of Development & Member Services, at 800-SAY-AAVS or [cderer@aavs.org](mailto:cderer@aavs.org). When including AAVS in your estate plans or sending a donation, please use our legal title and office address: American Anti-Vivisection Society, 801 Old York Road, Suite 204, Jenkintown, PA 19046-1611. EIN: 23-0341990. AAVS is a not-for-profit 501(c)(3) organization to which contributions are 100 percent tax-deductible under federal and state law.

## TRIBUTES

HONORING LOVED ONES

In memory of dearest Patches, Possum, Alley, Silver, Darling, and my little baby girl Angel. I will see all of you in heaven. I love you dearly and forever.

*James Gateley  
Austin, Texas*

In memory of Truman. Rest in peace, sweet man!

*Sara Stotz  
Athens, GA*

In honor of Sheba, my yellow Labrador. I give thanks for her exceptionally loving heart, and her knowledge of the meaning of my many words, and the emotional impact that connects our species.

*Kilbee Britain  
Los Angeles, CA*

In memory of Lady, my sweet border collie. You will always be remembered and loved.

*Nancy Reinecker  
Wichita, KS*

In loving memory of Sunny, Buddy, Velvet, Oreo, Izzy, Taffy, Sam, Bailey, Casey, and Cookie.

*Darlene Mollica  
Boardman, OH*

In loving memory of Phillip L. Piper.

*Cadra McDaniel  
Killeen, TX*

In honor of all animals who suffer.

*William and Elizabeth Stolle  
Roggen, CO*

In memory of my nephew, Scott Lee Hoover, who loved animals and children. RIP, Scottie Boy!

*Jamie Kovacs Burks  
Cape Coral, FL*

In memory of Maxine, Scully, Mulder, and Murphy. We will see you all again someday.

*Darren and Christie Strain  
Brookhaven, PA*

In memory of Tina Nelson. Still miss you nearly every day. Your passions live on. You did good!

*Susan Giglia  
Damariscotta, ME*

In memory of Java. Best friend ever!  
*Matt Moulton*  
*Haymarket, VA*

In memory of Shylo, an 8-year-old female calico. She passed 4-20-16. I still miss seeing you sleeping at the end of the bed each morning.  
*Krista Becker*  
*East Meadow, NY*

In memory of Zeus, Lucky, and Trouble. I miss you, my darlings, but I'll be along in the twinkling of God's eye.  
*Pharaby Branscome*  
*Crowley, LA*

In memory of my aunt, Helen East Richardson, who gave a loving home to several cats, and who read Black Beauty to me.  
*Vivian Wood*  
*Wichita, KS*

In memory of Shep, my best friend and comrade.  
*Kenneth Skoug, Jr.*  
*Harleysville, PA*

In memory of Cliff and Woody. I miss you both every day.  
*Christine Bloom*  
*Cherry Hill, NJ*

In honor of St. Francis of Assisi, and in recognition of AAVS's work, especially on behalf of sanctuaries.  
*Sally Martyska Rowland*  
*Solomons, MD*

In memory of my father, Louis Schurman. May God bless you, Dad. You always were good with me having cats as pets. Other parents were not as understanding as you. You were a great role model!  
*Robert Schurman*  
*Paramus, NJ*

In memory of Ginger, our Great Pyrenees. Micki and I miss you.  
*Gwen Gröndal*  
*Carlsbad, CA*

In honor of Sue Leary.  
*Richard Abbott*  
*Santa Paula, CA*

In honor of Alpo Tavlin.  
*Steven Tavlin*  
*New York, NY*

In honor of Abby & Welly.  
*Judith Kirkwood*  
*North Billerica, MA*

In memory of Missy, my beloved English setter.  
*Edmond Omelia*  
*Lake Lillian, MN*

In honor of the AAVS Board of Managers, for their extraordinary dedication and service to AAVS and the animals.  
*Sue Leary*  
*Ambler, PA*

In memory of Wolfe. RIP, my sweet boy. You were such a good and loving cat, a blessing to us and I am so thankful you picked me to be with. We miss you so much.  
*Chanelle Black*  
*Huntington Beach, CA*

In memory of our cat, Twyla. A part of us died when you died.  
*Charles Mazzoli*  
*Williamson, NY*

In honor of Wylie.  
*Ruth Dehne*  
*Chicago, IL*

In memory of Lew Scheffey.  
*Joyce Scheffey*  
*Great Barrington, MA*

In memory of Richard Comeau, who cared deeply for all animals.  
*Margaretha Comeau*  
*Ayer, MA*

In memory of Andy, a most excellent and affectionate orange cat. We miss you!  
*Nina and Stephen Waite*  
*Island Park, ID*

In honor of Beth Fernandez.  
*Elizabeth Buchholz*  
*Miami, FL*

In memory of my beautiful mare, Belle, and Cody and Cisco—two of the best dogs ever.  
*Helen Burney*  
*Chino Hills, CA*

In memory of Ellen Wendy Weiss. She loved all animals.  
*Andrew Jacobson*  
*Brooklyn, NY*

In memory of Moyal. Thank you very much for coming into our lives, showing compassion and bringing happiness to us. You will be in our hearts forever. Wherever you are now, we pray God to keep you in happiness in peace.  
*Vimala and Kirubakaran Periyannan*  
*Santa Clara, CA*

In honor of Cathy A. Morris.  
*Hillarie Morris*  
*Atlanta, GA*

In memory of Penny, a loving canine friend.  
*Gail Marquardt Black*  
*Sayville, NY*

In memory of Katie Doe, our bunny of 14 years.  
*Susan Lukasiewicz*  
*Brewerton, NY*

In memory of Alfonso Vazquez, a wonderful, loving father who taught me to love and care for animals as well as people.  
*Noemi Vazquez*  
*Houston, TX*

In memory of Anastasia, Brownie, Nicholas, Chloe, Cicero, and all our beloved pets.  
*Mary Ferris*  
*Marblehead, MA*

In memory of my parents, Jack and Cathie Koten.  
*Sarah Koten*  
*Hinsdale, IL*

In honor of Isaac Koerner. During two severe winters, Isaac regularly shoveled a small path so that my old, sickly, blind wire fox terrier Richard could go outside. He did this at least twice daily, traveling far in deep snow, and never asked for any payment. As a disabled senior living alone, I thank Isaac for being a kind and compassionate "guardian angel" to my beloved companion and me.  
*Thomas Overton*  
*Baltimore, MD*

In memory of Miss Gini. Thank you for coming into my life—love forever!  
*Kathy Toscano*  
*Lake Villa, IL*

You can honor or memorialize a companion animal or animal lover by making a donation in his or her name. Gifts of any amount are greatly appreciated. A tribute accompanied by a gift of \$50 or more will be published in *AV Magazine*. At your request, we will also notify the family of the individual you have remembered. All donations are used to continue AAVS's mission of ending the use of animals in biomedical research, product testing, and education.

# Members' Corner

THE ANIMAL WELFARE ACT (AWA) is perhaps most commonly associated with research and breeding facilities, but its regulations also extend to exhibitors such as zoos, aquariums, circuses, and theme parks. In theory, the AWA is intended to ensure adequate living conditions and humane treatment of animals; however, the reality is often quite different.

Wild animals have been exploited by humans since ancient times: caged for display, used in sporting competitions, forced to perform, and otherwise confined or abused for amusement. Almost all species require extensive conditioning to respond and act



on command; it is not uncommon for trainers to force animals into submission through abusive and sometimes deadly methods. Animals are also subject to neglect and improper care related to confinement and transport.

While vacationing in Florida in 1978, I went to SeaWorld in Orlando. Rather than enjoying the spectacular shows featuring dolphins and orcas, I was dismayed by the limited space allotted to the park's aquatic prisoners. The 2013 documentary "Blackfish" focused on the captivity of Tilikum, a wild-caught male orca owned by SeaWorld who was involved in the death of a trainer and two other people in separate incidents. The theme park has experienced public backlash and financial losses since the film's release. Sadly, Tilikum died earlier this year having been confined in small tanks for nearly his entire 36-year life.

As with that lone trip to SeaWorld, I attended the circus only once, when the Ringling Bros. and Barnum & Bailey tour came to

Philadelphia in 1979. Circus owner Feld Entertainment often claimed that the relationship between trainers and wild creatures demonstrated that humans and animals can work and live together in harmony with mutual respect. Except that tigers don't jump through flames in the wild. And elephants don't do handstands in the jungle. You can't gently convince any wild animal to perform such feats—it requires relentless and brutal training using whips, bullhooks, and other extremely painful devices.

It came as a momentous surprise last year when Feld announced that it was retiring its elephants, and an even bigger shock when it decided to shut down its shows for good this spring. The company acknowledged the public's "mood shift" regarding elephants being forced to perform, and further cited the impact of local ordinances prohibiting animal-based circuses—a credit to the successful efforts of grassroots activists.

They say elephants never forget. However, I hope they—along with primates, big cats, horses, dolphins, and countless other species that humanity has stripped of their freedom and dignity—might somehow forgive us.



For the animals,

Chris Derer  
Director of Development & Member Services

# OUR MISSION, YOUR LEGACY



**The greatest gift you can give is one that continues your legacy after you're gone.**

As an AAVS member, you help animals every day by supporting our campaigns, outreach efforts, education programs, and Sanctuary Fund. Providing for AAVS in your estate plans will guarantee that our vital work continues into the future—until all laboratory cages are empty.

[AAVS.org/PlannedGiving](https://aavs.org/PlannedGiving)

For a free brochure, please contact Chris Derer at [membership@aavs.org](mailto:membership@aavs.org) or 1-800-SAY-AAVS.

*AAVS suggests consulting an attorney or financial advisor about options that are right for you.*



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“Whether we exploit animals to eat, to wear, to entertain us, or to learn, the truth of animal rights requires empty cages, not larger cages.”

- Tom Regan, Ph.D., 1938-2017

