

ANIMAL RIGHTS: ACTIVISM VS. CRIMINALITY

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

MAY 18, 2004

Serial No. J-108-76

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

98-179 PDF

WASHINGTON : 2005

For sale by the Superintendent of Documents, U.S. Government Printing Office
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ANIMAL RIGHTS: ACTIVISM VS. CRIMINALITY

TUESDAY, MAY 18, 2004

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:02 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Orrin G. Hatch, Chairman of the Committee, presiding.

Present: Senator Hatch.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Chairman HATCH. Good morning. I want to thank everybody for joining us today to examine the issue of when legitimate animal rights activism crosses over into illegal criminal acts. We have some very distinguished panelists with us today and we look forward to hearing from them.

As everyone in this room is very well aware, the right to demonstrate, to protest and to make your voice heard is as deeply embedded in the American political fabric as is any other right that we collectively hold dear. We cannot and we will not violate that right. However, where political activism breaches peaceful protest and dives head-first into criminal conduct, we can, should and will use every mechanism available to prosecute the individuals responsible.

One area where it is abundantly clear that fringe activists have resorted to criminal conduct is where academic and commercial enterprises are conducting legitimate animal testing. In recent years, some radical activist groups have gone well beyond what any reasonably-minded person would consider legitimate protest.

Their tactics include vandalizing and pipe-bombing research facilities, credit card fraud, threatening employees of businesses and research companies, terrorizing children of employees, and posting death threats against employees, as well as employees' names, addresses and phone numbers, on the Internet.

These extremists target researchers, farmers, circuses and other lawful, productive and beneficial organizations. There have been numerous bombings and vandalisms against farmers in my home State of Utah. A mink breeders' co-op in Murray, Utah, has been attacked and fire-bombed. The farmers' names, addresses and phone numbers have been posted on the Internet, together with complete instructions on how to build bombs and how to cover up any trace of the crime.

For instance, the instructions on how to make milk jug fire bombs came with this caution, quote, "Arson is a big-time felony, so wear gloves and old clothes you can throw away throughout the entire process, and be very careful not to leave a single shred of evidence," unquote. Now, that is shocking, to say the least.

Additionally, as most of you know, I have long been devoted to health-related issues. These actors target what could be life-saving research. When research laboratories and university researchers are targeted and attacked, the ones who lose most are those who are living with a disease or who are watching a loved one struggling with a devastating illness.

Those who target and attack peaceful organizations and individuals do not legitimately advance their cause and promise no breakthroughs to society. Instead, they only promote a grave threat to the well-being and advancement of mankind.

What is particularly disturbing about these egregious tactics is that they are not isolated instances carried out by a few persons acting alone. Instead, they are part of a broad, carefully-orchestrated and coordinated effort to threaten, terrorize and ultimately shut down lawful enterprises by systematically targeting their employees and other persons or entities who do business with those lawful enterprises.

Our task here today is to help identify and show the line that distinguishes lawful expression and protest from criminal behavior. Again, I appreciate everyone taking time to be with us today. We will hear from two panels of witnesses. On our first will be Mr. McGregor, the U.S. Attorney for the Eastern District of California, and Deputy Assistant Director for Domestic Terrorism from the FBI, Mr. John Lewis.

We welcome both of you here. We are grateful that you would take time to come and we look forward to hearing from both of you.

On our second panel is William Green, general counsel of the Chiron Corporation; Mr. Jonathan Blum, from Yum! Industries, the parent company of Kentucky Fried Chicken; and Dr. Stuart Zola from Emory University. So we look forward to hearing from the three of you as well.

We will submit all of the full statements for the record and if you could limit your opening remarks to 5 minutes, we will then have enough time for questions.

[The prepared statement of Senator Hatch appears as a submission for the record.]

So let's first begin with you, Mr. Scott. Is that the way we are going to go?

Mr. SCOTT. Thank you, Mr. Chairman. If it is okay with you, Mr. Lewis will lead off.

Chairman HATCH. Okay. We will go with Mr. Lewis first and then go to Mr. Scott.

STATEMENT OF JOHN E. LEWIS, DEPUTY ASSISTANT DIRECTOR, COUNTERTERRORISM DIVISION, FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Mr. LEWIS. Good morning, Chairman Hatch and members of the Committee. I am pleased to appear before you and discuss the

threat posed by animal rights extremists and ecoterrorists in this country and related difficulties in addressing this crime problem.

During the past several years, special-interest extremism as characterized by the Animal Liberation Front, or ALF, the Earth Liberation Front, or ELF, and related extremists has emerged as a serious domestic threat. The FBI estimates that the ALF and ELF and related groups have committed more than 1,100 criminal acts in the United States since 1976, and over half of them in the last 8 years resulting in approximately \$110 million in damages.

The ALF, established in Great Britain in the mid-1970's, is a loosely organized extremist movement committed to ending the abuse and exploitation of animals. The American branch of ALF began its operations in the late 1970's. Individuals become members of ALF by engaging in direct action against companies or individuals who, in their view, utilize animals for research or economic gain, or do some manner of business with those companies or individuals.

Direct action generally occurs in the form of criminal activity designed to cause economic loss or to destroy the victim's company, operations or property. These efforts have broadened to include a multinational campaign of harassment, intimidation and coercion against animal testing companies and any companies or individuals doing business with those targeted companies.

The targeting of secondary companies typically takes the form of harassment of employees and interference with normal business operations under the threat of escalating tactics or violence. The harassment is designed to inflict increasing economic damage until the company terminates its business relationship with the principal target.

The best example of this trend involves Great Britain's Stop Huntingdon Animal Cruelty, or SHAC, organization, a more organized sub-group within the extremist animal rights movement. SHAC has waged a sustained campaign against Huntingdon Life Sciences and any companies with which HLS conducts business.

Investigation of SHAC-related criminal activity has revealed a pattern of vandalism, arsons, animal releases, harassing telephone calls, threats and attempts to disrupt business activity of not only HLS, but all of the companies doing business with HLS. Among many others, these companies include Bank of America, Marsh USA, Deloitte and Touche, and HLS investors such as Stephens, Incorporated, all of which, and more, have since terminated their business relationships with HLS.

In recent years, ALF and ELF have become one of the most active criminal extremist elements in the United States. Beginning in 2002, their operational philosophy has been overshadowed by an escalation in violent rhetoric and tactics. Individuals within the movement have discussed actively targeting food producers, biomedical researchers and law enforcement with physical harm. More disturbing is the use of improvised explosive devices against consumer product testing companies, accompanied by threats of larger bombings and potential assassinations.

In addition to the upswing in violent rhetoric and tactics, new trends have emerged in the ecoterrorist movement and include a greater frequency of attacks in more populated areas, targeting of

sports utility vehicles and arsons of new construction homes or commercial properties. It is believed these trends will persist as extremists within the environmental movement continue to fight what they perceive as greater encroachment of human society on the natural world.

The FBI and our law enforcement partners have made a limited number of arrests of individuals alleged to have perpetrated acts of animal rights extremism or ecoterrorism in the past year. These few successes are indicative of how the FBI's efforts are hampered by a lack of applicable Federal criminal statutes.

While it is a relatively simple matter to prosecute extremists responsible for arsons or the use of explosive devices, it is often difficult, if not impossible, to address an organized campaign of low-level criminal activity such as what is exhibited by SHAC.

To address the overall problem presented by SHAC and related activity claimed by ALF, the FBI and its partners in the United States Attorneys' offices nationwide have attempted to use the animal enterprise terrorism statute, with just one conviction since this statute's passage in 1992. While the statute intended to provide a framework for the prosecution of individuals involved in animal rights extremism, it does not reach many of the criminal activities engaged in by SHAC in furtherance of its overall objective of shutting down Huntingdon Life Sciences.

My colleague here today, United States Attorney Greg Scott from the Eastern District of California, will speak in greater detail on the shortcomings of the AET statute, along with proposed amendments. SHAC members are typically quite conversant in the elements of the AET statute, and appear to engage in conduct that, while criminal, would not result in significant, particularly Federal, prosecution.

Today, more than 35 FBI field offices have over 190 pending investigations associated with ALF and/or ELF activities. Despite our best efforts, additional tools are needed to effectively impact animal rights extremism and ecoterrorism. Extremist movements such as ALF and ELF present unique challenges. They exhibit remarkable levels of security awareness and are typically very knowledgeable of law enforcement techniques, as well as the limitations imposed on law enforcement.

In conclusion, the FBI's investigation of animal rights extremists and ecoterrorism matters is our highest domestic terrorism investigative priority. The FBI and our law enforcement partners will continue to address the difficult and unique challenges posed by animal rights extremists and ecoterrorists.

Chairman Hatch and members of the Committee, this concludes my prepared remarks, and I would like to express my appreciation for your consideration of this important issue and look forward to responding to any questions you might have.

[The prepared statement of Mr. Lewis appears as a submission for the record.]

Chairman HATCH. Well, thank you, Mr. Lewis. We appreciate you being here and appreciate your testimony.

Mr. Scott, we will turn to you.

STATEMENT OF MCGREGOR W. SCOTT, U.S. ATTORNEY, EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO, CALIFORNIA

Mr. SCOTT. Good morning, Mr. Chairman. I am pleased to have the opportunity to appear before you today to discuss the threat posed by animal enterprise terrorism and ecoterrorism, the efforts by the Department of Justice to meet this threat, and the Department's proposals for how we can better address this threat.

The difficulty and hardship in investigating and prosecuting these types of offenses cannot be overestimated. In my own district, in the late 1980's, the University of California at Davis was constructing a new veterinary medicine school which was burned to the ground by ALF advocates. Just a few years ago, we had a BLM wild horse/burro facility in rural Modoc County burned to the ground using incendiary devices. We have not been able to successfully prosecute anyone in either of those instances.

One of the principal difficulties in prosecuting these cases is the inadequate scope of 18 U.S.C. Section 43, which makes it a crime to travel in interstate or foreign commerce, or use the mail for the purpose of causing damage to an animal enterprise. The current animal enterprise terrorism statute is insufficient to address the threat posed by terrorist acts committed against research laboratories, businesses and other entities that use animals.

At present, the statute applies only when there is, quote, "physical disruption," end quote, to the functioning of the enterprise that results in damage to or loss of property. As Mr. Lewis just told you, enterprises, however, have been harmed economically by threats, coercion and other methods of intimidation often directed at employees, customers or vendors of animal enterprise that do not fall within the existing criminal prohibition.

For example, as was referenced by Mr. Lewis, ALF's Stop Huntingdon Animal Cruelty Campaign has targeted an animal testing company called Huntingdon Life Sciences. ALF's strategy seems to include not only attacks on Huntingdon itself, including damaging Huntingdon property and the homes of Huntingdon employees, but has also included attacks or threats against Huntingdon's insurance carrier, banker and even companies that merely trade Huntingdon stock.

Another example of ALF targeting a secondary or collateral entity is the recent bombing of the Shaklee Corporation, a California biotech firm. Even though Shaklee is generally considered to be a relatively animal-friendly company, its associations with other companies, including Huntingdon, has made it a target.

While animal terrorists are increasingly targeting not only animal enterprises themselves, such as research facilities and companies that engage in animal testing, but also anyone who is believed to be engaged in the provision of services to such animal enterprises, Federal law does not currently equip the Department with the necessary tools to effectively prosecute the perpetrators of such conduct.

The Department therefore supports amending the animal enterprise terrorism statute to prohibit the use of threats, vandalism, property damage, trespass, persistent and harassing communications, intimidation or coercion in order to cause economic disruption to an animal enterprise when those crimes are part of a larger

plan or conspiracy to cause economic disruption to an animal enterprise.

This new offense is needed to address unambiguously harassing and threatening conduct directed at animal enterprises, as well as their employees, customers or vendors, conduct that currently causes substantial economic harm.

Additionally, the current penalties for those who violate the animal enterprise terrorism statute are inadequate and may fail to deter much of the criminal conduct prohibited by current law. For example, in the absence of death or serious bodily injury, those who perpetrate animal enterprise terrorism are now eligible for a maximum of 3 years in prison under the statute. In many cases, however, such a penalty does not reflect the gravity of the offense, and the Department therefore supports increasing the existing penalties for animal enterprise terrorism in those cases where terrorists cause substantial economic damage. If an animal terrorist, for example, causes millions of dollars in economic damage to an enterprise, he or she should be eligible for more than 3 years' imprisonment.

Finally, the Department supports adding the animal enterprise terrorism statute as a predicate for electronic surveillance and monitoring. Law enforcement agents currently possess the authority to conduct electronic surveillance by petitioning a Federal district court judge for a wiretap order in the investigation of many terrorism crimes and ordinary non-terrorism crimes such as drug crimes, mail fraud and passport fraud.

However, current law does not allow investigators to conduct electronic surveillance when investigating animal enterprise terrorism. Such surveillance would be helpful in preventing this type of terrorism and it should be available when investigators have probable cause to believe that an individual is committing, has committed or is about to commit a violation of the animal enterprise terrorism statute and all other reasonable means of investigation have been exhausted. Given the serious and often violent nature of animal enterprise terrorism, the Department urges Congress to correct this deficiency in current law.

In conclusion, animal terrorism and ecoterrorism pose a serious threat to the safety and security of our fellow citizens. Combatting this threat is a priority for the Department of Justice and in order to win this battle, Federal prosecutors must have every available tool to effectively prosecute this criminal activity.

As always, the Department stands ready to work with Congress to ensure that our efforts are successful. In particular, the Department looks forward to working with this Committee in the weeks and months ahead to improve the animal enterprise terrorism statute.

Again, thank you for the opportunity to testify on this very important topic and I look forward to your questions. Thank you.

[The prepared statement of Mr. Scott appears as a submission for the record.]

Chairman HATCH. Well, thank you, Mr. Scott.

We will, without objection, put the statement of Senator Leahy into the record immediately following my opening statement.

Now, let me just ask both of you this question. Do you have the tools—you have indicated here you may not have all the tools, but let me just ask it in this way—do you have the tools under current law to combat illegal activities directed toward research institutions and companies engaged in or supporting medical innovation? If not, would you care to list for us what additional tools you would like this Committee to try and provide for you?

Mr. LEWIS. Senator, we have no problem addressing investigations that involve criminal activity such as arson and explosives, use of explosives. We rely on other statutes, frankly, than the animal enterprise terrorism statute to address those types of cases.

In this particular arena, when we are dealing with a whole range of activity that does have economic impact—things that include implied or veiled threats, office visits, office invasion in the form of blockades, surveillance of employees, posting employee information on the Internet, vandalism, that kind of thing—these are not covered at present by the animal enterprise statute and are therefore outside the scope of what we would be able to charge and bring to the U.S. Attorney's office. It is those types of things that are aimed at companies such as Huntingdon Life Sciences or secondary companies that work with them that we would like to see brought into the existing statute.

Chairman HATCH. As Mr. Scott has suggested here, would the addition of Title III wiretap authority to the Animal Enterprise Protection Act—that is Title 18 U.S.C. Section 43—would that be helpful to the FBI in investigating these particular matters?

Mr. LEWIS. There is no question that Title III authority would greatly assist us in these cases. Right now, we cannot apply it. It is not a predicate offense. If we could have that changed, the short answer to your question is it would be a powerful tool in helping us through these investigations.

Chairman HATCH. Can you live without that tool and still get these investigations done?

Mr. SCOTT. Well, I think the trigger on the wiretap mechanism and its availability to law enforcement is that all other reasonable means of investigation have been exhausted before we apply to a Federal district court judge for that authority. So by its very nature, the statute would be limited to those circumstances where we have used every other tool available to us and, by resort, we are having to go to this mechanism.

Chairman HATCH. Have either of you seen coordination between extremist groups located within the United States and other extremist groups from other countries?

Mr. LEWIS. Sir, there is coordination to the extent that there is dialogue going back and forth, in addition to the flow of dollars back and forth between Great Britain and the United States. SHAC USA or Stop Huntingdon Animal Cruelty here in the United States grew out of the same organization that exists in Great Britain. We know that there is communication going back and forth. We know that there is travel of principals going back and forth and, as I said, the flow of dollars.

If I may, on the last question that you asked, I will also tell you that we have learned through our investigations that there is a code of conduct within this movement that spells out no coopera-

tion with law enforcement if you are caught. In fact, they have a name for it; they call it the no-compromise policy.

The fact of the matter is most of the individuals that we confront in these investigations—when they are confronted, they simply don't cooperate. Getting back to your question on Title III authority, it would be extremely helpful, if we can't get cooperation from subjects, to be able to use Title III to tie us into other subjects.

Chairman HATCH. Many of the acts committed by these extremists, it would seem to me, already violate State laws. Now, are these State laws adequate to combat and prosecute, if you will, these animal terrorists?

Mr. SCOTT. Senator, I was a local prosecutor, to include elected district attorney, for a total of 14 years. So I am very sensitive to the issue of the federalization of what have historically been local or State crimes.

I think what makes this particular area different is that these are not random, isolated acts of vandalism or graffiti or assaults or threats. This is all part of a coherent plan or strategy that oftentimes is a national strategy or conspiracy.

What the Department would propose is that when this series of illegal acts that would otherwise oftentimes only constitute misdemeanor conduct is part of a larger plan or conspiracy that is directed to affect the economic opportunities of a legitimate business, then there is a Federal aspect to that.

The other part of it that is significant is that as a local prosecutor in California and now as a United States Attorney, the investigative tool of the Federal grand jury is tremendous in relation to what is available to local prosecutors, at least in California. And the ability to call witnesses and question witnesses and suspects and material witnesses in front of the Federal grand jury and to subpoena documents—all those kinds of things are a tremendous tool that is not available to local prosecutors.

The final point I would make is that if a local district attorney in a county in far northern California sees a series of what he or she would consider to be petty acts of vandalism, and a prosecutor in southern Oregon sees the same thing without knowing that the other is going, there isn't that connection to establish the wider plan. So they may not take the cases as seriously as they should be, whereas with the Federal ability to look at it globally, we have the ability to really make a determination of how significant the conduct is.

Chairman HATCH. Let me ask you, what effect does the targeting of secondary companies not meeting the statutory definition of, quote, "animal enterprise," unquote, under 18 U.S.C. 43, have on the FBI's ability to investigate and obtain prosecution of animal rights extremists who commit criminal acts against those companies?

Mr. LEWIS. Sir, I believe I heard almost all of your question. There is a sustained campaign being waged here in this country by SHAC on what we call secondary or tertiary companies. In fact, as many as 100 companies since 2000 have stopped doing business with Huntingdon Life Sciences because of these attacks.

If we cannot bring prosecution against individuals who are involved in a variety of lower-level criminal activity against these

secondary companies, then we lose an opportunity to arrest subjects, hopefully interrogate subjects, bring subjects to the U.S. Attorney's office for further prosecution and hopefully elicit some sort of cooperation. That has long been one tool in our bag for all other types of investigations, the power of prosecution and what it does in terms of bringing cooperation on the part of some people.

Chairman HATCH. Well, I appreciate your testimony here today. This is an important hearing because it is important for us to let the American people know that these groups are out there and that they are getting away with some very terrible acts and that we have got to do more to give the law strength to be able to apprehend them and go after them.

I think both of you testifying here today is very important, so we appreciate you coming. Thanks so much.

We will turn to our second panel: William Green, senior vice president and general counsel of Chiron Corporation; Jonathan Blum, senior vice president of government affairs at Yum! Brands; and Dr. Stuart Zola, the director of the Yerkes Primate Center at Emory University.

Let's start with you, Mr. Green, first. Mr. Green, we will go to you, and then Mr. Blum and then Mr. Zola.

**STATEMENT OF WILLIAM GREEN, SENIOR VICE PRESIDENT
AND GENERAL COUNSEL, CHIRON CORPORATION,
EMERYVILLE, CALIFORNIA**

Mr. GREEN. Thank you, Mr. Chairman and members of the Committee. I appreciate the opportunity to be here today on behalf of Chiron Corporation. I must also say, however, that it is not really a pleasure testifying before this Committee in a circumstance where both personally and institutionally we are in the cross-hairs of a violent and persistent campaign of intimidation and harassment against our employees and ourselves, for reasons that are only vaguely related to our current business.

The interesting dynamic that is occurring in animal terrorism, exemplified by the SHAC attacks on tertiary targets, is that it is falling below the radar screen of existing regulation, and existing tools of law enforcement. The local, State and Federal level are essentially inadequate to deal with the perverse effects of this coercion.

There are two issues that I would like to have you focus on as I testify today. The first is that this activity is increasingly targetting businesses that are not themselves animal enterprises, but are normal players in the chain of commerce that have very little incentive to resist the effect of intimidation on their employees. Therefore, their first act and their obvious act is to withdraw from relationships with the real target of the harassment.

Second, this is truly a national and international activity carefully coordinated and orchestrated through the use of the Internet. The combination of these two factors put this activity beyond the scope of effective regulation by existing tools.

Let me take a minute to talk about Chiron and the threat that we faced. As you know, Mr. Chairman, Chiron is biotechnology company. We are in the business of developing new treatments and preventions for disease. We are active in fighting cancer. We pre-

vent influenza. We have products on the market for cystic fibrosis and multiple sclerosis.

We will continue to use animals because science requires testing of all these therapeutic and preventive products before they can be used commercially. Before you can engage in human testing, you must test these rationally in appropriate animal models. The law requires this, the science requires this.

Our own animal testing program is carefully accredited and regulated, and we try to operate it in the best state-of-the-art means. But because of a historical connection that we have had with Huntingdon Life Sciences, we are a tertiary target for the harassment campaign that is now underway.

That campaign has been underway against us for about 13 months in the United States and about 2 1/2 years in the United Kingdom and the Netherlands. Our employees have been the target of violent and persistent campaigns by animal extremists. I would like to provide just a couple of highlights of that and see if I can call together the way these campaign are coordinated with four points.

My written testimony contains a number of examples of campaigns and tactics used against Chiron, but I would like to have you focus on four. The first is home visits. Masked people arrive at the homes of low-level employees in the middle of the night with bull horns and screech alarms. In one case, in our company, they smeared animal feces on the doorsteps of employees. In another case, they left butyric acid on the front door. Butyric acid creates the strong aroma similar to that emitted by vomit.

In my personal case, there have been four home visits, none of them really more than petty, prank-like vandalism. But when combined with the other activities of SHAC against us, they present a fairly pervasive and intimidating result for me and for my family.

The most pronounced of these other activities, of course, is bombing. Two bombs went off on our campus on August 28, 2003, at about two o'clock in the morning. These bombs were set to go off some minutes apart. The goal of setting off two bombs some minutes apart is fairly obviously. They were targetting the first responders who came to investigate the first bomb blast.

About 30 days after the bombing of our site, a third bomb went off at the Shaklee Company, also in the Bay area of California. At about the same time as the Shaklee blast, the SHAC website in the United States published the following statement from what is called the Revolutionary Cells, and I quote, "Hey, Sean Lance"—our chairman—"and the rest of the Chiron team, how are you sleeping? You never know when your house, your car even, might go boom. Who knows? That new car in the parking lot may be packed with explosives, or maybe it will be a shot in the dark." If this isn't intimidation by threatening death by use of the Internet, I don't know what is.

Three weeks after this e-mail posting on the Internet threatening death to our chairman, Sean Lance, SHAC invaded the college campus where my freshman daughter is a student and leafletted the campus with pictures of her, urging other students to harass and intimidate her and the student organizations of which she is

a member. She was 3,000 miles from her mother and 3,000 miles from me, and I must say this wasn't pleasant.

If you consider all of these activities in totality, what we have is an international conspiracy to use new tools that are not effectively regulated by law enforcement. The ideal solution in my mind would be a comprehensive amendment of the Hobbs Act. If that is not possible, at a minimum, this year we need to have the Animal Terrorism Act amended to make it effective against the kind of low-level terrorism and global Internet coordination that is now intimidating companies throughout the United States, and for that matter Western Europe.

Thank you, Mr. Chairman. That is the end of my prepared remarks. I am happy to respond to questions.

[The prepared statement of Mr. Green appears as a submission for the record.]

Chairman HATCH. Well, thank you. We appreciate it and, like I say, we will put all the prepared remarks in the record as though fully given.

Mr. Blum.

**STATEMENT OF JONATHAN BLUM, SENIOR VICE PRESIDENT
OF PUBLIC AFFAIRS, YUM! BRANDS, LOUISVILLE, KENTUCKY**

Mr. BLUM. Thank you, Mr. Chairman. I would like to thank you for having us here today to bring attention to this important matter. I am here to talk with you about a corporate campaign that has been waged against KFC, one of our companies, for the last 3 years.

What I would like to do is outline how PETA, who has brought this corporate campaign against us, has crossed the line of free speech and First Amendment protection to what we consider to be invasion of privacy and harassment of our executives and their families, our neighbors and others in our community. In my view, PETA's campaign has been nothing short of what I would call corporate terrorism.

As background, PETA has attempted to pressure our company into forcing our suppliers to make changes to their processing methods. We don't own any processing companies. Let's be clear. What PETA ultimately wants is a vegetarian or vegan world, no consumption of meat, poultry, pork, fish, no leather goods, no dairy products—not very likely in our society.

But since we don't own any farms or any processing facilities, PETA has drawn their attention on KFC and tried to disrupt our supply chain and pressure us to force our suppliers to make the changes that PETA seeks. We view those changes as impractical, unnecessary, unproven and very costly. In fact, Mr. Chairman, if we were to implement those changes, the cost to our company would exceed \$50 million. Our suppliers have told us they will not categorically implement the changes that PETA seeks.

We have studied this matter thoroughly and we are very comfortable with the animal welfare guidelines that our suppliers are following. So when we resisted making the changes that PETA seeks, they escalated their campaign and moved from rhetoric and dialogue to harassment and threats. They have enlisted the help of a number of celebrities who are vegetarians. They have spread mis-

information, come to our restaurants and picketed, boycotted, and come to our business meetings, and so forth.

Mr. Chairman, we are perfectly fine with PETA exercising their First Amendment rights and acting within their legal rights, as I have just described. But they have stepped over the line and moved beyond protected free speech and have resorted to intimidation of our executives.

Let me just be clear. This is not a warm and fuzzy animal protection group; this is not the ASPCA. PETA's Bruce Friedrich, the number two in the organization, has admitted under oath, in a court of law, that he told his supporters at a rally that all fast-food restaurants should be bombed or exploded and he would say alleluia to anyone who perpetrated these crimes. I have submitted for the record a transcript of Mr. Friedrich's remarks.

Let me give you a few examples of what PETA has done to us and why several of us, myself included, have 24-a-day, 7-day-a-week police protection at our homes during frequent periods throughout the year.

Last year, a leader of PETA in Germany threw actor's blood and feathers on our Chairman and CEO as a means to embarrass him at a public event, and this was publicized through the news media around the world. The perpetrator of that was prosecuted in Germany.

PETA has published on their website home addresses of a number of our executives, and they have encouraged their 700,000 members to regularly and frequently send us letters to our homes which we receive from all around the world, people telling us to stop killing chickens.

PETA has hired a photographer to take clandestine and secret photographs of us with long-distance lenses for the sole purpose of putting our faces on billboards across America and in advertisements saying that we are chicken killers. PETA has gone door to door in our neighbors harassing our neighbors and our families, telling them that we are chicken killers and inhumane, trying to make us uncomfortable in our communities. They have also threatened to bring a jumbo television screen to the president of KFC's home to showcase a videotape of chickens being slaughtered to all the children in the neighborhood.

On Halloween, they came to our neighborhood dressed as chickens and handed out trick-or-treats to kids. But instead of candy, Mr. Chairman, they handed out videotapes of chickens being slaughtered to the children so they could bring those home and play them for their parents.

PETA sent me an e-mail similar to the one that they sent to Chiron, or an organization sent to Chiron, apparently, and told me I shouldn't sleep easy at night. PETA has been making harassing phone calls to our board of directors and sending them harassing letters. They found our CEO's mother in the Midwest and sent her a letter and called her; the same thing with the president of KFC's parents and the CEO's sister.

They have gone to the church where a number of our employees attend and have disrupted services and marched in front with banners and slogans, and so forth. They have also enlisted a celebrity to come and say to me that they are going to bring 5,000 people

to my front door and harass us through intimidation. They were arrested for trespassing on our property.

I could go on and on, Mr. Chairman, but for the sake of time let me just say that any one of these individual actions probably is not enough to raise concern. But when you string them all together over a 3-year period, and dozens and dozens more, I hope you would agree that this campaign of harassment and intimidation gives rise to modifying the criminal code. We hope that you can do something about this by making it a criminal act for any animal rights activist to personally harass or intimidate an executive or cause a business disruption in the way PETA has done to us.

In conclusion, Mr. Chairman, I would also urge Congress to consider eliminating PETA's tax-free status, as they benefit from tax laws designed to help not-for-profit organizations, and we don't think that is appropriate.

Thank you very much.

[The prepared statement of Mr. Blum appears as a submission for the record.]

Chairman HATCH. Thank you, Mr. Blum.

Mr. Zola.

STATEMENT OF STUART M. ZOLA, DIRECTOR, YERKES NATIONAL PRIMATE RESEARCH LABORATORY, EMORY UNIVERSITY, ATLANTA, GEORGIA, ON BEHALF OF THE NATIONAL ASSOCIATION FOR BIOMEDICAL RESEARCH

Mr. ZOLA. Thank you, Mr. Chairman, and thank you for allowing me to testify today and for conducting this hearing on the threat posed by animal rights extremists.

I am the director of the Yerkes National Primate Research Center, one of eight NIH-sponsored research facilities in this country. We are located in Emory University, in Atlanta, Georgia, where I am also a professor of psychiatry and behavioral sciences and a research career scientist with the Veterans Administration.

I am here today testifying on behalf of the National Association for Biomedical Research, the NABR. With 300 institutional members, the NABR is the only national non-profit organization dedicated solely to advocating sound public policy that recognizes the vital role of humane animal use in biomedical research, in higher education and in product safety testing.

In addition to my role as director at Yerkes, I am also a neuroscientist and my work involves studying the brain and memory and how memory works, what parts of the brain are important for memory, what happens when things go wrong, and hopefully how we may be able to fix things when they do go wrong.

Much of what we have learned thus far about how the human brain works in terms of memory has really come from research with animals. Because we have been able to develop animal models for a number of different kinds of human diseases, we can study these diseases in the laboratory in a very systematic way, in ways that we cannot do with humans.

For example, in terms of my own field, we have developed animal models now that have abnormal deposits of protein. This is an abnormal protein that occurs in Alzheimer's disease and is indeed the hallmark of Alzheimer's disease. Because we have these animal

models available to us now, there is a lot of promise in being able to understand and treat Alzheimer's disease in ways that we haven't had available to us before.

Indeed, there are a number of individuals at Yerkes and at Emory University and at other institutions around the country who are working on the possibility of an Alzheimer's vaccine; that is, we now have the possibility of being able to reverse the deposits of these plaques, this protein, and in some cases we hope to be able to prevent that from even occurring. So animal research for my field of memory and for many other fields of medicine really has brought us to new dimensions and new areas of possibility.

Now, I want you to erase what I have just said. Don't think about the fact that we have treatments. Think about having no treatments and having no cures and having little hope, and that is the outcome if animal extremists have their way.

Because of the research I do, because I use monkeys to study aspects of memory, I have been a target of animal rights activists for many years. When I was at the University of California, before I came to Emory, I was the university's spokesperson for the use of animals in research and explaining to the general public why it was important to do that.

Animal extremists labeled me as Vivisector of the Year for many years running, and every year they would burn a life-like model of me dressed in a lab coat at demonstrations. This was more than a veiled threat to me. Mail came to my home with pictures of me and my family, with bull's eye targets superimposed on them, so that I would know that they knew about my personal life and where I lived. Harassing phone calls were just the normal order of the day.

When I moved to Emory University a couple of years ago, the neighborhood where I had just bought a home was flooded with propaganda from animal rights activists warning my neighbors that a torturer was coming to live in their neighborhood. For the first year of our residency there, we received dozens and dozens of unauthorized magazine subscriptions and book club memberships and gifts and other kinds of things that were sent to us as harassment in my name by the animal rights activists. Not only that, but they did this to my colleagues in my name, as well, and sent them gift subscriptions from me.

For the concern of safety for me, Emory University installed and continues to pay for and support an alarm system in my home. The university, in collaboration with the university police and our local community police, keeps a close watch on my home and neighborhood at all times.

Others of my colleagues have faced harassment as well, including having pictures of their children appear on animal extremist Web pages, with the suggestion that these children ought to be treated no differently than animals in research. The threats are focused in other ways as well, what is referred to as third-party threats, and we have heard a lot of this already this morning.

In terms of our own experience, a contractor who was doing work for Yerkes was recently the target of what is referred to as a denial of service. That is an action by the animal extremists who use sophisticated computer-driven telephone dialing programs to flood

the lines of this business and effectively block access to the company's legitimate customers.

If this continues, the animal extremists will have won and the loser will be humanity. We can't allow this to happen. Animal extremists claim that it is unethical to do animal research, but everything that we know and everything that we still have to learn in terms of biomedical research makes it just the opposite. It is unethical to not do animal research.

Your grandchildren and my grandchildren have the promise of growing up with much less disease in this world now, and our own children even today have the promise of being able to face old age gracefully and with a lot more dignity as these new developments come about. Animal research plays a large part in those promises and being able to fulfill those promises.

I want to thank you, Mr. Chairman, for allowing me to testify and for making these points about the importance of holding at bay where animal activists have come to and not allowing them to progress. I am happy to answer any questions that you have.

[The prepared statement of Mr. Zola appears as a submission for the record.]

Chairman HATCH. Well, thank you, Mr. Zola.

Mr. Green, your statement briefly touches on similar activities done in the UK, or the United Kingdom. Can you provide some further insight to the Committee with regard to the UK's governmental response to these types of activities?

Mr. GREEN. We have had employees harassed in the UK and in the Netherlands for two-and-a-half years. The UK government has been much more effective than local or Federal Government agencies in the United States in putting together a program that permits private companies to obtain judicial protection for their employees.

Part of that is an outgrowth of the British government's concern about the erosion of structural and infrastructural support for Huntingdon that caused the government to be more supportive of protective mechanisms. The same sorts of harassing activities that have occurred in the United States have occurred in Europe, both at our employees' homes and at our office sites.

Chairman HATCH. Some of the episodes you discuss appear to be violations of State laws, and if that is so, why are they not adequate in taking care of the problems and why do you need Federal laws to resolve this?

Mr. GREEN. A combination of two factors, Senator. The first is that most of these activities fall below the radar screen of effective enforcement of local law. Local law enforcement, using tools such as disturbance of the peace or vandalism and the like, are not going to be interested in pursuing broader solutions.

For example, the four home visits that occurred in my hometown were the only four events that happened in 13 months in the city in which I live. While the city police and the city government is more than interested in protecting its citizens, four small, prank-like matters in isolation is not going to present a case that is going to be prosecutable by local authorities.

However, when you aggregate this activity, and particularly you aggregate it with the orchestration and coordination globally of an

Internet-driven and Internet-empowered communication mechanism, you have a tool that is beyond the scope of local or State law enforcement.

Chairman HATCH. So you are in agreement with the prior panel that we need to provide law enforcement with greater tools in order to apprehend and prosecute these animal extremists who threaten, intimidate and harass your employees as well as other employees throughout the country?

Mr. GREEN. I am, Senator Hatch, yes.

Chairman HATCH. Now, you believe new legislation is needed to address the issues raised by your testimony. Do you believe that Congress can go further in this area of law without imposing restrictions on the First Amendment?

Mr. GREEN. Senator, I don't believe that any of the activities that I have outlined today reflect protected speech. I am a personal believer in upholding First Amendment protections, and I am sure the judicial system would be able to do that.

What the current activity by the animal extremists does is create a fabric of low-level criminal behavior that falls below the enforcement interest and possibly the jurisdictional interest of the applicable existing law enforcement regimes, local, State and Federal.

In my mind, we need to have an overarching regulatory regime by amending the criminal code at the Federal level that permits both the aggregating of the damages done by these low-level activities and an effective mechanism for dealing with the coordination device that occurs through the use of the Internet to schedule and orchestrate these activities simultaneously in multiple jurisdictions.

Our experience in the United States, Mr. Senator, has been simultaneous attacks in California, Washington, New Jersey, coordinated with the activities in the United Kingdom and the Netherlands. So it is essentially a global problem.

Chairman HATCH. Mr. Blum, let me turn to you. We have heard from other witnesses who work in fields that are not particularly household names, but your company almost everybody knows. People know names such as KFC, Taco Bell and others. These are household words.

You state in your testimony that extremists have threatened you, harassed others and distributed videotapes of chickens being slaughtered to children on Halloween. In your view, is current Federal and State law inadequate to provide you and those similarly situated with protection, and does it provide any punishment for those who carry out these outrageous acts?

Mr. BLUM. Well, Mr. Chairman, I would concur with Mr. Green and say that any one of these individual incidents could be considered a prank, and when you string them together, in the aggregate, that is where you have what we would consider corporate terrorism.

Let me give you an example. Mr. Friedrich, who trespassed on our property on Christmas Eve to disrupt our holiday, was cited for arrest. He was brought to criminal prosecution and last week a jury convicted him. The fine, Mr. Chairman, was a \$25 fine. Quite frankly, that is not going to be a deterrent to the PETA organiza-

tion to prevent them from conducting the type of activity that they do.

Besides that, there are 699,999 other members of the PETA organization who can continue on with this campaign of corporate terrorism. So I would like to see the criminal code expanded to include harassment, intimidation, invasion of privacy, stepping over the line of free speech. We believe in free speech, but when they have stepped over it, that is where we would like to see some protection.

Chairman HATCH. Give us a little understanding of how these acts that you describe have affected your company. Have they affected the bottom line? Have they affected your ability to do business? Have they affected your ability to franchise and your ability to operate?

Mr. BLUM. First, they have been a disruption to our executives' time. But above and beyond that, they are trying to coerce us to force our suppliers to make changes which would not be in our shareholders' best interest. If we have to incur a \$50 million charge by modifying the processing facilities, that is just simply not in our shareholders' best interest.

Chairman HATCH. Even if you did modify them, they would still be critical, wouldn't they?

Mr. BLUM. They would. They would just raise the bar once again.

Chairman HATCH. So in other words, you could never really satisfy them as long as you are selling dead chickens? I could say that in a little more delicate way.

Mr. BLUM. Well, that is what we do for a living and we are proud of being the world leader in fried chicken. They want a vegetarian world. We sell fried chicken. We will never see eye to eye. We respect that, and so long as they stay within the boundaries of the law and stay within their First Amendment rights, we are fine with that. When they step over the line, that is when we would like some protection.

Chairman HATCH. Mr. Zola, I have been interested in your testimony because I am a great believer in medical research, and I also am a great believer that you have to do humane animal testing in order to accomplish this research. As everybody knows, a year or so ago I came out for embryonic stem cell research, which is also, many think, the future of medical research in this country and throughout the world.

Are you aware of extremist targeting companies or other organizations that provide support services to Emory University that have been targeted because of their association with your facility, and if so, what kind of tactics were used?

Mr. ZOLA. Well, first, Mr. Chairman, let me thank you for your support. I know you are a champion of medical research and of the kind of work that is involved there.

Chairman HATCH. Thank you.

Mr. ZOLA. The answer is, yes, we have. As I alluded to in my testimony, for example, we have contractors who are associated with the Yerkes Primate Research Center be the victims of one of these attacks.

Now, just in line with my colleagues and the FBI testimony earlier, we could see this attack coming. We knew it was happening because it was broadcast on the Internet by the animal rights ex-

tremist Web pages. They even set up a time for when the supporters could download the piece of software they needed to generate this denial of service through their own computers. So we knew and could follow it.

We were linked to the FBI in this, as well, but there was nothing they could do in this case because they don't have the possibilities of being able to interfere at that point in time because the rules and regulations aren't in place for being able to do that. So that is in many ways the kind of tragedy of this. We actually can see it unfolding and we know it is going to happen, and yet we can't do anything to counteract it.

So we do have several examples of this, and in the testimony submitted from NABR several other examples are indicated as well. But in terms of Emory, and Yerkes in particular, many of the companies that have been associated with us have been the victims of this. Some of those companies then decide not to continue their relationship with us, and so that creates difficulties for us. We have to then go and find other contractors to be able to complete the work.

There is a ripple that goes on and the ripple, Mr. Chairman, is even more important in the academic community itself; that is, students and post-doctoral fellows and other individuals, good scientists who would otherwise be doing research involving animals and important medical research, are becoming demoralized and they decide to move on to other areas that are less troublesome, less problematic.

That really is the goal for the animal activists. The goal is not animal welfare. The goal is the abolition of the use of animals in research. There is no dividing line there. That is the goal, and that is the slow and incremental impact that they are having unless we intervene and do something.

Chairman HATCH. Well, you have indicated in many ways that research is affected by these types of activities. Could you give us some other illustrations as to how research is affected? I am talking about medical and health care research, in particular, research for the benefit of mankind.

Mr. ZOLA. Yes.

Chairman HATCH. I notice that Mr. Green's organization, for instance, is trying to stamp out polio throughout the world and have been doing an excellent job. They are also working on some other very life-saving remedies and therapies and pharmaceuticals, if you will, that could help mankind.

Tell us a little bit more about how you think this affects medical research.

Mr. ZOLA. Mr. Chairman, thank you for that question. I would say there are at least two ways in which the animal extremists have had their impact. One is that they drain resources that would otherwise be directed toward life-saving biomedical research and instead are redirected toward development of regulations and a lot of administrative aspects that are put in place by legislation that is intended to be directed toward the welfare of animals, but which really does nothing more to enhance the welfare of animals.

As you may know, there are in some cases more regulations associated with the use of animals in research than there are with the

use of human subjects in research. The physical requirements and psychological requirements for housing animals and for maintaining animals is extraordinary in terms of its regulations. So the intent was to redirect as much of the resources both in terms of time and money as can be done by animal activists, and they have been very successful at that.

The second is what I alluded to earlier, and that is the human resources. Those human resources are coming in some cases to conclusion that this is just not the field that they want to be in. So individuals who are quite capable and remarkable researchers are choosing a course of research that doesn't involve animals, just because it is easier and safer not to do that. People are feeling threatened, people are feeling demoralized. Graduate students and post-doctoral fellows are choosing a different direction in their careers.

So much of the kinds of discovery that we know is critical and based around animal research is not going to get done in the timely way that it would otherwise. In my view, that translates simply to lives lost. The outcome of this really is the loss of lives. It means that the treatment or the cure or the intervention that would be here in 3 months is not going to be here in 3 months, and may never be here because of this drain of resources in terms of time and energy.

Chairman HATCH. Well, you have brought that future biomedical scientists may diminish in significant numbers if they have to go through this kind of harassment.

Mr. ZOLA. And it is ironic, if I might just add, Mr. Chairman, because we are on the verge now of a tremendous revolution in biomedical research with the aspect of genomics and stem cell research which is going to require the use of animals in a very strong and powerful way.

Chairman HATCH. How widespread are these types of tactics in targeting others within the research community?

Mr. ZOLA. It is quite pervasive. There is no colleague that I know of who hasn't had some impact in some way from the animal rights community either by being attacked directly or by having students or others affected.

Chairman HATCH. Or even members of the family.

Mr. ZOLA. And certainly members of the family, as we said. And you also made another point—I think it was you who made it—that they are not nearly as concerned about the use of human subjects as they are animal subjects. I mean, that seems kind of inconsistent.

Mr. ZOLA. Sir, the goal, as I say, is not animal welfare; it is not human welfare. It is a different political goal in its own right of the abolition of the use of animals in research.

Chairman HATCH. Well, I know very wealthy people who love animals and have given hundreds of thousands of dollars to PETA, for instance, because they believe that they are really trying to protect animals. Yet, without animal research, we would soon fall behind a lot of other countries and we would fall behind in these life-saving treatment therapies that are essential for mankind.

Mr. ZOLA. I believe you are right. If I may make one last point, the research that we do helps not just humans; it helps animals. When you take your animal to the veterinarian, that treatment

that the veterinarian has come out of animal research, so that animal research really is two-pronged, in a sense. It helps humans, but it also is important for animals themselves. So to be opposed to it doesn't make sense.

Chairman HATCH. Well, I can see people who want to be vegetarians and don't want to eat Kentucky Fried, or now I understand roasted chicken.

Mr. BLUM. Right.

Chairman HATCH. When that did that start, the middle of this month?

Mr. BLUM. Very good. You have been watching TV.

Chairman HATCH. I have been wondering why you haven't had roasted chicken for some of us who can't eat fried chicken anymore.

Mr. BLUM. Well, come on in and try it.

Chairman HATCH. I will.

Mr. BLUM. I will get you some chicken checks.

Chairman HATCH. Okay, that will be great.

Well, let me just say this. This is a serious hearing because there are few things as important for the welfare of society as scientific research for the benefit of mankind, and it can't be done without animal research, in my opinion. Some of it can, but some of the most significant parts cannot be done. Like I say, it is pathetic that people don't realize that and are not nearly as concerned about human research. I mean, it saves us the problem of using human subjects to try and find out what works and what doesn't work.

So I just think that all three of your testimonies have been very helpful. There is no excuse for anybody intimidating children, intimidating research scientists and intimidating people in their homes. Your home should not be invaded. They should be protected, and I don't know of many societies where you won't have some sense of peace and tranquility in your own home.

So I am very concerned about what I am hearing here today and we will have to see what we can do to resolve some of these problems. I am also concerned with the criminal activities that are going on, and if the Federal Government doesn't have the laws to resolve these problems, then we are going to have to try and find ways of giving them that help and that aid and those, to use your term, tools to be able to help them to be able to resolve these problems.

Well, your testimony has been very important today and we will certainly take it completely under consideration.

With that, the Center for Consumer Freedom has written a letter directed to me from Richard Berman, who is the executive director. Here is what he said: "Dear Senator Hatch, thank you for holding a public hearing to investigate the disturbing trend of animal rights activists choosing criminal violence over peaceful protest. To add appropriate context to today's testimony, I would like to share some unusual findings that the Center for Consumer Freedom is in the process of making public. They highlight the extent to which supposedly 'mainstream' animal rights charities, many of which enjoy Federal tax-exempt status, have an undeniable hand in encouraging and funding violent activity."

This backs up what you are saying.

“People for the Ethical Treatment of Animals, PETA, has donated over \$150,000 to criminal activists, including the terrorist Earth Liberation Front”—that is ELF that has been mentioned here—“and individuals jailed for arson, burglary and attempted murder. When asked by eight different media outlets to explain the purpose of a \$1,500 gift to ELF, PETA officers and spokespersons gave eight different and contradictory answers. Since 2000, rank-and-file PETA activists have been arrested over 80 times for crimes committed during PETA protests. Charges include felony obstruction of government property, criminal mischief, assaulting a cabinet official, felony vandalism, performing obscene acts in public, destruction of Federal property and burglary. Last week, PETA vegetarian campaign director Bruce Friedrich was convicted of criminal trespass in Kentucky. Friedrich has previously publicly advocated ‘blowing stuff up and smashing windows’ in order to win ‘animal liberation.’ As recently as last year, PETA’s payroll included convicted Animal Liberation Front felon Gary Yourofsky, whom the group paid to lecture public school students about strict vegetarianism and animal rights. And PETA’s websites, several of which target children, openly advocate vandalism and other illegal activity. Despite all of this, PETA maintains its 501(c)(3) Federal tax exemption. While the Humane Society of the United States, HSUS, is generally less confrontational than PETA, it has its own connection to organized violence. Until last year, when the Center for Consumer Freedom brought it to light, the HSUS was quietly funding the operation of an Internet service which distributed the Animal Liberation Front’s official communiques claiming responsibility for criminal activities. HSUS and its \$65 million annual income are completely tax-exempt. The case of Daniel Andreas San Diego is a chilling story of animal rights terror involving two ten-pound shrapnel bombs detonated in 2003 using the same materials found at the Oklahoma City blast site. The FBI’s investigation uncovered substantial connections between this Federal fugitive and two above-ground groups—California-based In Defense of Animals, IDA, and a violent group called SHAC. IDA is a tax-exempt charity. SHAC is in the process of applying for that status. In addition to its undeniable connection to the Chiron and Shaklee bombings, SHAC has been responsible for car bombings, death threats, physical assaults and countless other acts of intimidation. Substantial connections exist between PETA and SHAC, largely flowing through the inventively-named Physicians Committee for Responsible Medicine, or PCRM. PETA’s quasi-medical front group, PCRM, has been publicly censured by the American Medical Association for its outrageous misrepresentations of medical science. To date, PETA has passed over \$1.3 million to PCRM, all of it tax-exempt. PCRM president Dr. Neal Barnard is president of the PETA Foundation, the vehicle used to move much of this money. Working with the president of SHAC, Barnard has cosigned letters targeting biomedical research firms in the U.S. and abroad. Last year, at the ‘Animal Rights 2003’ national conference, official PCRM spokesman Jerry Vlasak publicly advocated the murder of doctors who use animals in their research, saying ‘I don’t think you would have to kill, assassinate too many. I think for 5 lives, 10 lives, 15 human lives, we could save a million, 2 million, 3 million non-human lives.’

Vlasak reinforced this idea in April, telling a national cable network audience that violence is ‘a morally justifiable solution’ for activists. A disturbing current of violence runs beneath the surface of ‘mainstream’ animal rights groups in the United States. And some of these tax-exempt charities are provided ‘material support or resources’ to groups and individuals whose activities fit the U.S. Criminal Code’s definition of ‘domestic terrorism.’”

That is a startling letter and if the facts in this letter are true, then there will have to be some action taken against these people who are committing these criminal activities. So I am going to caution our law enforcement people to check these all out. If they are true, there is no excuse for these people or these organizations having tax-free status in this country, because they certainly would not qualify under anybody’s definition of tax-free 501(c)(3) organizations.

So this hearing is a very important one. We will continue to follow up and, of course, we would appreciate any additional information anybody can send. We also would appreciate arguments on the other side, although I don’t want to be inundated with propaganda. We would want articles of significance and honesty that would help us to understand this better.

I appreciate the courage of you people and the testimony you have brought to us here today. I think what you have gone through is just absolutely wrong and we will see what we can do about it.

With that, we will adjourn until further notice.

[Whereupon, at 11:11 a.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

[Additional material is being retained in the Committee files.]

QUESTIONS AND ANSWERS



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 13, 2004

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions posed to Mr. John E. Lewis, Deputy Assistant Director of the Counterterrorism Division, Federal Bureau of Investigation, following Mr. Lewis's appearance before the Committee on May 18, 2004. The subject of the Committee's hearing was animal rights extremism.

We hope that this information is helpful to you. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter.

Sincerely,

A handwritten signature in black ink, reading "William E. Moschella".

William E. Moschella
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

**Responses of the Federal Bureau of Investigation
Based Upon May 18, 2004 Hearing Before the
Senate Committee on the Judiciary
Regarding Animal Rights: Activism vs. Criminality**

1. How would the FBI classify a referral or investigation under 18 USC § 43 - as "domestic terrorism," a "crime of violence" or something else?

Response:

The FBI investigates all actual, planned, or potential violations of the Animal Enterprise Terrorism Act (Title 18, United States Code, Section 43) under the Domestic Terrorism investigative subprogram of the Bureau's Counterterrorism Program.

2. How did the FBI classify the "eco-terrorism" cases you described in your testimony, involving Michael James Scarpitti and William Cottrell; Adam Blackwell, Aaron Linas and John Wade; the four juveniles currently awaiting trial on federal and state charges; Jared McIntyre, Matthew Rummelkamp, and George Mashkow; and Connor Cash?

Response:

All of these cases were investigated as acts of domestic terrorism, and more specifically within that category as "violent crimes predicate offenses." Investigative and operational oversight for all of these cases was provided by the FBI's Counterterrorism Division's Domestic Terrorism Operations Unit, while analytical support was provided by the Domestic Terrorism Analysis Unit.

3. In May 2002, FBI Director Mueller articulated ten top FBI priorities: protecting the U.S. from terrorist attacks, from foreign intelligence operations, and from cyber-based attacks and high-technology crimes; combating public corruption at all levels; protecting civil rights; combating international and national organized crime, major white-collar crime, and significant violent crime; supporting our law enforcement and intelligence partners; and upgrading FBI technology. You testified that the prevention and investigation of animal rights extremists/ecoterrorism matters is an "investigative priority" for the FBI. Where does this "investigative priority" fit in the Director's "top ten" list?

Response:

Counterterrorism (*i.e.*, the protection of the United States from terrorist attacks) is the FBI's top priority. The FBI's Counterterrorism program is divided into International Terrorism and Domestic Terrorism. The prevention and investigation of animal rights extremism/eco-terrorism is considered by the FBI to be Domestic Terrorism. Because of the sustained, extensive physical and economic damage involved, as well as the growing potential for violence, the prevention and investigation of animal rights extremism/eco-terrorism is the FBI's top Domestic Terrorism priority.



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 13, 2004

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions posed to Mr. McGregor Scott, United States Attorney for the Eastern District of California, following Mr. Scott's appearance before the Committee on May 18, 2004. The subject of the hearing "Animal Rights: Activism vs. Criminality."

We hope that this information is helpful to you. If we may be of additional assistance, we trust that you will not hesitate to call upon us.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella
Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

Questions For U.S. Attorney McGregor Scott
From Senator Patrick Leahy

Committee on the Judiciary
United States Senate

Hearing on "Animal Rights: Activism vs. Criminality"
Tuesday, May 18, 2004

1. Section 43 of Title 18 prohibits the crime of "animal enterprise terrorism". How many cases has the Department of Justice brought under this statute since it was enacted on August 26, 1992? For each case, please provide a brief summary of the facts and describe the outcome of the prosecution.

ANSWER: From 1992 to 2004 the charge of animal enterprise terrorism under 18 U.S.C. § 43 has been brought in just one case. Two defendants were charged in September 1998 with animal enterprise terrorism and a Hobbs Act violation. One defendant in the case pled guilty to two counts of 18 U.S.C. § 43 and was sentenced on November 3, 2000, to two years of incarceration and \$364,106 in restitution. The defendant's conduct that formed the basis of the plea included traveling in interstate commerce in order to release mink at several mink farms in Wisconsin and elsewhere. The co-defendant remains a fugitive today, and his case is still pending. For your convenience, we have enclosed copies of the criminal indictment (which has been unsealed) and the judgement.

2. How would the Department classify a prosecution under 18 USC Section 43 for purposes of LIONS -- as "domestic terrorism," a "crime of violence" or something else?

ANSWER: 18 U.S.C. § 43 matters/cases were coded in earlier years either as general criminal cases or as government regulatory offenses. From the mid- to late-1990s to present, they are coded in categories including general criminal, domestic terrorism, Anti-Terrorism/Environmental, Indian Offenses, or Internal Security Offenses.

3. The Freedom of Access to Clinic Entrances Act of 1994 (FACE) law, 18 USC Section 248, protects reproductive health service facilities and their staff and patients from violent threats, assault, vandalism, and blockade.

(A) Over the last 10 years, have there been more serious crimes of violence committed against reproductive health service facilities and their staff and patients, or against "animal enterprises" (as defined in 18 USC Section 43) and their staff?

ANSWER: Over the last 10 years, there have been 31 cases charged in which 18 U.S.C. § 248 was brought as a charge against a defendant. We are not able to assess whether the cases brought under 18 U.S.C. § 248 are "more serious" than cases charged under 18 U.S.C. § 43.

(B) In your testimony you called on Congress to expand 18 USC Section 43 to prohibit, among other things, "the use of threats" and "persistent and harassing communications" in order to cause "economic disruption" to an animal enterprise. You went on to explain, "This new offense is needed to address unambiguously harassing and threatening conduct directed at animal enterprises as well as their employees, customers, or vendors, conduct that currently causes substantial economic harm." Would the Department of Justice also support expanding the FACE Act to prohibit non-violent "threats" and "persistent and harassing communications" that cause "economic disruption" to reproductive health service facilities?

ANSWER: The Department cannot comment without having the benefit of the proposed legislative text.

4. You testified that "Animal enterprise terrorism and eco-terrorists commit arson, trespass, burglary, extortion, and aggravated assault. They vandalize and destroy property." As a general matter, the crimes you described are investigated and prosecuted every day by State and local law enforcement authorities.

(A) Are state and local authorities either unable or unwilling to investigate and prosecute these crimes when they are committed against animal experimentation labs, meat processors, fur farms, and the like? Please explain your answer.

ANSWER: The issue is not that state and local authorities are unable or willing to investigate and prosecute crimes like arson, trespass, burglary, extortion, and aggravated assault because they do so on an ongoing and regular basis. The issue is that these types of crimes typically are random, isolated, individual incidents. When these crimes are committed in the animal enterprise terrorism or eco-terrorism context, on the other hand, they are not random, isolated, individual incidents but rather are part of a coherent plan or strategy that oftentimes is national in scope. The Department's position is that when this type of conduct is part of a larger plan or conspiracy to affect the economic opportunities of a legitimate business, then it is appropriate for there to be a federal component to the enforcement of the laws. To cite one example, where large-scale arson is involved, it is important that Federal charges (*e.g.*, under 18 U.S.C. § 844(i)) be an option for prosecutors, and that the investigative expertise of the Department's Bureau of Alcohol, Tobacco, Firearms and Explosives be made available.

In addition, the investigative power of the federal grand jury can be a very significant tool for law enforcement in these types of cases. The investigative ability of the county grand jury, at least in California, is significantly less than that of the federal grand jury. The ability to subpoena documents and to question witnesses before a federal grand jury can be extremely useful in these types of investigations. Finally, the county prosecutor sees only what happens in his or her county. The United States Attorney has the ability to see what happens in multiple counties and even multiple states. Thus what may appear to be random acts of vandalism in one county take on a completely different context when the

same exact type of vandalism occurs at multiple sites in multiple counties or states. In this situation, the local prosecutor may not have the full context of the criminal conduct that has occurred in his or her county.

(B) Can you identify any specific cases in which state and local authorities failed or refused to investigate or prosecute an act of "animal enterprise terrorism" or "eco-terrorism" and there was no jurisdictional basis for bringing Federal criminal charges?

ANSWER: We are not aware of any such cases.

SUBMISSIONS FOR THE RECORD

SENATE JUDICIARY COMMITTEE TESTIMONY
JONATHAN BLUM, SENIOR VICE PRESIDENT, YUM! BRANDS --MAY 18,
2004

GOOD MORNING. MY NAME IS JONATHAN BLUM. I'M SENIOR VICE PRESIDENT OF PUBLIC AFFAIRS AT YUM! BRANDS. WE'RE THE WORLD'S LARGEST RESTAURANT COMPANY, WITH ABOUT 33,000 RESTAURANTS AROUND THE GLOBE -- WE OWN TACO BELL, KENTUCKY FRIED CHICKEN, PIZZA HUT, LONG JOHN SILVER'S AND A&W ALL-AMERICAN FOODS. WE OPERATE IN ABOUT 102 COUNTRIES AND HAVE REVENUES OF \$8.4 BILLION, WITH SYSTEM SALES EXCEEDING \$24 BILLION SINCE THE MAJORITY OF OUR SYSTEM IS FRANCHISED.

I'M HERE TODAY TO TALK WITH YOU ABOUT A 'CORPORATE CAMPAIGN' THAT'S BEEN WAGED AGAINST KFC FOR ABOUT THREE YEARS BY AN ORGANIZATION CALLED -- PEOPLE FOR ETHICAL TREATMENT OF ANIMALS -- OR PETA.

WHAT I'D LIKE TO DO IS OUTLINE FOR YOU HOW PETA'S EFFORTS HAVE CROSSED THE LINE OF FREE SPEECH AND FIRST AMENDMENT PROTECTION, TO WHAT WE CONSIDER TO BE INVASION OF PRIVACY AND HARRASSMENT OF OUR EXECUTIVES AND THEIR FAMILIES, OUR NEIGHBORS AND OTHERS IN OUR COMMUNITY.

IN MY VIEW, PETA'S CAMPAIGN HAS BEEN NOTHING SHORT OF WHAT I'D CALL 'CORPORATE TERRORISM.' I HOPE THAT BY THE TIME I'M DONE TESTIFYING, YOU'LL AGREE, AND PERHAPS WE CAN DO SOMETHING ABOUT THIS SINCE PETA HAS WAGED SIMILAR CORPORATE CAMPAIGNS AGAINST A NUMBER OF OUR COMPETITORS, INCLUDING MCDONALDS, WENDYS, BURGER KING AND APPLEBEES, JUST TO NAME A FEW.

AS BACKGROUND, PETA HAS ATTEMPTED TO PRESSURE OUR COMPANY INTO FORCING OUR SUPPLIERS TO MAKE CHANGES TO THEIR PROCESSING METHODS. THEY WANT OUR SUPPLIERS TO USE A METHOD OF GAS KILLING OF CHICKENS RATHER THAN HUMANE PROCESSING TECHNIQUES THAT HAVE BEEN PERFECTED FOR YEARS.

WHAT PETA ULTIMATELY WANTS IS A VEGETARIAN OR VEGAN WORLD. NO COSUMPTION OF MEAT, NO POULTRY, NO PORK, NO FISH. NO LEATHER GOODS, AND NO DAIRY PRODUCTS.

NOT VERY LIKELY IN OUR SOCIETY.

TO BE CLEAR, KFC DOES NOT OWN ANY FARMS OR PROCESSING FACILITIES. WE BUY OUR CHICKENS FROM THE SAME TRUSTED COMPANIES YOU DO WHEN YOU BUY CHICKEN IN THE SUPERMARKET – COMPANIES LIKE TYSON, PILGRAM'S PRIDE AND GOLDKIST, AMONG OTHERS. KFC BUYS ABOUT 5% OF ALL THE CHICKEN IN THE UNITED STATES.

RATHER THAN CALLING ON THE FARMS OR PROCESSING COMPANIES TO CONSIDER THE CHANGES PETA RECOMMENDS, PETA HAS FOCUSED ITS ATTENTION ON KFC. THEY HAVE ATTEMPTED TO DISRUPT OUR SUPPLY CHAIN AND PRESSURE KFC TO FORCE OUR SUPPLIERS TO MAKE THE CHANGES PETA SEEKS.

CHANGES THAT ARE IMPRACTICAL, UNNECESSARY, UNPROVEN AND VERY COSTLY. IN FACT, IT IS OUR ESTIMATE THAT THESE CHANGES, IF IMPLEMENTED, WOULD COST OUR COMPANY OVER \$50 MILLION.

OUR SUPPLIERS HAVE TOLD US THEY WILL NOT IMPLEMENT THESE CHANGES – THEY'D RATHER NOT PROVIDE US WITH CHICKEN THAN

MAKE THE CHANGES PETA DEMANDS. OF COURSE, THAT WOULD MAKE PETA VERY HAPPY, AS IT WOULD BE A STEP TOWARD A VEGETARIAN WORLD.

FIRST, LET ME ASSURE YOU THAT WE HAVE FULLY STUDIED THIS MATTER, AND WE BELIEVE OUR SUPPLIERS ARE ACTING RESPONSIBLY IN THE AREA OF ANIMAL WELFARE.

IN FACT, WE ESTABLISHED AN ANIMAL WELFARE ADVISORY COUNCIL, COMPRISED OF MANY OF THE WORLD'S LEADING EXPERTS IN THIS AREA, AND THEY CONCUR WITH OUR ANALYSIS.

WE AUDIT OUR SUPPLIERS THROUGHOUT THE YEAR TO BE SURE THEY ARE FOLLOWING OUR GUIDELINES, AND EACH OF THEM HAS SIGNED AN AGREEMENT WITH US THAT THEY WILL HONOR OUR STRICT SUPPLIER CODE OF CONDUCT.

AND WE TOOK AN INDUSTRY LEADERSHIP POSITION BY WORKING WITH OUR ASSOCIATION TO ADOPT ANIMAL WELFARE GUIDELINES FOR POULTRY FARM.

SO WE'RE COMFORTABLE WITH OUR CURRENT ACTIONS.

WHEN WE RESISTED MAKING THE CHANGES PETA DEMANDED, THEY BEGAN TO ESCALATE THEIR CAMPAIGN AND MOVED FROM RHETORIC AND DIALOGUE, TO HARRASSMENT AND THREATS.

THEY'VE ENLISTED THE HELP OF A NUMBER OF CELEBRITIES, FROM PAUL MCCARTNEY AND PAMELA ANDERSON, TO RUSSELL SIMMONS, RICHARD PRYOR, DICK GREGORY AND BEA ARTHUR.

THEY'VE SPREAD MISINFORMATION IN THE PRESS, AND HAVE LIED ABOUT FACTS THAT SIMPLY DON'T EXIST. THEY'VE PLACED BILLBOARDS ON HIGHWAYS ACROSS THE COUNTRY DOING THE SAME, AND DISPARAGING OUR BRAND.

THEY'VE PICKETED AT OUR HEADQUARTERS, IN FRONT OF OUR RESTAURANTS AND THOSE OF OUR FRANCHISEES, LEGALLY HANDING OUT LEAFLETS AND FLYERS, AND HAVE ATTEMPTED TO GAIN ACCESS TO OUR BUSINESS MEETINGS.

THEY'VE PLACED A PROXY STATEMENT BEFORE OUR SHAREHOLDERS, ATTEMPTING TO CAUSE US TO CHANGE OUR COURSE OF BUSINESS.

WE'RE PERFECTLY FINE WITH PETA EXERCISING THEIR FIRST AMENDMENT, AND ACTING WITHIN THEIR LEGAL RIGHTS.

WE'RE STRONG SUPPORTERS OF FREE SPEECH AND SHAREHOLDERS' RIGHTS, AND WE'RE GLAD WE LIVE IN A COUNTRY THAT PROTECTS THESE ACTIVITIES.

WE ARE ALSO FINE WITH COMMUNICATION TO US IN A NORMAL BUSINESS MANNER, CONTACTING US AT WORK OR THROUGH NORMAL BUSINESS CHANNELS.

BUT PETA HAS STEPPED OVER THE LINE OF PROTECTED FREE SPEECH, AND HAS RESORTED TO PRESSURE THROUGH INTIMIDATION, HARRASSMENT AND INVASION OF PRIVACY.

LET ME ALSO SAY THIS IS NO WARM AND FUZZY, GARDEN VARIETY ANIMAL PROTECTION GROUP. THIS IS NOT THE ASPCA. PETA'S BRUCE FRIEDRICH HAS ADMITTED UNDER OATH IN A COURT OF LAW

RECENTLY THAT HE HAS TOLD HIS SUPPORTERS AT A RALLY THAT ALL FAST FOOD RESTAURANTS SHOULD BE BOMBED OR EXPLODED, AND HE WOULD SAY 'HALLELUJA' TO ANYONE WHO PERPETRATED THESE CRIMES.

LET ME GIVE YOU A FEW EXAMPLES OF WHAT MR. FRIEDRICH AND OTHERS HAVE DONE TO KFC, AND WHY SEVERAL OF US HAVE 24-HOUR A DAY, 7-DAY A WEEK POLICE PROTECTION AROUND THE CLOCK AT OUR HOMES DURING FREQUENT PERIODS THROUGHOUT THE YEAR.

I'M SURE YOU CAN IMAGINE THAT IS A HORRIBLE WAY TO RAISE OUR CHILDREN, AND PUTS A STRAIN ON OUR RELATIONSHIPS WITH OUR FAMILY AND NEIGHBORS – JUST THE THING PETA IS HOPING FOR THROUGH THEIR PSYCHOLOGICAL INTIMIDATION.

LAST YEAR, A LEADER OF PETA IN GERMANY WAS PROSECUTED FOR THROWING ACTORS BLOOD-PAINT AND FEATHERS ON OUR CHAIRMAN AND CEO AT A PUBLIC EVENT. PETA THEN PUBLICIZED THIS ACTIVITY BY SENDING THE PHOTO TO THE NEWS MEDIA IN A MEANS OF EMBARRASSING OUR CEO. HE WAS ACCOMPANIED ON THIS TRIP BY MEMBERS OF HIS FAMILY, WHO WERE HORRIFIED BY THE BEHAVIOR.

ADDITIONALLY, PETA HAS PUBLISHED ON THEIR WEBSITE THE HOME ADDRESSES OF SEVERAL OF OUR EXECUTIVES, INCLUDING OUR CEO AND ME, AND HAS ENCOURAGED THEIR 700,000 MEMBERS TO WRITE US REGULARLY AND FREQUENTLY AT OUR HOMES. EVERY DAY LETTERS ARE SENT TO OUR HOMES FROM PETA MEMBERS AROUND THE WORLD, IMPLOING US TO STOP KILLING CHICKENS.

PETA HIRED A PHOTOGRAPHER TO USE A LONG-DISTANCE TELEPHOTO LENSE TO SECRETLY TAKE OUR PHOTOS. WHEN CAUGHT,

THE PHOTOGRAPHER SAID THESE PHOTOS WERE TO BE USED ON BILLBOARDS AND IN ADS SHOWING THE FACES OF QUOTE-UNQUOTE CHICKEN KILLERS.

PETA HAS GONE DOOR TO DOOR IN OUR NEIGHBORHOODS HANDING OUT PACKETS OF MISINFORMATION TO OUR NEIGHBORS, TELLING THEM WE ARE CHICKEN KILLERS AND INHUMANE. THEY'RE TRYING TO MAKE US UNCOMFORTABLE IN OUR COMMUNITY AND WITH FRIENDS AND NEIGHBORS.

THEY ALSO THREATENED TO BRING A JUMBOTRON TELEVISION SCREEN INTO THE NEIGHBORHOOD OF THE FORMER PRESIDENT OF KFC, TO SHOWCASE A VIDEOTAPE OF CHICKENS BEING SLAUGHTERED, UNLESS THE EXECUTIVE MET WITH PETA TO LISTEN TO THEIR DEMANDS.

ON HALLOWEEN EVE, PETA CAME INTO OUR NEIGHBORHOODS DRESSED IN A CHICKEN OUTFIT, AND HANDED OUT TRICK OR TREATS TO OUR NEIGHBORS' CHILDREN. INSTEAD OF CANDY, PETA GAVE THESE LITTLE KIDS VIDEOTAPES OF CHICKENS BEING SLAUGHTERED AND THE PACKETS OF MISINFORMATION PREVIOUSLY MENTIONED. IMAGINE THE HORROR ON THESE KIDS FACES AS THEY WENT HOME AND PLAYED THESE NEW VIDEOS.

PETA'S FRIEDRICH SENT ME AN E-MAIL THREATENING ME BY TELLING ME "I SHOULDN'T SLEEP EASY AT NIGHT."

PETA HAS MADE NASTY PHONE CALLS AND SENT LETTERS TO THE HOMES OF OUR BOARD OF DIRECTORS.

THEY FOUND OUR CEO'S MOTHER IN KANSAS, AND CALLED HER ON THE PHONE, THEN FOLLOWED UP WITH A LETTER TO HER. THEY SIMILARLY CONTACTED THE PRESIDENT OF KFC'S PARENTS, AND OUR CEO'S SISTER ON HER CELL PHONE.

PETA HAS GONE TO THE CHURCH WHERE SEVERAL OF OUR EXECUTIVES ATTEND, AND HAVE DISRUPTED SERVICES AND MARCHED IN FRONT WITH BANNERS AND SLOGANS THAT ARE LESS THAN FLATTERING.

THEY HAVE PLACED STICKERS ON THE STOP SIGNS THROUGHOUT THE SMALL TOWN WHERE OUR CEO AND I LIVE.

IN A MEETING WITH PETA EXECUTIVES, ONE PETA CELEBRITY SUPPORTER, WHOM I WON'T MENTION BY NAME, THREATENED TO BRING 5,000 PROTESTORS TO MY FRONT DOOR TO INTIMIDATE ME INTO SUPPORTING PETA'S POSITION.

TWO WEEKS LATER, ON CHRISTMAS EVE, PETA'S FRIEDRICH AND HIS WIFE DRESSED AS SANTA AND AN ELF, DROVE ONTO OUR CEO'S PROPERTY, DISRUPTING HIS HOLIDAY AND SCARING HIS 9-YEAR OLD NEPHEW BY LEAVING A BAG OF COAL AND VIDEOTAPE OF CHICKENS BEING SLAUGHTERED. WHEN THEY WERE FORCED OFF THE PROPERTY BY THE POLICE, THEY PROCEEDED TO MY HOME JUST A FEW MINUTES AWAY.

THEY TRESPASSED ON MY PROPERTY, AND FORTUNATELY MY FAMILY AND I WERE OUT OF TOWN. BUT THE POLICE CITED THE FRIEDRICHS FOR CRIMINAL TRESPASS, AND LAST WEEK THEY WERE CONVICTED BY A JURY IN CRIMINAL COURT.

I COULD GO ON AND ON ABOUT PETA'S CAMPAIGN OF CORPORATE TERRORISM. THIS GOES BEYOND FREE SPEECH. IT'S PURE INTIMIDATION, AND FRANKLY, IT HAS ONLY SERVED TO STRENGTHEN OUR RESOLVE. WE WON'T CAPITULATE TO PETA'S DEMANDS, OR DEAL WITH CORPORATE TERRORISTS.

YOU MIGHT SAY THAT ANY INDIVIDUAL ACTION I'VE JUST MENTIONED ISN'T ENOUGH TO EVEN BE CONCERNED ABOUT. AND WE'D AGREE.

BUT WHEN YOU STRING ALL THESE ACTIONS TOGETHER, ALONG WITH DOZENS OF OTHERS OVER A THREE YEAR PERIOD, AND RECOGNIZING THAT THEY ALL HAVE BEEN DESIGNED TO ATTACK US PERSONALLY, NOT CORPORATELY, HOPEFULLY YOU'D AGREE THAT ENOUGH IS ENOUGH.

WE SHOULD TELL PETA AND OTHERS THAT THIS TYPE OF CORPORATE TERRORISM WON'T BE TOLERATED. I'M SURE THE MAJORITY OF PETA'S 700,000 MEMBERS HAVE NO IDEA OF THE TYPES OF PERSONAL INTIMIDATION THEIR LEADERSHIP HAS RESORTED TO. THE MEMBERS ARE PROBABLY GOOD FOLKS WHO LOVE ANIMALS. BUT PETA'S LEADERSHIP ACT LIKE AN ANIMAL-WORSHIPPING CULT, INTIMIDATING ANYONE WHO DOESN'T AGREE WITH THEIR PHILOSOPHY.

YOU CAN DO SOMETHING ABOUT THIS BY MAKING IT A CRIMINAL ACT FOR ANY ANIMAL RIGHTS ACTIVIST TO PERSONALLY HARRASS OR INTIMIDATE AN EXECUTIVE, OR CAUSE A BUSINESS DISRUPTION IN THE WAY PETA HAS DONE TO US. LET'S NOT WAIT UNTIL SOMEONE GETS HURT PHYSICALLY. SURELY THE PERPETRATION OF

**CONTINUOUS AND REPEATED PSYCHOLOGICAL INFLECTION IS
ENOUGH TO CLASSIFY THIS AS A CRIME.**

**I'D ALSO ASK URGE CONGRESS TO CONSIDER ELIMINATING PETA'S
TAX FREE STATUS, AS THEY BENEFIT FROM THE TAX LAWS DESIGNED
TO HELP NOT-FOR-PROFIT ORGANIZATIONS. THEIR CORPORATE
TERRORIST ACTIVITIES DO NOT WARRANT THIS BENEFIT.**

**THANK YOU FOR LISTENING, AND I'LL BE HAPPY TO ANSWER ANY
QUESTIONS YOU MIGHT HAVE.**

TESTIMONY OF MR. WILLIAM GREEN
Animal Rights: Activism vs. Criminality
May 18, 2004

INTRODUCTION AND OVERVIEW

Mr. Chairman, Members of the Committee, I appreciate the opportunity to appear before you today to present Chiron Corporation's perspective on the growing movement of animal terrorism in this country. I am William Green, Senior Vice President and General Counsel of Chiron Corporation. Chiron is a biotechnology company headquartered in Emeryville, California. Since it was founded in 1981, Chiron has sought to improve human health by developing new and innovative products to prevent and treat diseases such as cancer, HIV, influenza, cystic fibrosis, meningitis and hepatitis. We have manufacturing or management facilities in several states, including California, Washington, Pennsylvania, and New Jersey, and also in international locations, principally in the United Kingdom, Germany and Italy.

We discover and develop new approaches to human health. Sound science and the applicable laws and regulations required in the U.S. and in every developed country in the world mandate testing in humans and on animal models before drugs can be approved to justify and validate our efforts to develop these life-saving products. Our own animal care and use program in the United States is accredited by the American Association for the Accreditation of Laboratory Animal Care (AAALAC) and registered with the United States Department of Agriculture. We also maintain an Assurance Statement with the Office of Laboratory Animal Welfare, Department of Health and Human Services. Additional information regarding the regulation of Chiron's animal research is provided in Addendum I. We draw the Committee's attention to this information as it is important to understanding the crux of the issue we bring before you today on two levels—first, we are victims of a sustained campaign of intimidation, harassment and extortion that we have endured at the hands of animal rights extremists; and second, that campaign is cloaked in a more subtle and more intimidating mantle of assault on an entity with which we have only remote contact.

Over the last 12 months, Chiron Corporation and its employees have been the target of a persistent and sometimes violent campaign by animal rights extremists orchestrated, we believe, by SHAC USA. The campaign has cost us significant time and resources to defend ourselves; resources that we believe would have been better invested in our research efforts. We present an overview of our experience to this Committee in the belief that it establishes a compelling basis for the Committee to amend the Criminal Code. Simply put, if human health care research is to continue, society must be able to effectively control and prevent the kinds of conduct now being directed against such research. As the law presently stands, tools are insufficient. As a consequence, Chiron and its employees have paid, and so have many other research entities. Ultimately, the public pays, in increased costs or worse, diminished

health care. We believe that the Animal Enterprise Act must be updated to ensure that individuals and companies are protected and drug development is fostered.

I would like to address four issues in my statement today.

- Animal terrorism activities directed toward Chiron Corporation by Stop Huntingdon Animal Cruelty (aka SHAC).
- Details of terrorist activities targeting specific employees of Chiron Corporation.
- The threat of ongoing animal terrorism that we believe exists for Chiron Corporation.
- Chiron's thoughts and recommendations on gaps in the Criminal Code as they relate to these animal terrorist activities.

I. OVERVIEW OF CHIRON

Founded in 1981, Chiron is a pioneer in the biotech industry. As a result of its research programs, Chiron has grown to \$1.8 billion in revenue in 2003. We market more than 50 products worldwide to detect, prevent and treat diseases.

Chiron is a leader in the fight to eliminate polio from the face of the earth. We are a major producer of vaccines to UNICEF and public institutions. We have contributed 30 million polio vaccine doses to the Polio Global Eradication Initiative and look forward to a time when all children can live without threat from this crippling disease. The polio vaccine is possible because of animal research. Absent that research, the vaccine would have been impossible to develop.

Among Chiron's many contributions to medicine was the discovery of the hepatitis C virus. Chiron scientists labored for years before identifying and sequencing the virus. That accomplishment led directly to tests that have dramatically improved the safety of the blood supply. An estimated 165 hepatitis C infections from blood transfusions are prevented daily in the U.S. because of Chiron's achievement.

The lives saved by those tests and the polio cases prevented by our vaccines are just two examples of Chiron's powerful contribution to global public health. Those contributions are possible in part because of animal research. The same can be said of every pharmaceutical treatment on the market. Without animal research, we would never have seen the tremendous advances in human health that we have enjoyed over the past decades. If animal rights extremists succeed in their efforts, it will have a devastating effect on human health.

II. SHAC BACKGROUND

SHAC is an acronym for Stop Huntington Animal Cruelty. SHAC's stated immediate intention is to put a specific research company, Huntingdon Life Sciences ("HLS"), out of business because SHAC believes that HLS' work is cruel to animals. (See Addendum II). SHAC runs an extremist campaign of intimidation and harassment directed at HLS, but also at entities doing business with HLS (tertiary targets) in an effort to isolate and ultimately destroy HLS. SHAC appears to believe that it is morally wrong for human beings to test drugs on animals, regardless of the benefits to humans. Its primary long-term goal is the complete elimination of animal testing in all contexts, without regard to the negative impact this would have on drug development and improvements in medical care.

Its campaign against companies like Chiron Corporation established a new tactic for animal extremists intent on hindering or halting medical research and innovation. Rather than acting directly against a research facility or institution, which is an "entity" that the Congress of the United States has protected through the Animal Enterprise Protection Act of 1992, SHAC USA extremists now direct many of their harassing, threatening and menacing activities toward the people that work in our company, as well as their family members, in the communities where they live: at their homes, at their schools, and in the places where they engage in volunteer or leisure activities.

Chiron has no current contracts with HLS, and no plans to use HLS in the future. Yet, SHAC's web page boldly proclaims that Chiron is a "Target" of its "campaign" to shut HLS down. As a direct result, the company and its employees have been subjected to a relentless stream of terrorist activities. SHAC tactics are expressly aimed at achieving this goal.

III. CHIRON'S EXPERIENCE AS A SHAC TARGETED COMPANY

A. Activities Targeting Chiron Employees

Chiron became a target of SHAC USA approximately a year ago. In April 2003, the SHAC USA website published a "diary" written by Michelle Rokke, an animal rights activist, who worked undercover at HLS in the 1990s. Rokke's diary accused HLS of abusing laboratory animals in connection with research it conducted in 1997 on behalf of Chiron. The SHAC USA website created a section devoted to Chiron that prominently states: "Chiron Kills Puppies At Huntingdon Life Sciences."

The SHAC USA website is the center of its campaign. The site issues calls to action, coordinates the attacks, targets our individual employees and reports, often erroneously, the consequence of extremist's activities. The website has published personal information of Chiron employees and encouraged extremists to harass and intimidate them. After various incidents occur, the SHAC USA website publishes mocking reports of the incidents, often ending with warnings that the harassment will continue until the employee quits or Chiron severs all ties with HLS. The website repeatedly drives home its message by warning employees that "We know where you

live!" The SHAC USA website also makes available tactics and resources for the extremists to continue their activities against Chiron.

Less than a month after Chiron was first singled out on the SHAC USA website, overt acts of harassment began against Chiron and its employees. These attacks have been ongoing and unrelenting. Our employees have been targeted in California, New Jersey, Washington, the United Kingdom and the Netherlands. The tactics are numerous, but all of them are meant to harass and intimidate.

Extremists have made harassing phone calls and sent harassing emails to employees at work and at their homes. The extremists have set up fake Internet advertisements (such as soliciting sexual services) with employees' phone numbers to encourage strangers to harass the employees. Several employees have had their financial information misappropriated, resulting in fraudulent credit card charges. One employee received a death threat. SHAC USA also sent a letter to a scientific research conference threatening acts of violence if a Chiron employee was permitted to speak at the conference. Extremists also threatened to disrupt a conference for high school girls in Washington if a Chiron employee was allowed to participate.

SHAC USA's most chilling tactic is the so-called "home visit." Groups of extremists assemble at a targeted employee's house, often in the middle of the night. The extremists are often clad in black clothes and ski masks to increase the intimidation. They shout obscenities at employees through bullhorns, pound on doors and windows, and scatter leaflets around the neighborhood. These home visits are often accompanied by acts of vandalism and trespass. The groups of extremists repeated these visits to the same employees over a period of months.

On the night of May 12, 2003, Chiron employees around the San Francisco Bay Area received "home visits" from groups of extremists. SHAC USA published on its website and in its newsletters the names of targeted Chiron employees, their home addresses, phone numbers, email addresses and names of spouses and children. The home visits continued against Bay Area employees on a weekly basis through August 2003. These incidents were regularly celebrated on the SHAC USA website.

Beginning in August 2003, SHAC USA also began targeting Chiron's office in Seattle, Washington. Groups of extremists showed up at the Seattle office, harassing and threatening employees as they entered and left work and home visits to Chiron employees in Seattle started. Later in 2003 and continuing into 2004, SHAC USA has repeatedly attacked a Chiron employee in New Jersey.

Specific Activities Undertaken by SHAC USA Targeting Chiron Employees

As Chiron's General Counsel, I also have received harassing phone calls and "home visits," as well as harassment of my family. Let me describe to you in detail how some other Chiron's employees, representing a range of levels within the company,

have been victimized by SHAC USA's activities. In order to protect the personal safety of these individuals, we are not identifying them by name.

Employee A: This employee has been subject to repeated incidents of harassment and intimidation. Groups of extremists have assembled at her home on at least seven occasions, including in the middle of the night. The extremists have shouted obscenities at her in front of her children and other neighborhood children. They have blocked her driveway, preventing her family from returning home. They shouted at her husband and children as they entered their house. SHAC USA extremists have scrawled slogans on her driveway and littered the neighborhood with leaflets accusing her of being a "puppy killer." On one occasion, extremists began taking photographs of her through her dining room window as she talked on the telephone.

This employee and her family have received obscene and harassing phone calls. They have been subscribed to over \$3,000 in fraudulent magazine subscriptions. Her husband's work email has been repeatedly used to enroll him in catalogue distribution lists and to request company prospectuses.

Extremists have also attempted to disrupt a sports group to which this employee belongs. They assembled at one outing of the group, shouting at members through bullhorns and encouraging them to kick this employee out of the group. The group's email group began receiving spam emails from SHAC USA denouncing the employee, and personal information on group members was published on SHAC USA's website. At least one member of the sports group began receiving late night, harassing phone calls.

This employee and her family have had to change the way they live. They have retained personal security. They limit the amount of time they spend away from home. The family's children have been traumatized. Their younger child now has trouble sleeping and is very nervous when his parents aren't home.

Employee B: This employee has also been subject to repeated harassment. Groups of extremists have assembled at her home in the middle of the night on numerous occasions, shouting through bullhorns and setting off screeching personal alarms to wake her and her family from their sleep. They have littered her neighborhood with leaflets containing her picture and personal information. On one occasion, the extremists smeared animal feces on the front and rear entrances to her house; threw mangled stuffed animals on her yard; and spray-painted slogans such as "puppy killer" and "drop HLS" on her front walkway. On another occasion, these same slogans were etched onto the windows of her car with permanent etching fluid. This employee has also received harassing phone calls at home and had her phone number used to place fake Internet advertisements. Employee B has never been involved in animal experiments.

Employee C: This employee has never been involved in animal testing, but still has received numerous "home visits." On May 12, 2003, at the beginning of

SHAC USA's campaign against Chiron, extremists dumped a substance subsequently identified as butyric acid on his front steps, leaving an overwhelming stench resembling vomit. The incident was particularly threatening as the substance was originally unknown to those responding to the attack and presumed to be toxic. As a result, the clean up was hampered and cost increased. It ultimately cost thousands of dollars to remove the odor, which still lingers at the property. This employee has received numerous harassing and obscene phone calls, and his home phone number was used to request sexual services on the Internet. SHAC USA's website published the names and email addresses this employee's spouse and children, encouraging extremists to harass them as well. They began receiving harassing emails. This employee has retained personal security.

Employee D: This employee has been subject to repeated late-night home visits by groups of extremists. The extremists screamed through bullhorns, pounded on her front door, rang her doorbell, and shouted obscenities. The employee's family, including three young children, were awakened and scared. The employee has also received numerous harassing phone calls and messages at home, had her address posted on the Internet in false advertisements, and had her picture and personal information placed on leaflets accusing her of murdering animals. This employee has also been forced to retain personal security. Again, Employee D is not involved with any animal testing for Chiron.

Employee E: This employee became a target at the beginning of this year after SHAC USA published his picture and home information on its website. Groups of extremists have visited his home on at least four occasions. Since this employee travels extensively for his work, these home visits often occur when his wife and children are home alone. On one occasion, they drove up and down the employee's street in a truck with a giant television screen on the rear of the vehicle, displaying extremely graphic images of animals being mutilated. Other extremists shouted at the employee through bullhorns and scattered leaflets with his personal information around the neighborhood. The SHAC USA website reported this incident and warned: "2004 is going to be one hell of a long year for [the employee], now that we know where he is. If you can't join us on future demos – please be sure to get in touch with [the employee] on your own." On other occasions, the extremists have assembled in the early morning hours shouting obscenities and threats. For instance, one individual made reference to the Chiron bombing and implied it could happen at this employee's home. Another individual shouted, "Security won't protect you during the day [employee's name]. Not everything happens at night." On another occasion, after a neighbor complained to the protestors that children were sleeping, a protestor exposed his genitals and told the neighbor to perform a sexual act on him. As a result of these actions, the employee has been forced to retain security to protect his home and family. Like other SHAC USA targets, Employee E has never been involved in animal testing.

Employee F: This employee has had his personal checking account number posted on SHAC USA's website. This forced him to cancel the checking account, close a related credit card account, review all transactions made on his checking

account, review his credit history for acts of fraud, and make good all outstanding checks. The SHAC USA website also threatened to send animal feces in the mail and warned that he would be harassed in the coming year. In January 2004, SHAC USA extremists assembled at his house shouting through bullhorns. The employee was forced to flee his home with his autistic son, who would have been severely traumatized by the loud noises.

B. August 2003 Bombing At Chiron

Two pipe bombs exploded on the company's campus on August 28, 2003. The blast shattered the glass doors and windows in the entrance and foyer. Among the debris, police officers found pieces of a kitchen timer and other plastic components. Within five minutes, a second explosive device was found but before the bomb squad arrived, the second device also detonated. It was extremely fortunate that no one was injured. Timing a second explosive device to detonate shortly after the first would seem to be a technique calculated to attack security personnel and police officers responding to the first explosion.

The following day, SHAC USA's website posted a link to a statement issued by a previously unknown group calling itself "The Revolutionary Cells." That statement took credit for the bombing at Chiron and made death threats against its employees: "This is the endgame for the animal killers and if you choose to stand with them you will be dealt with accordingly. There will be no quarter given, no more half measures taken. You might be able to protect your buildings, but can you protect the homes of every employee?" SHAC USA also published its own press release regarding the bombings stating that the bombings were "part of a global assault on the customers of HLS." SHAC USA's president, Kevin Kjonaas, was quoted as saying that the bombings "against Chiron mark a drastic escalation in severity.... If I were Chiron, I would be very worried."

SHAC USA sought to compound the terror effects of the bombing to intimidate Chiron and its employees. On August 31, 2003, SHAC USA flooded Chiron email accounts with the suggestion that thousands of emails would "take their minds off last Thursday's firework show." In a demonstration against Chiron in New York City, persons affiliated with SHAC USA carried signs stating, "Invest in Chiron & Make a Bang for Your Buck!" and "HLS and Chiron Are Always a Blast!" Extremists in Seattle left a note at Chiron's offices that read: "Chiron is going out with a bang." The SHAC USA newsletter crowed that "Chiron is starting to shake like a California quake" and that "[t]he campaign to close Huntingdon is being fought with 'exploding' new tactics."

About a month after the Chiron bombing, a second company in the San Francisco Bay Area, Shaklee Corporation – a subsidiary of another SHAC USA target, Yamanouchi Consumer, Inc. – was bombed. The FBI has said that the device used in the Shaklee bombing was nearly identical to the devices used in the Chiron bombing. After the blast at Shaklee, SHAC USA again posted a link to a statement issued by "The Revolutionary Cells" making death threats against Chiron employees. The statement singled out Chiron Chairman Seán Lance and contained a direct threat of

future violence against him and Chiron's employees: "Hey Sean Lance, and the rest of the Chiron team, how are you sleeping? You never know when your house, your car even, might go boom. Who knows, that new car in the parking lot may be packed with explosives. Or maybe it will be a shot in the dark."

Although SHAC USA has carefully avoided taking responsibility for the bombings, there is reason to believe that SHAC USA and Kevin Kjonaas closely orchestrate the terrorists who claim to be The Revolutionary Cells. On October 5, 2003, a federal arrest warrant was issued in the Northern District of California for Daniel Andreas San Diego. The FBI believes that Mr. San Diego was involved in the Chiron and Shaklee bombings and has charged him with maliciously damaging and destroying property by means of explosives.

C. Other SHAC Tactics Directed Against Chiron Corporation

Beyond the attacks on our employees and the bombing of our headquarters, Chiron has been subjected to repeated attempts to disrupt our business, steal confidential information and prevent us from carrying out our mission to improve health globally. One tactic employed by extremists on multiple occasions has been to flood the company with mass faxes and emails. SHAC USA sponsors so-called "Electronic Civil Disobedience" in which extremists attempt to knock out a company's internet server by targeting it with repeated spam emails. These efforts include: sending spam emails to employees at their work email addresses. Over 4,000 emails, sent on numerous occasions and often generated by automatic computer programs threatened to overload our computer systems. These emails were sent using the techniques of hackers.

The mass emails and faxes are just one tactic employed by extremists to try to shut down business. There are others, just as destructive which have also been directed against Chiron, including:

- "Phone blockades," in which extremists make numerous repeat phone calls to a targeted company to tie up its phone lines.
- Instructions on the SHAC USA website on how to infiltrate targeted companies, including Chiron, by fraudulently posing as job applicants. The goal is to infiltrate a company to obtain confidential information.
- Fake phone calls from individuals designed to trick employees into revealing confidential information.
- "Black faxes" of over 1, 000 facsimile pages designed to use up a fax machine's ink, potentially resulting in the loss of critical business communications.

IV. SHAC USA'S THREAT OF ONGOING TERRORISM AGAINST CHIRON

SHAC USA has made it clear that the harassment and intimidation against the Company and its employees will not stop until Chiron disavows any intention ever to use HLS. Thus, our employees live with SHAC USA's ongoing threats hanging over their heads. After the incidents of harassment occur against Chiron employees, the

SHAC USA website regularly reports on the actions. From April 2003 to February 2004, Chiron employees have been the target of ongoing threats, examples of which are included below.

- "Until Chiron stops doing business with Huntingdon Life Sciences we will be a constant voice for the 500 animals who die inside their walls everyday. We know who you are, we know what you look like, and best of all we know where you live!"
- "[Names of employee and spouse], it will only get worse from here. With every day that goes by and every animal that is tortured and murdered inside HLS, our anger and vengeance grows. We will not stop until the walls of HLS are turned to rubble... We will not stop until HLS is shut down and we will take you with them as long as you are part of the suffering."
- "Prepare yourself Chiron because this is only the beginning. As long as you continue to act as a customer for HLS you will be exposed in your neighborhoods and communities. We know how you make your money, and we know where you live! Drop HLS!"
- "It's a simple equation. Stop doing business with Huntingdon Life Sciences. Until you do we will be watching you. We will invite ourselves over to your homes and into your private lives. Do you really want the spotlight on you Chiron?"
- "Quit doing business with Huntingdon Life Sciences Chiron. You're not getting any sleep and your neighbors are growing weary of your presence. Your personal information is all over your neighborhood. You have to be wondering what's next... well guess what? We're just getting warmed up!"
- "[Name of employee], if you are interested in sleeping through the night, stop supporting HLS (and maybe those bags under your eyes will go away too)."
- "Don't worry [name of employee], there will be more and more visits to come. Quit your job!"
- "If only she would stop her gross killing spree, and then wouldn't have to worry about us being there every step she takes..."
- "We hope you don't think we are going away Chiron. Until you sever all ties with HLS, we will be a permanent part of your life. Until Next Time!" "We're just getting started Chiron!"

V. CHIRON'S RESPONSE TO SHAC: PRACTICAL AND LEGAL

Practical Measures Taken

Faced with this history of relentless harassment and the explicit threat of further targeting, Chiron has been forced to seek protection from the courts and to engage in "self-help" measures to minimize the risk to its employees and its business. The actions of SHAC USA have come at significant expense to Chiron. We estimate

\$2.5 million in direct costs relating to SHAC USA's campaign of harassment of intimidation since inception in April 2003. The attacks will probably result in the most permanent disruption of our campus in Emeryville and the openness of which is a hallmark of our collegial culture. We have had to undertake efforts to close, gate and secure our physical plants, which will alter the nature of our campus permanently.

In addition, we have had to undertake numerous other measures. These include:

- Providing security personnel and security hardware such as closed circuit television, video recording equipment, burglar alarms and security site surveys at the homes of victimized employees for the protection of the employee and their family.
- Repairing damage caused by vandalism to the employee's homes and property.
- Increasing security measures on campus, fencing, closed circuit television, alarm systems and additional security personnel.
- Retaining executive protective agencies to accompany employees to professional forums.
- Upgraded firewalls for Chiron's information system.

A. Legal Measures

1. United Kingdom

Chiron filed suit against SHAC based on the unlawful acts perpetrated against it in the United Kingdom. In February 2004, the Queen's Bench Division of Britain's High Court of Justice issued a restraining order against SHAC U.K. prohibiting its extremists from demonstrating within 100 yards of the house of any Chiron employee or otherwise harassing or threatening any Chiron employee.

SHAC U.K. responded to the restraining order by attacking every related person. Within days of the order, an Internet web page was set up that listed the home telephone numbers and home addresses of Chiron's lawyers. The web page also listed the name, home telephone number and home address of the British judge who issued the restraining order. It also included the names, home telephone numbers and home addresses of the judge's mother and mother-in-law. Scotland Yard's Special Branch, which deals with espionage and terrorism, is investigating the matter.

2. United States

Chiron has filed suit against SHAC USA in three states – California, New Jersey, and Washington – seeking to enjoin its extremists from continuing their illegal

activities against Chiron and its employees. Chiron has obtained a preliminary injunction in New Jersey prohibiting SHAC USA or anyone acting in concert with SHAC USA from harassing or threatening Chiron employees, vandalizing or trespassing on their property, picketing within 150 feet of the home of any Chiron employee during evening hours, or publishing personal information of Chiron employees on SHAC USA's website. Chiron continues to seek injunctions in both California and Washington, and litigation in all three states is ongoing.

VI. ANIMAL ENTERPRISE PROTECTION ACT

A. The Statute

1. The 1992 Act

The Animal Enterprise Protection Act ("the Act") was enacted in 1992 to protect against physical disruptions of businesses, educational institutions and events by animal rights extremists. The Act made it a federal crime to cause "physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of any property (including animals or records) used by the animal enterprise" causing economic damage exceeding \$10,000.

Federal jurisdiction is satisfied by the element of the offense that requires travel in interstate or foreign commerce or use of the mail or any facility in interstate or foreign commerce. An "animal enterprise" is defined as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences.

As originally enacted, the Act provided for a maximum penalty of one year in prison. The Act further provided for a maximum penalty of ten years if the defendant caused great bodily injury and life imprisonment if the defendant caused death.

The Act was amended and strengthened in 2002.

B. Deficiencies In The Animal Enterprise Protection Act

The Animal Enterprise Protection Act does not reach the kind of terrorist tactics that animal rights extremists are currently using, nor the type of damages inflicted. In particular, the Act does not prohibit terrorist acts against companies and employees of companies that are not themselves animal enterprises. As set forth above, a strategy increasingly employed by animal rights extremists, such as SHAC, is to attempt to cause economic harm to animal enterprises by terrorizing companies and people that do business with them. The extremists threaten and cause physical, economic and emotional harm to these third-party companies and their employees in an effort to force them to quit doing business with a targeted animal enterprise. For example, SHAC has disrupted and terrorized an insurer, lender, accountant and bank with direct or indirect ties to HLS – not to mention past and present customers of HLS.

The statute was drafted to address the tactics used by animal rights extremists in 1992, which involved physical disruption and damage to animal enterprises themselves. The House Judiciary Committee noted in its report on the Act:

The Committee hearing record on this issue demonstrates that current Federal laws are not adequately discouraging acts of violence against biomedical researchers, farmers and ranchers, meat processors, livestock auctions, and others who handle animals. . . . [I]ncidents of arson, break-ins, theft, threats and vandalism have been perpetrated against the animal agricultural sector nationwide.

H. Rep. No. 102-498(1), (1992). A Department of Justice study similarly identified the problem as physical attacks on animal enterprises:

[S]ince the early 1980's, a broad range of enterprises, in both public and private sectors, that use or market animals or animal derived products in their commercial or professional operations have been targeted by radical elements within the animal rights movement with acts of disruption, vandalism, and in many cases physical destruction. *United States Department of Justice Report to Congress on Animal Terrorism* at 1 (1993).

As discussed below, the changed tactics adopted by extremist animal rights extremists render the current statute ineffective.

1. Physical Disruption Versus Economic Disruption

Animal rights extremists, such as SHAC, have shifted tactics from physical disruption to economic disruption. The extremists cause economic disruption by harassing and terrorizing animal enterprise employees and those who do business with the animal enterprise. These acts of terrorism often take place at sites other than the animal enterprise and, therefore are not intended to cause direct physical disruption of the animal enterprise itself. The existing Animal Enterprise Protection Act does not reach such conduct because there is no intent to physically disrupt an animal enterprise. Most of the acts of terrorism by SHAC and its supporters described above – particularly those committed against employees at their homes – would not violate the Act because they were not intended to cause physical disruption of an animal enterprise and did not damage property used by an animal enterprise.

2. Property Damage

The Act's focus on property damage also needs to be changed to adapt to the current tactics employed by animal rights terrorists. An element of the offense currently is that the defendant damages or causes the loss of property used by an animal enterprise. While animal rights extremists often cause property damage, they

also rely on threats and other types of harassment to intimidate and terrorize employees. The statute should be expanded to cover these sorts of tactics as well.

2. Animal Enterprise Requirement

The Act is also limited because it applies only to enterprises that actually work with animals. SHAC's strategy is to terrorize those who do business with HLS – many of whom do not actually work with animals themselves. The existing statute covers Chiron because it happens to do some animal testing itself, but the statute does not protect other customers of HLS, that are not animal enterprises themselves. Nor, for example, would the statute cover the banker or insurer of HLS.

3. Definition of Animal Enterprise

Another deficiency in the statute is that its definition of "animal enterprise" is too restrictive. An "animal enterprise" is defined as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences. The Act does not expressly apply to an enterprise that uses animals for education or for other medical science programs. Animal rights extremist have targeted both educational institutions and biomedical events for disruption. The Act should be expanded to cover those activities.

4. Penalties

Finally, the current penalties under the Act are not stringent enough. For example, a defendant who causes no more than \$10,000 in property damage faces a maximum sentence of six months incarceration and a defendant who causes any amount of damage over \$10,000 faces a maximum of only three years in jail. The penalties for these offenses should be increased and more stringent penalties for acts that cause a large amount of damage should be enacted. Under the current statute, a defendant who causes millions of dollars of damage faces no stiffer penalties than one who causes \$10,001 of damage.

C. Proposed Improvements To The Animal Enterprise Protection Act

There are a number of ways the Act should be amended to deal more effectively with the tactics currently employed by animal terrorists. These modifications would bring within the scope of the statute actions designed to cause economic damage to animal enterprises by targeting companies and employees of companies that do business with animal enterprises.

1. Economic Disruption

As set forth in detail above, the current strategy of many animal rights terrorists is to cause economic harm to animal enterprises, not just property loss or damage. The problems with the current statute related to the requirement that there must be an intent to cause physical disruption can be remedied by amending the statute to make it a violation to intend to cause physical or *economic* disruption. "Economic disruption" would include losses and increased costs. The statute should be clear, however, that it would not apply to actions that are protected by the First Amendment.

2. Non-Animal Enterprises

The scope of the statute should be expanded to cover animal extremists' current tactic of targeting companies or individuals that do business or associate with animal enterprise, but which are not animal enterprises. As discussed above, some of the most threatening and abusive conduct has occurred at employees' homes. Thus, the statute should not be limited to direct actions against animal enterprises. It should be expanded to cover illegal actions taken against any person or entity *because* it does business with or associates with an animal enterprise.

3. Threats And Harassment

The current statute is limited to harm caused by property loss or damage. The arsenal employed by animal rights terrorists, however, goes well beyond mere property damage. As set forth in detail above, these extremists also use threats and harassment to accomplish their goal of harming animal enterprises and their employees. The acts prohibited by the statute should also include threats, persistent and harassing communications, intimidation or coercion in furtherance of a plan to cause economic or physical disruption.

4. Definition Of Animal Enterprise

The definition of animal enterprise should be expanded to include the use of animals for education. It also should be broadened to include events for the purpose of advancing biomedical sciences.

5. Penalties

The penalties for violating the statute should be strengthened. The maximum penalty for economic or physical disruption should be one year up to \$10,000, five years for over \$10,000, and ten years for over \$100,000.

The amount of loss or damage referred to in setting the penalty should be the damage done to the targeted person or entity, not the animal enterprise. Such a cost to the animal enterprise may be difficult or impossible to prove. For example, if an animal enterprise's insurer is subject to terrorism because of the affiliation with the enterprise, but continues to insure the enterprise, there would be no crime under the existing statute, even though the insurer incurred substantial costs as a direct result of the terrorism. As another example, Chiron does not presently do business with HLS. Yet, SHAC USA is terrorizing Chiron's employees to coerce Chiron into promising to never do business with HLS again in the future. Under such circumstances, it would be very difficult to prove what if any damage HLS has suffered. The costs to Chiron, on the other hand, have been great and are quantifiable. Thus, the measure of economic damage should be to both the animal enterprise and the targets of the illegal activity.

D. Private Right Of Action

Another major deficiency in the Act is the absence of an express private right of action for injured parties. Because plaintiffs cannot bring civil claims against those who violate the Act, the statute has lain dormant for most of its existence. Since its passage in 1992, there appears to have been only a single prosecution under the Act. In August 2000, Justin Samuel pleaded guilty to two misdemeanor counts under the Act in the Western District of Wisconsin and was sentenced to two years in prison.

It is troubling that the Act has been largely ignored despite the dramatic rise in animal rights related terrorism in recent years. The absence of prosecutions suggests that targeting violations of the Act is not a priority for United States Attorneys Offices and that significant prosecutorial resources have not been devoted to prosecuting such offenses. However, allowing private litigants to bring civil actions for violations of the Act will help effectuate the purposes of the Act and provide remedies to those injured by animal rights terrorists. Without a private right of action – unless greater prosecutorial resources are brought to bear on animal rights terrorism – the Act will remain largely ineffective. Even if there is an increase in prosecutorial resources, establishing a private right of action would substantially assist in fighting animal terrorism. Many of the victims of these terrorists have the resources to seek judicial remedies, but need an effective vehicle for obtaining such relief.

We therefore recommend that Congress amend the Act to provide an express private right of action, including injunctive relief. This is necessary because federal courts have already held that no private right of action exists under the Act. See *Gabor v. Frazer*, 1994 WL 669875, *2 (N.D. Cal. 1994) *aff'd* 78 F.3d 593 (9th Cir. 1996); *Leathem v. United States*, 122 F.3d 1072 (9th Cir. 1997) (unpublished opinion). A federal civil cause of action will allow injured parties to bring their claims in federal court, which is particularly appropriate because most of the animal rights terrorism appears to be committed by nationwide networks and groups. At present, companies who are targeted in different states (such as Chiron) must bring multiple actions in

state courts to get effective relief. A federal cause of action will allow injured companies to gain quicker and more efficient relief. In addition, a mechanism for obtaining speedy injunctive relief against animal rights groups and extremists violating the Act would significantly aid companies' efforts to stop animal rights terrorism.

VII. THE HOBBS ACT

Another legislative solution would be to amend the Hobbs Act, 18 U.S.C. § 1951(a), in response to a recent Supreme Court decision that limited its applicability to threatening or coercive conduct designed to obtain property. The Hobbs Act provides, in pertinent part: "Whoever in any way or degree obstructs, delays, or affects commerce . . . by robbery or extortion or attempts or conspires to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose" in violation of the section shall be fined and imprisoned for not more than twenty years. Extortion is defined, in relevant part, as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear."

In *Scheidler v. National Organization For Women*, 537 U.S. 393 (2003), the National Organization for Women successfully sued anti-abortionist activists under the Racketeer Influenced and Corrupt Organizations Act (RICO) for using threats and coercion to stop women from obtaining abortions. The RICO violation was predicated on the theory that the defendants had violated the Hobbs Act by committing extortion against the clinics. The Supreme Court held that, to be guilty of extortion under the Hobbs Act, it is not enough for defendants to use threats to deprive a victim of property rights. The Court held that the defendants must also intend to obtain those property rights for themselves:

There is no dispute in these cases that petitioners interfered with, disrupted, and in some instances completely deprived respondents of their ability to exercise their property rights. Likewise, petitioners' counsel readily acknowledged at oral argument that aspects of his clients' conduct were criminal. But even when their acts of interference and disruption achieved their ultimate goal of "shutting down" a clinic that performed abortions, such acts did not constitute extortion because petitioners did not "obtain" respondents' property. Petitioners may have deprived or sought to deprive respondents of their alleged property right of exclusive control of their business assets, but they did not acquire any such property.

537 U.S. at 404-05. The Supreme Court distinguished the crime of extortion from the crime of coercion, which is the use of threats or violence to "compel another person to

do or to abstain from doing an act which such other person has a legal right to do or to abstain from doing," but does not require an attempt to obtain property. *Id.* at 406 & n.10.

The Hobbs Act would be an appropriate law enforcement vehicle to prosecute violent protesters, such as SHAC, who seek to use threats or violence to force a company to stop doing business in a manner that conflicts with the protesters' political goals. For the Hobbs Act to be effective, however, Congress should amend the statute to eliminate the requirement that defendants need to seek to obtain property for themselves, as opposed to intend to deprive another of property rights.¹ An advantage of such an amendment to the Hobbs Act is that it would apply to anyone who seeks to accomplish a political agenda through violence, threats or coercion without being limited to a particular issue such as animal rights. Thus, Congress would not need to enact a new statute for each cause that extremists seek to advance through such illegal means.

¹ Such an amendment to strengthen the Hobbs Act would be analogous to what Congress did after the Supreme Court held in *McNally v. United States*, 483 U.S. 350 (1987), that the mail fraud statute protected only property rights, reversing a long line of lower court decisions holding that the statute also applied to schemes to defraud citizens of the intangible right of honest government. In 1988, Congress enacted 18 U.S.C. § 1346, which expanded the definition of mail and wire fraud to include "a scheme or artifice to deprive another of the intangible right of honest services."

ADDENDUM I**CHIRON'S ANIMAL CARE AND USE PROGRAM IS CRITICAL TO DRUG DEVELOPMENT AND OPERATES AT THE HIGHEST STANDARDS**

Chiron, like every other pharmaceutical company, must ensure safety prior to use in humans. Regulatory authorities in the United States, Europe and Japan mandate research on animals to ensure the protection of human subjects enrolled in clinical trials. Because the physiology, anatomy, biochemistry and disease of animals are similar to that of humans, animal tests supply pharmaceutical companies with sound and valuable scientific data. The result of testing is a crucial component evaluated by regulatory authorities in deciding whether a new drug should be approved for treating patients.

Chiron is committed to the humane care and use of laboratory animals in research. Our animal care and use program in the United States is accredited by the American Association for the Accreditation of Laboratory Animal Care (AAALAC) and monitored by the Office of Laboratory Animal Welfare, Department of Health and Human Services. Outside of the United States, Chiron Corporation adheres to similarly strict standards, including country-specific laws and policies.

The animal studies that the company is required to conduct are subject to rigorous peer review, as well as close review by national authorities. The company's Animal Care and Use Committee, which includes community representatives not employed by Chiron and independent veterinary doctors, oversees all work done internally and reviews all work done by outside contractors to ensure that it will meet the company's strict standards.

Chiron is committed to the ethical principles of "Reduce, Refine and Replace." This means that testing methods are continuously improved in order to reduce the number of animals required for testing, to refine the test procedures to minimize stress and to replace animal testing with alternative methods. The company encourages the use of alternatives to animal testing, including biochemical assays and cell culture methods, whenever possible.

Addendum II: SHAC's Roots In The United Kingdom And European Union

Stop Huntingdon Animal Cruelty (SHAC) is an animal rights organization that was formed in the UK in 1999 by Greg Avery and Heather James. SHAC's express goal was to shut down Huntingdon Life Sciences (HLS), a biomedical company that performed animal testing in labs in the UK and the U.S. SHAC contended that HLS engages in animal cruelty in its testing. SHAC's strategy was to bankrupt HLS by driving up its cost of doing business and scaring away companies that provide financial and other services to HLS.

SHAC used increasingly violent tactics against HLS and its employees. SHAC published employee names and addresses on its website. Employees received death threats and packages filled with feces, dead rodents and razor blades. Employees' homes and cars were vandalized and spray-painted. Eleven employees' cars were firebombed. HLS managing director, Brian Cass, was bludgeoned outside his home with axe handles. Another senior manager was pepper-sprayed and beaten outside his home.

SHAC also targeted banks and financial institutions that supported HLS. These are so called "tertiary targets". These companies and their employees were also subject to death threats, bomb threats, vandalism, office occupations, and harassment. One by one, British financial institutions pulled their support from HLS, citing their inability to guarantee the safety of their employees. HLS could not persuade a single British commercial bank to handle its business and had to receive its financial services through the Bank of England (equivalent to the Federal Reserve). Since then, SHAC has successfully frightened off numerous suppliers to HLS, including security firms.

SHAC affiliates have been organized in other countries where HLS or supporting companies have a presence, including Germany, Switzerland, Italy, the Czech Republic, Ireland, Portugal, Sweden, New Zealand, Australia, and Canada. Extremists in these countries have also carried out violent activities against targeted companies, including death and bomb threats, vandalism, and fire bombings.

SHAC's Evolving Presence In The United States

In 2000, SHAC USA was formed after HLS turned to the American investment firm, Stephens Inc., for financial support.

One of the individuals instrumental in organizing SHAC USA was Kevin Kjonaas (aka Kevin Jonas), who currently acts as its president. Kjonaas previously acted as a spokesperson for another violent animal rights group, the Animal Liberation Front (ALF), and participated in SHAC UK. (In fact, when three of SHAC UK's key leaders spent 6 months in prison between November 2001 and May 2002, Kjonaas relocated to England to manage SHAC UK's affairs).

SHAC USA targeted many of the same companies and employed many of the same tactics used by SHAC UK. In addition to HLS and Stephens Inc., companies such as Chiron, Marsh, Yamanouchi, and Sumitomo have been targeted on both sides of the Atlantic. Tactics used against companies and employees in the U.S. have included death threats, bomb threats, office occupations, bombings, vandalism, and harassment.

SHAC's Organizational Structure In The United States

SHAC USA has been incorporated in Delaware. Although Kevin Kjonaas has been designated its president, SHAC USA appears to be organized very informally. It has not disclosed any other named officers or employees. This informal organization appears to be an intentional strategy by SHAC USA to make it difficult to impose criminal or civil liability against it or its officers.

SHAC USA has not disclosed any location as its office or headquarters. SHAC USA rents a P.O. Box in Philadelphia, PA. In late-April Chiron was informed that SHAC USA was in the process of relocating its headquarters to California after managing its operations out of the east coast for four years.

SHAC USA operates at least three websites (www.shacamerica.net, www.hlscustomers.com, and www.insidehls.com), publishes a newsletter, and operates an email distribution list that sends "action alerts" and updates to subscribers. In fact, the Internet has become a core tool in communication and information dissemination for SHAC USA's members. From its main website, SHAC USA also maintains a calendar that lists various actions against targeted companies.

SHAC USA claims not to charge membership fees and claims only to have "volunteers." SHAC USA solicits charitable donations through its website, newsletters, and at various animal rights events.

In sworn deposition testimony, SHAC USA's president, Kevin Kjonaas, has refused to answer questions concerning who finances SHAC USA, what SHAC USA does with its money, who operates the SHAC USA website, who communicates with the purported "volunteers" of SHAC USA, what the contents of those communications are, or other questions that would shed light on SHAC USA's internal organization. He has declined to answer these questions based on this Fifth Amendment privilege against self-incrimination.

This secrecy appears intentionally designed to shield the identities of individual SHAC USA "volunteers" carrying out illegal activities and to attempt to insulate SHAC USA leaders from the illegal acts of its members. For example, the SHAC USA website encourages its members always to use email encryption so as to shield communications from law enforcement and to avoid incriminating one another. Likewise, SHAC USA instructs its members never to reveal any information when being interrogated by law enforcement or prosecutors.

SHAC USA's Previous Targets and Methods In The United States

After its formation, SHAC USA began targeting HLS employees in the U.S. SHAC USA also targeted employees of other companies, tertiary targets, that SHAC USA believed supported HLS, including Marsh USA (an insurer of HLS) and Stephens Inc (an investor in HLS). SHAC USA even targeted so-called "tertiary" targets such as Bank of America, which handled Stephens Inc.'s mutual funds program. Other targets have included Chiron, Yamanouchi, Sumitomo, E*Trade, Legacy Trading, Deloitte & Touche, Forest Labs, Abbott Labs, Novartis, and numerous other companies with direct or indirect ties to HLS.

SHAC USA used tactics similar to those employed by SHAC UK. SHAC USA would publish on its website and in its newsletters the names, addresses, phone numbers, and other personal information of employees of the targeted companies. These employees received harassing phone calls, had their homes and property vandalized, and received death threats. The companies themselves are inundated with phone calls, faxes, and emails from extremists trying to disrupt their business. On several occasions, groups of extremists have staged "office occupations" in which they illegally enter offices, causing disruption and physical damage, and attempt to obtain confidential information about companies and their employees. Chiron Corporation and its employees have been on the receiving end of all of these tactics.

As the SHAC USA website goes on to explain, HLS is a strategic target in its long-term campaign to end animal testing. As envisioned by SHAC USA, shutting down HLS is intended to affect the entire animal testing industry at the same time it helps builds a long-term campaign, without concern as to the impact of this effort on drug development:

Closing HLS will save animals in both the short term and the long term. . . . HLS's contracts are inexpensive, and hence it is used by many start-up biotech companies that cannot afford to do their own testing or open their own animal testing facilities. Closing it will make animal testing more costly, to the point where many companies will have to suspend much of their animal testing HLS fills a significant niche within the vivisection industry as they specialize in pre-clinical testing that is not widely available elsewhere. Removing one of the most used, and specialized, animal testing facilities will have a ripple effect throughout dozens of companies and puts a strain on the entire vivisection industry.

* * *

Both the vivisection and animal rights activists agree: the HLS campaign is an attack on the entire vivisection

industry. . . The vivisection industry is enormous, politically connected, and very well-funded. Taking on a select, winnable portion of it allows us to make a huge dent while building a larger, stronger movement to continue in the direction of obliterating animal testing.

An especially chilling tactic used by SHAC USA is the "home visit" or "home demonstration." The extremists show up at the home of a targeted employee, often in the middle of the night, to terrorize the employee. Often dressed in black and wearing ski masks, the extremists shout slogans and obscenities through bullhorns; pound on front doors and windows; litter the neighborhood with leaflets containing the employee's picture and personal information and accusing him of being a "puppy killer" or "animal abuser"; and spray-paint similar slogans on driveways, garage doors, and cars. The extremists repeat these late-night "home visits" numerous times to make the targeted employee's life miserable, until he either quits his job or his employer agrees to SHAC USA's demands to sever all ties with HLS. In the case of Chiron Corporation these nighttime excursions have occurred in the neighborhoods of numerous corporate executives and employees, disrupting not only our employees and their children, but their neighborhoods as well.

As with the campaign conducted in the UK, SHAC USA's campaign in the United States quickly escalated into overt acts of intimidation and violence. HLS employees in New Jersey received emails from threatening physical violence and telling the employees "we know where you live." Employees then began receiving "home visits" like those described above. One employee was relaxing at home with his family when several rocks were hurled through the windows. One former HLS employee who received a "home visit" demanded that the "protesters" leave his property. The "protesters" responded by spitting on him. In 2000, based on these and other unlawful activities, HLS obtained a temporary restraining order and preliminary injunction against SHAC USA and several individuals in New Jersey Superior Court in Somerset County. HLS has also obtained injunctions against SHAC USA in New York and California.

On numerous occasions, SHAC USA's website named Stephen's Group "Abuser of the Week" and stated: "We need to keep the heat on Stephens . . . [Do] ANYTHING and EVERYTHING you can do to make them regret the decision to ever get involved with HLS!!" Persons affiliated with SHAC USA vandalized the homes of Stephen's President and CEO and ran up \$100,000 in fraudulent charges on his credit card. They demonstrated at the firm's offices nationwide, harassing company clients and staging email, phone, and fax interruptions and blitzes. Company employees were threatened and their personal residences were targeted for "home visits." SHAC USA's website published select Stephen's employees' personal home addresses and phone numbers and encouraged supporters to harass and intimidate them. Eventually, Stephen's pulled out its investments from HLS.

Marsh USA, an insurance and reinsurance broker, also became a target of SHAC USA's campaign. SHAC USA labeled Marsh as an "Abuser of the Week" and

encouraged its supporters to "let Marsh know that we are about to raise the premium on pain." Extremists vandalized Marsh offices and the homes of Marsh employees in Illinois, Texas, Massachusetts, Washington, and California. The SHAC USA website published the names, home addresses, and home phone numbers of Marsh executives and explained how to target their homes. The website also displayed the following threatening announcement: "Marsh employees: we know where you work, we know where you eat, we know where you sleep."

In two coordinated attacks, members of SHAC USA infiltrated Marsh's offices in San Francisco and San Jose, California. They marched through the offices, shouting slogans into megaphones, scattering paper and pamphlets on the floor, and photographing the nameplates on the desks of Marsh employees. The persons invading the San Jose office barricaded themselves in a conference room where they defaced the walls and damaged furniture. These infiltrations continued until police officers arrived and cited the intruders for trespassing, vandalism, and disturbing the peace. The SHAC USA website reported the incidents and stated: "There is nowhere for you to hide, Marsh. . . Marsh be warned: we'll be back – and next time you won't be so lucky." Based on these and other activities, Marsh obtained a temporary restraining order and preliminary injunction against SHAC USA in the Superior Court of Santa Clara County, California. Ultimately, however, Marsh ended its relationship with HLS.



News Release JUDICIARY COMMITTEE

United States Senate • Senator Orrin Hatch, Chairman

May 18, 2004

Contact: Margarita Tapia, 202/224-5225

**Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Hearing on**

“ANIMAL RIGHTS: ACTIVISM V. CRIMINALITY”

Good morning. I want to thank everyone for joining us today to examine the issue of when legitimate animal rights activism crosses over into illegal criminal acts. We have some very distinguished panelists with us today and we look forward to hearing from them.

As everyone in this room is well aware, the right to demonstrate, to protest, and to make your voice heard is as deeply imbedded in the American political fabric as is any other right that we collectively hold dear. We cannot and we will not violate that right.

However, where political activism breaches peaceful protest and dives headfirst into criminal conduct, we can, should, and will use every mechanism available to prosecute the individuals responsible. One area where it is abundantly clear that fringe activists have resorted to criminal conduct is where academic and commercial enterprises are conducting legitimate animal testing.

In recent years, some radical activist groups have gone well beyond what any reasonably minded person would consider protest. Their tactics include: vandalizing and pipe bombing research facilities; credit card fraud; threatening employees of businesses and research companies; terrorizing children of employees; and posting death threats against employees as well as employees' names, addresses, and phone numbers on the internet.

These extremists target researchers, farmers, circuses and other lawful, productive, and beneficial organizations. There have been numerous bombings and vandalisms against farmers in my state of Utah. A mink breeders' co-op in Murray, UT, has been attacked and fire-bombed. The farmers' names, addresses, and phone numbers have been posted on the internet, together with complete instructions on how to build bombs, and cover up any trace of the crime. For instance, the instructions on how to make milk jug firebombs came with this caution: "Arson is a big time felony, so wear gloves and old clothes you can throw away throughout the entire process, and be very careful not to leave a single shred of evidence." It is shocking, to say the least.

Additionally, as most of you know, I have long been devoted to health related issues. These actors target what could be life saving research. When research laboratories and university researchers are targeted and attacked, the ones who lose most are those who are living with a disease or who are watching a loved one struggling with a devastating illness. Those who

target and attack peaceful organizations and individuals do not legitimately advance their cause, and promise no breakthroughs to society. Instead, they only promote a grave threat to the well being and advancement of mankind.

What is particularly disturbing about these egregious tactics is that they are not isolated instances carried out by a few persons acting alone; instead, they are part of a broad and carefully coordinated effort to threaten, terrorize and ultimately shut down lawful enterprises by systematically targeting their employees, and other persons or entities that do business with those lawful enterprises.

Our task here today is to help identify and show the line that distinguishes lawful expression and protest from criminal behavior.

Again, I appreciate everyone taking the time to be here today. We will hear from two panels of witnesses. On our first will be Mr. McGregor Scott, the U.S. Attorney for the Eastern District of California, and the Deputy Assistant Director for Domestic Terrorism from the FBI, Mr. John Lewis. We look forward to hearing from both of you.

On our second panel includes Mr. William Green, the General Counsel from Chiron Corporation, Mr. Jonathan Blum from Yum! Industries – the parent company of Kentucky Fried Chicken, and Dr. Stuart Zola from Emory University. We look forward to hearing from the three of you as well.

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May 20, 2004

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The Honorable Orrin Hatch
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hatch:

In the May 18 Senate Judiciary Committee hearing on "Animal Rights: Activism vs. Criminality," you read from a letter submitted by the Center for Consumer Freedom which alluded to research it would soon release purporting to show how "mainstream animal charities" are funding criminal activities. This letter specifically identifies The Humane Society of the United States (HSUS) as being engaged in such activities by providing funding to an Internet service provider that distributed communiqués from the Animal Liberation Front (ALF). This information is patently false and outrageous, and we submit this letter to correct the record.

First, I want to emphatically state that The HSUS takes its responsibilities very seriously on matters relating to tactics and philosophy. The HSUS has repeatedly and publicly criticized individuals who break the law in the name of protecting animals. We have denounced individuals and groups who resort to intimidation, vandalism, or violence in pursuit of animal protection goals. We have done so at conferences and in the print and electronic media. We believe these illegal tactics are wholly unacceptable and inconsistent with a core ethic of promoting compassion and respect. A public statement outlining our position with regard to these unacceptable tactics is attached and available on our web site at www.hsus.org/ace/14691.

Second, the Committee should be aware that the organization making this allegation – The Center for Consumer Freedom (CCF) – is run by Rick Berman, a lobbyist for the tobacco, alcohol, and hospitality industries. The group actively opposes efforts by health advocates, doctors, animal welfare advocates, and other public interest organizations. The group's ostensible purpose is to unite the restaurant and hospitality industry against advances from anti-smoking, anti-drinking, and healthy food advocates, and to discredit them with lies, half-truths, and innuendo. For example, the CCF website is highly critical of Mothers Against Drunk Driving (MADD) for its efforts to reduce drinking and driving, and it also attacks MADD through another website, www.neoprohibition.com. Other tactics CCF employs include blatantly fabricating quotations and attributing them to the spokespersons for groups it opposes and taking quotes out of context.

Third, regarding the specific allegation referred to in the CCF letter: in 1998, The HSUS established a listserv dedicated to discussion of animal welfare issues with special relevance to college campuses, such as the issue of alternatives to animal dissection in biology classes. We established the Inter-Campus Animal Advocacy Network (I-CAAN) and chose as its electronic host a provider known as waste.org, which caters to animal-friendly nonprofits and provides its service free of charge. They solicited donations from us in 1998 and 1999 and each year we gave them a grand total of \$150 for their services to us. We made no additional contributions.

Promoting the protection of all animals

2100 L Street, NW, Washington, DC 20037 ■ 202-452-1100 ■ Fax: 202-778-6132 ■ www.hsus.org

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In December 2002 it came to our attention that waste.org also hosted a listserv related to the ALF, and we, of course, were not apprised of the decision by waste.org to host this completely distinct listserv. This listserv was established after we had entered into our relationship with the company. Given our longstanding policy against illegal activity described above, The HSUS promptly moved I-CAAN to a different server, Lsoft International (home.ease.lsoft.com) on January 10, 2003. I-CAAN was subsequently closed on April 30, 2003, in a restructuring of The HSUS's electronic information and resources. Suggesting that The HSUS financed ALF communiqués is like suggesting that anyone who shops at a particular grocery is responsible for illegal activities conducted by another customer at that grocery.

I hope this letter serves to clarify these matters. I would be happy to respond to any questions from you or other members of the Committee. The HSUS and its more than 8 million supporters nationwide – one of every 40 Americans – appreciate your continuing efforts on behalf of animals and look forward to working together on the challenges ahead. We are very grateful for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Wayne Pacelle".

Wayne Pacelle
Chief Executive Officer - Designate
The Humane Society of the United States

search

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HSUS Statement on Nonviolence

The Humane Society of the United States (HSUS) is the nation's largest animal protection organization, with a constituency of seven million people—one of every 40 Americans. The HSUS employs scientists, veterinarians, attorneys, animal care professionals, wildlife specialists, and legislative professionals, and relies on thousands of volunteer members to spread its message of compassion and respect for all animals, including people. The very foundation of our work is to protect animals from suffering and cruelty caused by human actions. We believe that any tactic or strategy involving violence toward people, or threats of violence, undermines the core ethic we espouse. Such tactics are ethically wrong and do fundamental damage to the credibility of the humane movement. Since its founding in 1954, The HSUS has never engaged in or supported any form of violence done in the name of protecting animals.

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U.S. SENATOR PATRICK LEAHY

CONTACT: David Carle, 202-224-3693

VERMONT

**Statement Of Patrick Leahy
Senate Judiciary Committee
Hearing On
"Animal Rights: Activism vs. Criminality"
May 18, 2004**

Today's hearing was originally announced under the title, "The Threat of Animal and Eco-Terrorism." I can understand why that title was abandoned. When most Americans think of threats that currently face this country, "animal and eco-terrorism" usually are not at the top of our lists. Indeed, most Americans would not consider the harassment of animal testing facilities to be "terrorism," any more than they would consider anti-globalization protestors or anti-war protestors or women's health activists to be terrorists.

This Administration aggressively stamps everything with a "terrorism" label and at various times has insinuated that it was Saddam's link to the September 11 attacks that justified the invasion and occupation that has been so costly. Even President Bush had to admit that Saddam Hussein was not responsible for the 9/11 attacks on America. Many of us fear that the Administration's fixation on Iraq, in fact, distracted it from finishing the job in Afghanistan and from focusing on Al Qaeda and affiliated terrorists. The invasion and occupation of Iraq have, regrettably, been something of a self-fulfilling prophesy now that Iraq is teeming with terrorism and guerilla warfare against Americans. In addition, the occupation and the treatment of Iraqi prisoners no doubt is spawning resentment and additional recruits for those who hate America.

But even this Administration had not up until now, as far as I know, thought the Animal Enterprise Protection Act a major component of its "war on terrorism." In fact, I understand that the statute has rarely, if ever, been used. Nor has anyone ever thought to include it in the ever-expanding laundry list of predicate offenses that make up the statutory definition of "federal crime of terrorism." This hearing may be a signal that is changing.

Two weeks ago, despite the American public's concern about the PATRIOT Act and the hundreds of city, county and State proclamations against its excesses, in spite of the bipartisan legislative efforts proposing amendments to the PATRIOT Act, and despite the Federal court rulings against vague provisions, the Administration came before this Committee to demand that the PATRIOT Act be expanded further to include additional vague categories for serious charges. Today, the Administration may be adding physical disruption of a commercial enterprise that uses animals for testing to its laundry list of terrorist acts. We will see.

senator_leahy@leahy.senate.gov
http://leahy.senate.gov/

No one should be confused. I do not and never have condoned those who commit criminal acts against laboratories and other facilities that use animals for research, testing and other purposes. I do not condone those who commit criminal acts against family planning clinics or doctors, either.

Indeed, in the last Congress, I worked closely with Senator Hutchinson to increase penalties for criminal acts against animal enterprises, while fending off efforts to expand the Federal Government's power to investigate and prosecute so-called eco-terrorism in ways that could chill legitimate First Amendment activity. Our compromise language was eventually included in the conference report on H.R. 3448, the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," which was signed into law on June 12, 2002.

But I think most Americans would be surprised that we are devoting a hearing today to this issue. I think that most Americans would rather that we address more urgent concerns that really do pose a serious threat to this country and to the world.

I have asked the Chairman to hold a hearing on the reported abuse of prisoners by Americans in Iraq. Given the wide-ranging jurisdiction of this Committee over civil liberties and prisons, the reported role of civilian contractors, our role in enactment of the Military Extraterritorial Jurisdiction Act, and the lack of other congressional oversight, I think we should be acting.

I have long urged the Chairman to hold a hearing on the Administration's claim that it can designate U.S. citizens as "enemy combatants" and hold them incommunicado without charges. It is appalling to me that the Hamdi and Padilla cases have worked themselves all the way up to the Supreme Court – and will likely be decided by that Court – before this Committee has ever weighed in on this issue.

I have long urged the Chairman to hold oversight hearings with the Attorney General. It was a year after his last abbreviated appearance before the Committee on March 4, 2003, that he took ill. It has now been more than two months since he returned to work, after having been briefly hospitalized for a medical condition. He testified before the 9/11 Commission on April 13. There is no apparent reason for his continued delay in scheduling a time to testify before this Committee, and his continuing failure to come to grips with the many outstanding oversight matters that have been piling up since his last appearance. He has apparently recovered and we are all delighted that he is feeling better. It is past time to hold our long overdue oversight hearings with him.

We may be afforded an opportunity to have an oversight hearing with FBI Director Mueller later this week. I wish this morning had been devoted to hearing from him. Instead, the hearing with Director Mueller is not scheduled for any real time yet. It is floating in time, to be held at some time on Thursday that is not yet certain and that is contingent on a number of other events. I welcome that hearing, if it occurs. Like Senator Schumer, I wish it could have been held at a normal hearing time and scheduled in a way that the Director and Senators could plan to be available and participate. By

contrast, this hearing on commercial enterprises engaging in animal testing was scheduled for a set time, with Democratic cooperation. Yet the important oversight hearing with an extremely busy Director of the Federal Bureau of Investigation is still floating in time. We are told it will begin at the conclusion of the Committee's business meeting. That may mean 9:30 a.m., 4:30 p.m. or somewhere in between.

Finally, with respect to this hearing, I had suggested that the Committee might want to invite a fourth witness for the second panel to provide a different perspective on the issue of this morning's hearing. I regret that the Chairman declined to do so to provide balance to these proceedings. If we are going to devote time to this issue, then it seemed to me to be better if we were able to hear from several points of view. I thank all of our witnesses for coming today. I regret that I cannot be in attendance but, as I had informed the Chairman's staff some time ago, I have a long-scheduled obligation as the Ranking Democratic member on the Foreign Operations Subcommittee of the Appropriations Committee to work on critical HIV/AIDS funding at our hearing that is taking place this morning.

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**STATEMENT OF JOHN E. LEWIS
DEPUTY ASSISTANT DIRECTOR
COUNTERTERRORISM DIVISION
FEDERAL BUREAU OF INVESTIGATION
BEFORE THE SENATE JUDICIARY COMMITTEE
MAY 18, 2004**

Good morning Chairman Hatch, and members of the Committee, I am pleased to have this opportunity to appear before you and discuss the threat posed by animal rights extremists and eco-terrorists in this country, as well as the measures being taken by the FBI and our law enforcement partners to address this threat, and some of the difficulties faced by law enforcement in addressing this crime problem.

As you know, the FBI divides the terrorist threat facing the United States into two broad categories, international and domestic. International terrorism involves violent acts that occur beyond our national boundaries and are a violation of the criminal laws of the United States or similar acts of violence committed by individuals or groups under some form of foreign direction occurring within the jurisdiction of the United States.

Domestic terrorism involves acts of violence that are a violation of the criminal laws of the United States or any state, committed by individuals or groups without any foreign direction, and appear to be intended to intimidate or coerce a civilian population, or influence the policy of a government by intimidation or coercion, and occur primarily within the territorial jurisdiction of the United States.

During the past decade we have witnessed dramatic changes in the nature of the domestic terrorist threat. In the 1990s, right-wing extremism overtook left-wing terrorism as the most dangerous domestic terrorist threat to the United States. During the past several years, however, special interest extremism, as characterized by the Animal Liberation Front (ALF), the Earth Liberation Front (ELF), and related extremists, has emerged as a serious domestic terrorist threat. Special interest terrorism differs from traditional right-wing and left-wing terrorism in that extremist special interest groups seek to resolve specific issues, rather than effect widespread political change. Such extremists conduct acts of politically motivated violence to force segments of society, including the general public, to change attitudes about issues considered important to the extremists' causes. Generally, extremist groups engage in much activity that is protected by constitutional guarantees of free speech and assembly. Law enforcement only becomes involved when the volatile talk of these groups transgresses into unlawful action. The FBI estimates that the ALF/ELF and related groups have committed more than 1,100

criminal acts in the United States since 1976, resulting in damages conservatively estimated at approximately \$110 million.

The ALF, established in Great Britain in the mid-1970s, is a loosely organized extremist movement committed to ending the abuse and exploitation of animals. The American branch of the ALF began its operations in the late 1970s. Individuals become members of the ALF not by filing paperwork or paying dues, but simply by engaging in "direct action" against companies or individuals who, in their view, utilize animals for research or economic gain, or do some manner of business with those companies or individuals. "Direct action" generally occurs in the form of criminal activity designed to cause economic loss or to destroy the victims' company operations or property. The extremists' efforts have broadened to include a multi-national campaign of harassment, intimidation and coercion against animal testing companies and any companies or individuals doing business with those targeted companies. Huntingdon Life Sciences (HLS) is one such company. The "secondary" or "tertiary" targeting of companies which have business or financial relationships with the target company typically takes the form of fanatical harassment of employees and interference with normal business operations, under the threat of escalating tactics or even violence. The harassment is designed to inflict increasing economic damage until the company is forced to cancel its contracts or business relationship with the original target. Internationally, the best example of this trend involves Great Britain's Stop Huntingdon Animal Cruelty (SHAC) organization, a more organized sub-group within the extremist animal rights movement. SHAC has targeted the animal testing company HLS and any companies with which HLS conducts business. While the SHAC organization attempts to portray itself as an information service or even a media outlet, it is closely aligned with the ALF and its pattern of criminal activities – many of which are taken against companies and individuals selected as targets by SHAC and posted on SHAC's Internet website.

Investigation of SHAC-related criminal activity has revealed a pattern of vandalism, arsons, animal releases, harassing telephone calls, threats and attempts to disrupt business activities of not only HLS, but of all companies doing business with HLS. Among others, these companies include Bank of America, Marsh USA, Deloitte and Touche, and HLS investors, such as Stephens, Inc., which completely terminated their business relationships with HLS as a result of SHAC activities. Examples of SHAC activities include publishing on its website as a regular feature "Targets of the Week" for followers to target with harassing telephone calls and e-mails in order to discourage that company or individual from doing business with HLS.

In recent years, the Animal Liberation Front and the Earth Liberation Front have become the most active criminal extremist elements in the United States. Despite the destructive aspects of ALF and ELF's operations, their stated operational philosophy discourages acts that harm "any animal, human and nonhuman." In general, the animal rights and environmental extremist movements have adhered to this mandate. Beginning in 2002, however, this operational philosophy has been overshadowed by an escalation in violent rhetoric and tactics, particularly within the animal rights movement. Individuals within the movement have discussed actively targeting food producers, biomedical researchers,

and even law enforcement with physical harm. But even more disturbing is the recent employment of improvised explosive devices against consumer product testing companies, accompanied by threats of more, larger bombings and even potential assassinations of researchers, corporate officers and employees.

The escalation in violent rhetoric is best demonstrated by language that was included in the communiqués claiming responsibility for the detonation of improvised explosive devices in 2003 at two separate northern California companies, which were targeted as a result of their business links to HLS. Following two pipe bomb blasts at the Chiron Life Sciences Center in Emeryville, California on August 28, 2003, an anonymous claim of responsibility was issued which included the statement: **“This is the endgame for the animal killers and if you choose to stand with them you will be dealt with accordingly. There will be no quarter given, no half measures taken. You might be able to protect your buildings, but can you protect the homes of every employee?”** Just four weeks later, following the explosion of another improvised explosive device wrapped in nails at the headquarters of Shaklee, Incorporated in Pleasanton, California on September 26, 2003, another sinister claim of responsibility was issued via anonymous communiqué by the previously unknown “Revolutionary Cells of the Animal Liberation Brigade.” This claim was even more explicit in its threats: **“We gave all of the customers the chance, the choice, to withdraw their business from HLS (Huntingdon Life Sciences). Now you will all reap what you have sown. All customers and their families are considered legitimate targets... You never know when your house, your car even, might go boom... Or maybe it will be a shot in the dark... We will now be doubling the size of every device we make. Today it is 10 pounds, tomorrow 20... until your buildings are nothing more than rubble. It is time for this war to truly have two sides. No more will all the killing be done by the oppressors, now the oppressed will strike back.”** It should be noted that the FBI Joint Terrorism Task Force in San Francisco has identified and charged known activist Daniel Andreas San Diego, who is currently a fugitive from justice, in connection with these bombings. While no deaths or injuries have resulted from this threat or the blasts at Chiron and Shaklee, it demonstrates a new willingness on the part of some in the movement to abandon the traditional and publicly stated code of nonviolence in favor of more confrontational and aggressive tactics designed to threaten and intimidate legitimate companies into abandoning entire projects or contracts.

Despite these ominous trends, by far the most destructive practice of the ALF/ELF to date is arson. The ALF/ELF extremists consistently use improvised incendiary devices equipped with crude but effective timing mechanisms. These incendiary devices are often constructed based upon instructions found on the ALF/ELF websites. The ALF/ELF criminal incidents often involve pre-activity surveillance and well-planned operations. Activists are believed to engage in significant intelligence gathering against potential targets, including the review of industry/trade publications and other open source information, photographic/video surveillance of potential targets, obtaining proprietary or confidential information about intended victim companies through theft or from sympathetic insiders, and posting details about potential targets on the Internet for other extremists to use as they see fit.

In addition to the upswing in violent rhetoric and tactics observed from animal rights extremists in recent years, new trends have emerged in the eco-terrorist movement. These trends include a greater frequency of attacks in more populated areas, as seen in Southern California, Michigan and elsewhere, and the increased targeting of Sport Utility Vehicles (SUVs) and new construction of homes or commercial properties in previously undeveloped areas by extremists combating what they describe as “urban sprawl.” Eco-terrorists have adopted these new targets due to their perceived negative environmental impact. Recent examples of this targeting include the August 1, 2003 arson of a large condominium complex under construction near La Jolla, California, which resulted in an estimated \$50 million in property damages; the August 22, 2003 arson and vandalism of over 120 SUVs in West Covina, California; and the arson of two new homes under construction near Ann Arbor, Michigan in March 2003. It is believed these trends will persist, as extremists within the environmental movement continue to fight what they perceive as greater encroachment of human society on the natural world.

The FBI has developed a strong response to the threats posed by domestic and international terrorism. Between fiscal years 1993 and 2003, the number of special agents dedicated to the FBI's counterterrorism programs more than doubled. In recent years, the FBI has strengthened its counterterrorism program to enhance its abilities to carry out these objectives.

Cooperation among law enforcement agencies at all levels represents an important component of a comprehensive response to terrorism. This cooperation assumes its most tangible operational form in the Joint Terrorism Task Forces (JTTFs) that are established in FBI field divisions across the nation. These task forces are particularly well-suited to respond to terrorism because they combine the national and international investigative resources of the FBI with the expertise of other federal law enforcement and local law enforcement agencies. The FBI currently has 84 JTTFs nationwide, one in each of the 56 Field Offices, and 28 additional annexes. By integrating the investigative abilities of the FBI, other federal law enforcement and local law enforcement agencies, these task forces represent an effective response to the threats posed to U.S. communities by domestic and international terrorists.

The FBI and our law enforcement partners have made a number of arrests of individuals alleged to have perpetrated acts of animal rights extremism or eco-terrorism. Some recent arrests include eco-terror fugitive Michael James Scarpitti and accused ELF arsonist William Cottrell. Scarpitti, commonly known by his “forest name” of Tre’ Arrow, was arrested by Canadian law enforcement authorities on March 13, 2004 in British Columbia. Scarpitti had been a fugitive since August 2002, when he was indicted for his role in two separate ELF-related arsons that occurred in the Portland, Oregon area in 2001. William Cottrell was arrested by the FBI’s Los Angeles Division on March 9, 2004, and indicted by a federal grand jury on March 16, 2004 for the role he played in a series of arsons and vandalisms of more than 120 sport utility vehicles that occurred on August 22, 2003 in West Covina, California. Those crimes resulted in more than \$2.5 million in damages.

Between December 8, 2003 and January 12, 2004, three members of an ELF cell in Richmond, Virginia entered guilty pleas to federal arson and conspiracy charges, following their arrests by the FBI Richmond Division and local authorities. Adam Blackwell, Aaron Linas and John Wade admitted to conducting a series of arson and property destruction attacks in 2002 and 2003 against sport utility vehicles, fast food restaurants, construction vehicles and construction sites in the Richmond area, which they later claimed were committed on behalf of the ELF. In addition, the FBI Richmond Division, working in concert with the Henrico County Police Department, successfully identified, disrupted and prevented another arson plot targeting SUVs by a second, independent ELF cell in February 2004. The four members of this alleged cell, all juveniles, are currently awaiting trial on federal and state charges.

In February 2001, teenagers Jared McIntyre, Matthew Rammelkamp, and George Mashkow all pleaded guilty, as adults, to Title 18 U.S.C. 844(i), arson, and 844(n), arson conspiracy. These charges pertained to a series of arsons and attempted arsons of new home construction sites in Long Island, NY, which according to McIntyre were committed in sympathy of the ELF movement. An adult, Connor Cash, was also arrested on February 15, 2001, and charged under federal statutes for his role in these crimes. Cash is currently on trial in federal court for charges of providing material support to terrorism. The New York Joint Terrorism Task Force played a significant role in the arrest and prosecution of these individuals.

Despite these recent successes, however, FBI investigative efforts to target these movements for identification, prevention and disruption have been hampered by a lack of applicable federal criminal statutes, particularly when attempting to address an organized, multi-state campaign of intimidation, property damage, threats and coercion designed to interfere with legitimate interstate commerce, as exhibited by the SHAC organization. While it is a relatively simple matter to prosecute extremists who are identified as responsible for committing arsons or utilizing explosive devices, using existing federal statutes, it is often difficult if not impossible to address a campaign of low-level (but nevertheless organized and multi-national) criminal activity like that of SHAC in federal court.

In order to address the overall problem presented by SHAC, and to prevent it from engaging in actions intending to shut down a legitimate business enterprise, the FBI initiated a coordinated investigative approach beginning in 2001. Investigative and prosecutive strategies were explored among the many FBI offices that had experienced SHAC activity, the corresponding United States Attorneys' Offices, FBIHQ, and the Department of Justice. Of course, the use of the existing Animal Enterprise Terrorism (AET) statute was explored. This statute, set forth in Title 18 U.S.C., Section 43, provides a framework for the prosecution of individuals involved in animal rights extremism. In practice, however, the statute does not reach many of the criminal activities engaged in by SHAC in furtherance of its overall objective of shutting down HLS.

As written, the AET statute prohibits traveling in commerce for the purpose of causing physical disruption to an animal enterprise, or causing physical disruption by intentionally stealing, damaging or causing the loss of property used by an animal enterprise, and as a result, causing economic loss exceeding \$10,000. An animal enterprise includes commercial or academic entities that use animals for food or fiber production, research, or testing, as well as zoos, circuses and other lawful animal competitive events. Violators can be fined or imprisoned for not more than three years, with enhanced penalties if death or serious bodily injury result.

While some ALF activities have involved direct actions covered by this statute, such as animal releases at mink farms, the activities of SHAC generally fall outside the scope of the AET statute. In fact, SHAC members are typically quite conversant in the elements of the federal statute and appear to engage in conduct that, while criminal (such as trespassing, vandalism or other property damage), would not result in a significant, particularly federal, prosecution. However, given SHAC's pattern of harassing and oftentimes criminal conduct, and its stated goal of shutting down a company engaged in interstate as well as foreign commerce, other statutory options were explored at the federal level in order to address this conduct. Ultimately, prosecution under the Hobbs Act (Title 18 U.S.C., Section 1951) was the agreed upon strategy.

The theory advanced to support a Hobbs Act prosecution was that the subjects were (and continue to be) engaged in an international extortion scheme against companies engaged in, or doing business with companies engaged in, animal-based research. In furtherance of this scheme of extortion, the victims are subjected to criminal acts such as vandalism, arson, property damage, harassment and physical attacks, or the fear of such attacks, until they discontinue their animal-based research or their association with or investment in companies such as HLS, engaged in animal-based research.

However, as a result of the Supreme Court's 2003 decision in Scheidler v. National Organization for Women, the use of the Hobbs Act in prosecuting SHAC was removed as an option. In the Scheidler decision, the Supreme Court held that, while activists may be found to illegally interfere with, disrupt or even deprive victims of the free exercise of their property rights or their right to conduct business, this activity does not constitute extortion as defined under the Hobbs Act unless the activists seek to obtain or convert the victims' property for their own use.

Currently, more than 34 FBI field offices have over 190 pending investigations associated with ALF/ELF activities. Extremist movements such as the ALF and the ELF present unique challenges. There is little, if any, known hierarchal structure to such entities. The animal rights extremist and eco-terrorism movements are unlike traditional criminal enterprises that are often structured and organized. They exhibit remarkable levels of security awareness when engaged in criminal activity, and are typically very knowledgeable of law enforcement techniques and the limitations imposed on law enforcement.

The FBI's commitment to address the threat can be seen in the proactive approach that we have taken regarding the dissemination of information. Intelligence Information Reports (IIRs) are used as a vehicle for delivering FBI intelligence information to members of the Intelligence, Policy and Law Enforcement Communities. Since its establishment in March 2003, the Domestic Collection, Evaluation and Dissemination Unit has issued 20 IIRs to the field relating specifically to animal rights/eco-terrorism activity.

The commitment to addressing the threat posed by animal rights extremists and eco-terrorism movements can also be demonstrated by the FBI's proactive information campaign. This campaign has included ongoing liaison with federal, state, and local law enforcement and prosecutors, relevant trade associations and targeted companies and industries. The FBI has established a National Task Force and Intelligence Center at FBIHQ to coordinate this information campaign, and develop and implement a nationwide, strategic investigative approach to addressing the animal rights/eco-terrorism threat in the United States. The FBI has also conducted liaison and cooperated in investigations with foreign law enforcement agencies regarding animal rights extremist/eco-terrorism matters.

In conclusion, the FBI has made the prevention and investigation of animal rights extremists/eco-terrorism matters a domestic terrorism investigative priority. The FBI and all of our federal, state and local law enforcement partners will continue to strive to address the difficult and unique challenges posed by animal rights extremists and eco-terrorists. Despite the continued focus on international terrorism, we in the FBI remain fully cognizant of the full range of threats that confront the United States.

Chairman Hatch and members of the committee, this concludes my prepared remarks. I would like to express appreciation for your concentration on these important issues and I look forward to responding to any questions you may have.

**STATEMENT OF
PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS**

**PRESENTED BY
LISA LANGE, VICE PRESIDENT OF COMMUNICATIONS**

MAY 25, 2004

**TO THE UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

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Mr. Chairman and members of the Committee:

My name is Lisa Lange. I am the Vice President of Communications for PETA, People for the Ethical Treatment of Animals.

The testimony of Jonathan Blum, public affairs director for KFC's parent company (Yum!), before this Committee on May 18, 2004, is a lesson in how today, the fast-food and other industries, including the tobacco, alcohol, and lumber industries, are unashamedly distorting the truth in order to protect their interests at the expense of democracy and American freedoms, as well as how KFC and others in those industries are trying to take advantage of fears of real terrorism to improperly insulate themselves against public criticism and protest regarding their practices.

PETA has a campaign to reform truly heinous forms of cruelty supported by KFC. For the first two years of our campaign, it consisted solely of patiently writing letters to KFC to seek meetings and to persuade KFC to see the worth of adopting options like humane controlled-atmosphere killing and mechanized gathering, which would greatly reduce the fear and pain of birds who are still shackled and often scalded alive, subjected to broken and painfully bruised wings and legs from rough handling, and more.

This campaign has always been carried out through the peaceful, legal exercise of our right to free speech and in no other way. Mr. Blum and the executives he speaks for know this and know that any statement to the contrary is deliberately false.

It may be uncomfortable for KFC's executives and their families to hear what we have to say about their cruel practices, to read our placards, to know that we have

introduced ourselves to their neighbors and often engaged these good people in discussion, and to find that we have delivered our petitions to their doors, called their relatives to ask for their assistance, pled our case to their associates, and, in the case of several of our members and staff, given up Christmas Day with our own families to appeal peacefully to KFC executives at their place of worship, but these activities are all protected by the First Amendment. Nonetheless, KFC has made a choice to deceive the public, the consumer, and, now, the United States Senate about the nature of our campaign, and we intend to defend and continue to exercise our rights to state our opinions and to stick up for animals who cannot defend themselves.

Every discussion and interaction between PETA and KFC has, on our part, been polite and respectful of the laws of this land. In one case, and one case alone, PETA's Bruce Friedrich, whose comments and position were deliberately mischaracterized in Mr. Blum's testimony, was cited, along with Dr. Alka Chandna, and charged with minor offenses. Contrary to Mr. Blum's statement to the Senate, all charges were dismissed against Dr. Chandna, and she is preparing to sue the police officers who acted in KFC's interest rather than to protect the public's constitutional rights. These arrests were improper and will be shown to be so (for instance, the arresting officer admitted under oath that he would not have issued any citations if the people had not been with PETA). Both Dr. Chandna and Mr. Friedrich, who were dressed as an elf and as Santa Claus, respectively, were cited after pulling into Mr. Blum's driveway to deliver, as pre-announced, a gift of a small bag of coal. They had been in touch with the police and had had a police escort for approximately 1 mile before being blocked into the driveway as they exited their vehicle.

If peacefully approaching a front door is now a criminal act, someone had better advise the Jehovah's Witnesses and the Girl Scouts who sell cookies in their neighborhoods that they are in danger of going to jail. Mr. Friedrich was found guilty – we believe wrongly – of a fineable offense only, not a crime, as defined by Kentucky law. Although he received just a \$24 fine, which he paid, he is appealing that conviction on principle. No one has, at any time, interrupted or attempted to interrupt any church service or even approached the entrance to a church. The peaceful assembly that Mr. Blum deliberately mischaracterized was held on a public sidewalk and involved holding signs appealing for mercy on Christmas Day for the chickens needlessly suffering because of KFC's failure to make basic reforms in its suppliers' catching, housing, and killing methods.

Nor is it true that anyone from PETA has, on any occasion, made any threats or intimidating or even rude remarks to anyone at KFC, and no one associated with PETA (or indeed, anyone at all, as far as we know) has made any inappropriate, inaccurate, or even impolite remarks to Mr. Blum or to anyone associated with KFC. Furthermore, contrary to Mr. Blum's testimony, no child has ever been confronted, met with, or been upset by anyone from PETA over this matter, and no videos showing bloody footage or videos of any sort have been given to children in KFC executives' neighborhoods at Halloween or at any other time. Some videos, clearly marked with their content, i.e., "KFC Cruelty," have been handed to parents, and no parent or neighbor of KFC executives has made any complaint known to PETA with regard to any interaction with them at any time. Indeed, many neighbors and associates of KFC executives have met with and talked to PETA about our desire to

reduce cruelty at KFC (I am attaching the letter from PETA to the neighbors as well as a sample letter from a neighbor to KFC; Attachments 1 and 2).

Mr. Blum described PETA “threats” to bring a giant TV screen into KFC executives’ neighborhoods to show footage of how chickens suffer for KFC. PETA issued no threats but did advise KFC that this proper, legal activity would take place (a letter from PETA regarding the appearance of the video truck is attached; Attachment 3), and PETA will continue to exercise its right to show footage of the needless suffering of chickens in contrast to what KFC tells its potential consumers about its treatment of chickens.

I am attaching the full text of the e-mail message sent to Mr. Blum and other then-executives at KFC that contains the words “I hope you can’t sleep at night,” to which Mr. Blum referred (Attachment 4). Contrary to Mr. Blum’s testimony—in which he actually changes the words used by Mr. Friedrich, yet still attributes them as a direct quote—the e-mail message is not a threat, but an invitation to attend a news conference that PETA was holding in Louisville to announce, ironically, the lawsuit PETA filed to stop KFC from making false statements to the public. In the message, Mr. Friedrich challenges Mr. Blum and other KFC executives to attend an open forum to defend the lies they were telling to the media and the public. That Mr. Blum would so casually and deliberately distort the meaning and, in fact, the actual words of Mr. Friedrich’s e-mail message in testimony before this Committee is disturbing, to say the least. That he would do so in a way that plays on public concerns about real threats of violence is unconscionable.

No one from PETA has ever made any threat to Mr. Blum or any other KFC executives or employees, and the celebrity supporter's remarks that Mr. Blum so guilefully distorts were those of Mr. Russell Simmons, who, while also seeking to convince KFC that it is in its own best interests to take animal-welfare concerns seriously, chided Mr. Blum for mischaracterizing PETA as "terrorists," pointing out that PETA has never showed up on his doorstep with 5,000 people or anything of the sort.

Many other celebrities have joined Mr. Simmons in appealing to KFC on PETA's behalf, asking the company to institute reforms, including Dick Gregory, Sir Paul McCartney, Pamela Anderson, Richard Pryor, Bea Arthur, and Dr. Cornel West. When Dr. Kweisi Mfume of the National Association for the Advancement of Colored People (NAACP) signed a statement urging KFC to adopt reforms, Mr. Blum called him and lied to him, saying that reforms had been made when they had not, and used KFC's financial clout to persuade the NAACP to pressure Dr. Mfume to thank KFC for implementing changes that were never, in fact, made.

In contrast to Mr. Blum's characterization of PETA's approach, PETA's president, Ingrid Newkirk, met with Cheryl Bachelder, then-president of KFC, in May 2003. In preparation for the meeting, Ms. Newkirk and her staff baked three kinds of soy-based faux chicken for Ms. Bachelder to taste and take home with her. Ms. Bachelder was relieved of her position shortly after agreeing with PETA that KFC could make sweeping changes in its treatment of chickens.

PETA has repeatedly attempted to negotiate with KFC, to meet with its officials, and to engage in productive dialogue (a sample letter is attached; Attachment 5), and

we have written letters and made telephone calls pointing out that, as much as PETA would like a vegetarian world, our campaign to reform KFC only concerns—and will be satisfied by the abatement of—the most egregious of the horrific and remediable abuses inflicted on the 750 million birds KFC acquires from suppliers and slaughterers on contract.

Mr. Blum refers to other fast-food companies, namely Burger King, McDonald's, and Wendy's. PETA did campaign to reform those companies, and reforms were indeed made. McDonald's always states that the reforms had nothing to do with PETA, although we think that they did, but the only important point is that reforms were made and animal suffering reduced. Again, in every campaign, we made extensive efforts to meet with the corporations involved. And when the companies agreed to make reforms, far from continuing the campaign, which Mr. Blum says that PETA will do even when KFC implements our suggestions, PETA immediately withdrew all criticism of these corporations and, indeed, has praised and supported—even advertised—these corporations' reforms publicly and on its Web sites. In the case of Burger King, since that corporation introduced a veggie burger, which is now on sale alongside its meat fare, PETA has gone to great lengths to promote that burger and praise the company.

As for attempting to attend KFC meetings, PETA has worked with supportive KFC shareholders and even KFC franchise holders and has exercised the right to address the assembly at KFC shareholders meetings (PETA's shareholder statements from KFC's 2003 and 2004 annual meetings and the shareholder resolution brought by PETA are attached; Attachments 6, 7, and 8), but KFC denied us the opportunity

to enter a meeting for investors even though this meeting was broadcast on the Internet. At a shareholder meeting held on May 20th, two days after the Senate hearing, PETA's resolution to make KFC more accountable regarding animal welfare by producing a tangible report of its practices garnered an impressive 7.6% of shares voted, or approximately 22 million shares cast in PETA's favor, more than for smoke-free zones in KFC restaurants or to control GMO foods, demonstrating that people, including many Yum! Shareholders, care a great deal about how KFC treats chickens.

And with regard to Mr. Blum's stating, "[KFC is] also fine with communication to us in a normal business manner, contacting us at work or through normal business channels," Mr. Blum directed his attorney to advise PETA not to make contact with Mr. Blum in any manner—not even at his place of work or via e-mail.

KFC's willingness to mislead the Congress is certainly consistent with the company's past examples of public dishonesty. In fact, PETA had to file a lawsuit last year after KFC refused requests to remove false claims about the care of chickens from its Web site and its consumer-information line scripts. Despite Mr. Blum's public denunciation of PETA and the lawsuit through the media, KFC did not even *attempt* to defend its deceptive practices. Instead, the company avoided further legal proceedings by making sweeping changes to its Web site and consumer-information line scripts, which included removing the following false claims (copies of PETA's complaint and a newspaper article summarizing the court's findings are attached; Attachments 9 and 10):

A) False claims removed from Yum! Brands and KFC Web sites

- That chickens raised for KFC suffer no pain

- That chickens raised for KFC suffer no injuries
- That KFC suppliers use “state-of-the-art” slaughter equipment
- That humane treatment of the birds is “ensured”
- That KFC prohibits its suppliers from giving chickens growth-promoting substances
- That KFC has had an animal-welfare policy in place for nearly a decade

B) False claims removed from the information line script

- That PETA’s claims about the way chickens are treated are “untrue”
- That PETA lost a lawsuit about the way KFC treats chickens
- That in a dispute between PETA and KFC, a mediator ruled against PETA
- That KFC’s animal-welfare panel monitors suppliers for compliance with its guidelines
- That KFC has implemented gas-killing as a more humane way of killing chickens
- That KFC has “strict” guidelines for its suppliers
- That chickens raised for KFC suffer no pain or injuries

The changes that PETA has asked KFC to make are not, as Mr. Blum characterized them, “impractical, unnecessary, [and] unproven.” While installing the machinery to facilitate speedy yet more humane handling and killing practices would indeed require an initial outlay of several million dollars, these reforms will pay for themselves within the first few years by reducing the amount of meat that is bruised and unusable, an analysis we furnished to KFC and have attached hereto (Attachment 11). Both overseas and in the United States, our recommended changes not only have

the endorsement of animal-welfare experts within the industry, but are being implemented by other chicken providers and would afford the hundreds of millions of animals KFC contracts with suppliers to raise and kill a great deal of relief from unimaginable physical suffering and fear.

And contrary to Mr. Blum's assertions, KFC's own "animal welfare committee" members have agreed with PETA that the reforms we suggest are achievable and desirable. Indeed, two previous members of the four-person KFC committee resigned over KFC's failure to implement the committee's recommendations regarding animal welfare, only to be replaced by persons handpicked by KFC for their apparent interest in maintaining the status quo and retaining the archaic slaughtering and handling systems KFC uses, and the other two current members agree with PETA (reports on mechanization of catching and controlled-atmosphere killing are attached as well as a letter outlining PETA's recommendations; Attachments 12, 13, and 14).

KFC and its executives would be criminally prosecuted for doing to dogs, cats, or horses what they are doing to equally sentient chickens. KFC and its executives have now added to their abuse of chickens an attempt to abuse the system that allows all Americans to speak freely and to peacefully protest wrongdoing—and PETA's efforts have been uniformly peaceful. As President John F. Kennedy said, "Those who make peaceful change impossible make violent revolution inevitable." While PETA has been the peaceful, if colorful and forceful, voice of those who wish to bring some humane consideration into modern factory farming and mass animal-slaughtering, KFC is attempting to create the very frustrations that would compel other factions of any movement to rise up against the impossibility of properly seeking change. If the

U.S. Congress cannot get at the truthfulness of the issue at hand, what chance does it have of finding out the truth about genuine terrorist activities?

Mr. Blum has distorted and misrepresented the truth not only to the public, but now to the Congress. In light of the above information and attached supporting materials that set the record straight in this matter, we call upon the government, not only to make these materials part of the official hearing record, but to investigate Mr. Blum's testimony for violations of the laws prohibiting making false statements to Congress and obstructing justice. It took a lawsuit by PETA to force KFC to change its public deception initially. Apparently, it will now require an act of Congress to stop them from deceiving the government.

July 25, 2003

Russell & Sheila Mead

Louisville, KY 40245

Dear Mr. and Mrs. Mead:

I am writing to let you know that People for the Ethical Treatment of Animals (PETA) will soon be coming to your neighborhood and that I hope to have the opportunity to speak with you when we're there. I'd like to ask for your help in addressing the cruel treatment of animals who are raised in appalling conditions on factory farms and slaughtered in often painful and frightening ways.

You may be aware that your neighbor, Cheryl Bachelder, is the president of KFC. For more than two years, PETA has most politely tried to convince Ms. Bachelder and KFC to follow the science-based recommendations of their own animal-welfare advisory board in order to address some of the most flagrantly cruel abuses suffered by the 736 million birds raised and killed for KFC each year. Sadly, KFC steadfastly ignores these recommendations, which are amply supported by scientific studies. Ms. Bachelder has made it clear, both publicly and privately, that she just doesn't care about modernizing operations to stop the worst of abuses of these small, frightened birds.

What you might not know is that KFC's chickens—who feel pain and fear as acutely as any animal—are bred and drugged to grow so quickly that their legs often collapse under their artificially enhanced bulk, crippling them. They are crammed by the tens of thousands into sheds so thick with ammonia fumes from accumulated waste that workers' eyes burn as soon as they walk inside. The birds also routinely suffer broken bones from being grabbed by their legs and violently stuffed or thrown into crates or from being slammed into shackles upside-down at slaughterhouses. Many chickens are still conscious as their throats are slit and when they are dumped into tanks of scalding hot water to remove their feathers. The level of abuse is well beyond anything that you can easily imagine, and it would warrant felony prosecution in Kentucky if dogs or cats were abused in these ways.

We are not asking KFC to allow these animals to live outdoors, build nests, or raise their families, and we are not asking KFC to serve only vegetarian food—we are only asking KFC to adopt minimal reforms.

I would be happy to speak with you in person, while I am in your neighborhood, or by telephone, and I hope that you will support our efforts. Please contact Jennifer Gentry at 757-622-7382, extension 303, or via e-mail at jgentry@peta.org if you wish to talk. We appreciate your assistance. Thank you.

Cordially,

Steven Jay Gross, Ph.D.
Consultant

August, 2003

Ms. Cheryl Bachelder
KFC
Louisville, KY 40245

Dear Ms. Bachelder,

My name is Sheila Meade, and although we haven't met, we are neighbors on Ash Hill Drive. I am writing as your neighbor to ask that you please do something about the hideously cruel way that chickens who are raised and killed for KFC are currently treated.

Let me start off by saying that I am a meat-eater and am not opposed to raising animals for food. However, I believe that we have a responsibility to treat them as humanely as possible during their lives and at their deaths, and this is an issue that is very important to me. Having reviewed the information on both sides of this issue—PETA's and KFC's—it seems to me that KFC is falling very short of its moral responsibility to the animals it raises and kills.

I am sure that you are a compassionate person, as I hope and believe that all people in our community are. Therefore, I cannot understand how you can continue to allow chickens to have their beaks cut off, live their entire lives crippled, and die in vats of scalding hot water. If I worked for a company, indeed ran it, that was responsible for such things, it would sit quite heavily on my conscience. I hope that you will find it in yourself to feel the same way and do what you can to help end this suffering.

From a professional standpoint, would it not behoove KFC to meet PETA's demands and so get them to leave your company alone? In addition to living in Louisville, I also spend time in Seattle, and between the two places, it seems that almost daily I have come across a story in which KFC is being attacked for its cruel treatment of animals. Such negative publicity cannot be good for your company, and if you will not improve the lives of your chickens for moral reasons, perhaps this aspect will convince you.

In the spirit of good neighbors, I'm asking you to please do what you can to make sure that KFC's chickens are protected from such awful suffering. Thank you so much for your time.

Sincerely,

Shelia Meade

cc: David Novak, Yum! Brands

May 2, 2003

Dear resident:

As you may know, your neighbor David Novak, of 13006 N Osage Rd, is the CEO of Yum! Brands, KFC's parent company. We would like you to know what has been going on with Mr. Novak, why we say he is cruel to animals, and why we are coming to your neighborhood shortly to protest him.

Although he has the power to effect change, and although McDonald's, Wendy's and Burger King have made changes we have asked of them, David Novak has refused to stop the most severe abuses endured by chickens raised and killed for KFC .

You wouldn't know from their lively ads, but KFC's chickens – who feel pain and fear as much as any animal - are crammed by the tens of thousands into sheds so thick with ammonia fumes from accumulated waste that workers' eye's begin to burn as soon as they walk inside them. The birds are allowed barely enough room to move (each bird lives in less space than this sheet of paper). They routinely suffer broken bones from being engineered to be top heavy (breast meat), from being grabbed by their legs and stuffed or thrown into crates, and from being slammed into the shackles upside down at slaughterhouses. Many chickens are still conscious as their throats are cut or when they are dumped into tanks of scalding hot water to remove their feathers.

PETA is simply asking David Novak to stop the worst suffering, to enact an animal welfare plan that will protect animals from abuse and neglect. As part of our campaign to get KFC to do the right thing, PETA will be bringing its "Reality TV Truck" to David Novak's, house on the evening of Tuesday, May 6, starting at about 6 p.m. The truck has large video screens mounted on each side. We will show footage of the way KFC's suppliers torture animals and how animals suffer in meat production—precisely the things that Mr. Novak has refused to address. We hope the footage will educate people on this issue and show how they can help.

KFC does not tell the truth to consumers about PETA's campaign, however all the facts are available for you to read at www.KentuckyFriedCruelty.com. Please note, especially, the "But KFC Says..." link, which addresses, specifically, many of their false statements.

Although you may wish to leave small children at home, please, if you're able, come meet us and watch for yourself the cruel treatment of animals that Mr. Novak refuses to end.

Thank you. We hope to see you on the evening of May 6.

Sincerely,

Dan Shannon
Campaign Coordinator

-----Original Message-----

From: Bruce Friedrich

Sent: Tuesday, July 08, 2003 3:03 PM

To:

Cc:

Subject: Wanted to invite you to our press conference today in Louisville.

Importance: High

If KFC would like to have someone there to respond to PETA's lawsuit, you would be most welcome.

I must say that I hope you get paid a lot of money to lie through your teeth like you do. Chickens are wonderful animals, and you are supporting abuse that would put you in jail if you were doing this to other animals. I hope you can't sleep at night. You should not be able to.

If you believe what you are telling the press, we'll see you at Noon.

Sincerely,

Bruce

August 14, 2003

David Novak, CEO
Yum! Brands Inc.
Louisville, KY 40223

Dear Mr. Novak,

We are writing to suggest a meeting between you and Dr. Steven Gross on August 20 or 21, at the time of your choice. Dr. Gross will be in Louisville, and we believe that a meeting between the two of you might help you explore PETA's point of view in its campaign against Yum! Brands (Yum) and could pave the road to progress. Louisville isn't exactly Camp David, but trying to talk about peace surely can't hurt.

As we hope that you know, we are totally sincere in our desire to decrease cruelty to chickens. We believe that it is possible that you may truly not be aware of what is happening to the chickens who are raised for Yum's restaurants and/or that you must not realize how interesting, intelligent, and deserving of respect chickens really are.

For your information, Dr. Gross has attempted to contact Jonathan Blum several times over the past month, but despite Blum's pledge of availability, he has been unwilling to take Dr. Gross' calls. Dan Shannon placed a courtesy call to Blum's office to invite him to state KFC's position at the news conference announcing our lawsuit, but Blum did not take the call, did not return it, and did not come to the news conference.

Please consider that KFC's suppliers kill more than a billion animals every 16 months, and that doesn't even include the animals killed for Yum's other restaurants. You have the power to make a real and reasonable difference in the lives and deaths of a truly unimaginable number of animals.

Again, we're not expecting KFC to make monumental changes overnight. We're simply asking for a pledge that you will make the changes, do so in a meaningful way and on a reasonable timeframe, and make all the changes transparent and verifiable.

Please let me know if you are available to meet with Dr. Gross. I can be reached at 757-622-7382, extension , or via e-mail at

Very truly yours,

Bruce Friedrich
Director of Vegan Outreach

KFC Shareholder Statement

I am here on behalf of People for the Ethical Treatment of Animals and our more than 750,000 members and supporters worldwide. As a shareholder, I would like to talk about our company's progress with animal-welfare improvements, what KFC has already done, and what we will do in the future.

First, I would like to thank KFC's president, Cheryl Bachelder, for taking the time to come to Norfolk, Va., to meet with PETA last week. The meeting was extremely productive, and as a result of that meeting, KFC has agreed to make a number of improvements to reduce the suffering that chickens experience. Our company was already showing leadership on animal welfare by working with the National Council of Chain Restaurants to make industry-wide improvements and by hiring some of the finest scientists in North America to counsel us.

Our company is beginning to implement real change. We have become the first major corporation in the United States to recognize that chickens need mental stimulation and activity in their lives and to pledge to provide it. KFC is also increasing the amount of space that chickens are given on farms and will place cameras in all KFC supplier slaughterhouses to help remind workers that chickens should not be abused. All these steps are firsts in the fast-food industry, and we should be proud that we are the company taking them.

However, there is much that needs to be done before the very worst abuses of chickens are ended and before PETA calls off its campaign to get KFC to do more in other areas. Specifically, our company needs to take action to adopt oxygen-deprivation gas killing for chickens; this is safe, quick, and painless. Its adoption must not involve carbon dioxide but must be based on the best available science. The research has already been done, some of it by our own KFC animal-welfare experts, proving that not only is gas killing the most humane way to kill chickens, it also improves carcass quality, stops body bruising, and is better for workers. Our company needs to present a detailed, scientific proposal in favor of gas killing to the USDA and the FSIS and pledge to swiftly require gas killing from all our suppliers.

Additionally, our company should follow the advice of leading animal-welfare experts, including KFC's own animal-welfare panelists, and start to breed birds for better leg strength and less aggression, not for increased weight, which causes lameness and heart failure and stress in the birds. We should also pledge to implement humane mechanized chicken-gathering in all our facilities. Twenty-five percent, which our company has pledged, by the end of next year is reasonable, but we should pledge 100 percent by the end of 2005. And most importantly, we should pledge to implement all these guidelines internationally within a reasonable time frame.

My question is, will our company move swiftly to address these concerns, which, if resolved, will result in an end to PETA's campaign and really show that KFC is an industry leader?

Yum! Shareholder Statement

Hello, my name is Dr. Steven Gross. I am here on behalf of Jana Kohl, People for the Ethical Treatment of Animals, and PETA's more than 800,000 members and supporters, as well as the millions of Americans who oppose cruelty to animals generally. We have an interest in what our company is doing in this regard.

At last year's meeting, a colleague of mine stated that PETA was pleased with pledges that KFC had made in early May 2003. I am sad to report that our faith in these pledges was misplaced. In the more than a year since KFC pledged to improve chicken welfare, KFC has made no discernable progress and has, in fact, backpedaled to a significant degree. For example, our company had pledged to take part in the National Council of Chain Restaurants' animal-welfare program, but we are still not registered as a participating group on the NCCR's Web site.

Our company had pledged to discuss the feasibility of controlled-atmosphere killing of chickens with the USDA, but the USDA has already approved this technology, and our company has categorically refused to even consider phasing it in. Half the members of our animal-welfare panel who are qualified to speak objectively on animal-welfare issues have resigned from the panel because of their frustration with the complete lack of progress or willingness to follow the best scientific recommendations on farmed-animal welfare. Clearly, our animal-welfare program is not moving forward; in fact, we are sliding backwards.

In order to make progress on animal welfare and to end PETA's campaign, our company needs to stop breeding and drugging animals so that they cripple beneath their own weight, stop scalding animals to death in feather-removal tanks, and adopt the animal-care standards devised by KFC's former panelists and that are supported by Drs. Temple Grandin and Ian Duncan, both members of KFC's basically impotent animal-welfare panel.

Same-store sales at KFC were down 7 percent during Period 4, while chicken sales at our competitors are up. This has been a constant trend in KFC's same-store sales figures since the launch of PETA's campaign in January 2003. PETA will continue to hurt both KFC's financial future, as well as our reputation as an ethical company.

If our company is meeting its stated goal "to only deal with suppliers who provide environment that is free from cruelty, abuse and neglect," then we should have nothing to hide. In that light, we are asking the company to prepare a report detailing how we are meeting that goal. Shareholders and the public deserve to know what our company is doing to promote animal welfare. Thank you.

Shareholder Proposal on Humane Treatment of Farm Animals

In its Animal Welfare Guiding Principles, our company, Yum! Brands (Yum), states: “Yum Brands believes treating animals humanely and with care is a key part of our quality assurance efforts. This means animals should be free from mistreatment at all possible times from how they are raised and cared for to how they are transported and processed. Our goal is to only deal with suppliers who provide an environment that is free from cruelty, abuse and neglect.”

Yum’s Web site states that “processing guidelines and audits are designed to manage and monitor each step of the process to determine whether the birds supplied to KFC are handled humanely and any suffering is minimized.” Yum has hired an expert Animal Welfare Advisory Panel, including Drs. Temple Grandin and Ian Duncan, and Yum’s claims with regard to animal welfare are the most ambitious in the industry.

However, our company continues to buy from suppliers engaged in cruelty to animals in complete contravention of our company’s stated policies and at a grave risk to Yum’s reputation. For example, current abusive practices include the following:

- Processing methods that painfully dump and shackle live chickens, slaughtering many while still fully conscious
- Breeding and drugging animals to grow so quickly that many can barely move by the time they are transported to slaughter and millions die before they can be slaughtered
- Codifying a system that accepts painful cracks or ulcers on the feet of 30 percent of U.S.-raised chickens (more than 100 million birds each year) and millions more chickens suffering broken wings during the gathering process

Furthermore, outside of the U.S. our company appears to have no animal welfare guidelines at all to cover the hundreds of millions of animals raised and killed for Yum restaurants each year despite the clear implication from the statements quoted above that all Yum animals are treated well. In fact, recent undercover investigations into KFC supplier slaughterhouses in India, the U.K., and Australia documented cruelty that horrified journalists for some of the largest media outlets in the world, as well as the public, and generated a headline read by an estimated 5 million Britons, “Distressed and Dying in a Cramped Shed ... Nobody Does Chicken Like KFC” (*Sunday Mirror*, August 31, 2003).

Resolved:

Shareholders request that the Board of Directors issue a report to shareholders by October 2004, prepared at reasonable cost and omitting proprietary information, on the steps that Yum! Brands has taken and plans to take to ensure that our publicly stated goals (e.g., “to only deal with suppliers who provide environment that is free from cruelty, abuse and neglect”) conform with our actual practices. Said report should analyze both practices and public perception of whether the practices are viewed by most of our customers as conforming to our laudable stated goal of humane treatment.

From: Bruce Friedrich
Sent: Wednesday, September 03, 2003 8:29 AM
To: Dan Shannon; Ingrid; Steve Gross; Anna West; Karen Porreca
Subject: FW: Yum alters Web site; KFC suit is dropped by PETA
<http://www.courierjournal.com/business/news2003/09/03/biz-front-kfc03-4699.html>

Yum alters Web site; KFC suit is dropped by PETA

By DAVID GOETZ
dgoetz@courier-journal.com
 The Courier-Journal

Yum! Brands Inc. has changed the wording in the animal-welfare sections of its Web site to reflect that it recommends but doesn't necessarily require certain humane standards for the treatment of chickens used in its KFC restaurants.

In response, the animal-rights group People for the Ethical Treatment of Animals yesterday dropped a lawsuit in California that accused KFC of giving false information about how its chickens are handled and killed.

The new language generally replaces wording such as "ensure that" or "must" in references to the treatment of chickens by KFC suppliers to "determine whether" and "should."

So the statement that Yum is "working with our suppliers on an ongoing basis to make sure the most humane procedures" for animal care are used has become Yum is "monitoring our suppliers on an ongoing basis to determine whether our suppliers are using humane procedures."

Then there's the statement: "Transport crates must be in good repair — i.e. no crate damage that would allow injury to birds or allow crates to accidentally open. Transport crates must not be over-filled and enough space must be provided to allow all birds to lie down."

In the new version, that became: "KFC's guidelines call for transport crates to be in good repair. KFC recommends that there be no crate damage that would allow injury to birds or allow crates to accidentally open. Transport crates should not be over-filled and enough space should be provided to allow all birds to lie down."

The phrase "to ensure all birds are slaughtered quickly and without pain" has become "to confirm that the birds are slaughtered quickly."

And gone is the statement "KFC has established a system to ensure that the very best conditions are maintained and appropriate procedures are followed at all our suppliers' facilities."

Also, the statement that KFC prohibits its suppliers from giving chickens growth-promoting substances has disappeared.

PETA also had complained that telephone operators gave misleading information to callers asking about Yum and KFC's animal-welfare practices. According to the group, company operators have received a script that says KFC disagrees with PETA's claims and has established animal-welfare guidelines for its vendors.

PETA is glad about the changes, said Bruce Friedrich, director of vegan outreach for the anti-meat group, but the organization will continue its boycott against KFC until it believes conditions have changed for the restaurant's broilers and breeding stock.

A Yum spokesman declined direct comment on the PETA claims or Web site changes. "Filing and then withdrawing this lawsuit was yet another publicity stunt in PETA's misinformation campaign to promote vegetarianism," said Jonathan Blum, Yum's senior vice president for public affairs. "It's a waste of taxpayers' money to clog up the courts with frivolous lawsuits of this nature."

Yum made "every single change" PETA had been asking for, Friedrich said. "Apparently their legal team felt they were in the wrong, which is why they had to make a complete revamp of what they were telling the press and the public."

The suit was part of a campaign waged by PETA against KFC and Yum! Brands to force the fast-food giant to adopt new standards designed to improve conditions for the chickens and more humane slaughter.

The animal-rights group was seeking an injunction to prevent "deceptive advertising practices."

Costs and Benefits of Implementing Controlled-Atmosphere Killing, Mechanical Gathering, and the Animal Care Standards (ACS)

KFC's suppliers will incur some initial costs associated with making PETA's recommended changes to their production methods. However, these costs will be quickly offset by the ongoing savings resulting from increased production efficiency and decreased production costs, as well as from the cessation of PETA's campaign against KFC. Although KFC will certainly save money by agreeing to adopt PETA's minimum recommendations, it must not be forgotten that this decision is also a moral one: Simply put, chickens should not be denied their every natural desire, should not be bred and drugged so that they become crippled by their own weight, and should not be subjected to the horrors of KFC's present method of slaughter.

I. Controlled-Atmosphere Killing Systems

The initial cost of switching from electrical stunning to controlled-atmosphere killing—during which birds are killed with inert gasses in transport containers prior to shackling—can easily be offset and surpassed by gains realized from improved carcass quality and meat yield and decreased costs for things like refrigeration, storage, labor, and environmental cleanup (described in greater detail below). Raj (1998, p 4) explains that there are also numerous indirect financial benefits and that “[i]t will be unrealistic to put a price tag on improved bird welfare, opportunity to develop new process technology and the market lead.” That is, interest in KFC's brand will increase if it leads the industry in advancing technologies that will reduce cruelty throughout the chicken industry. Controlled-atmosphere killing will save KFC money and improve bird welfare.

Start-Up Costs

A European Commission draft document on the “Best Available Techniques in the Slaughterhouses and Animal By-products Industries” (EIPPCB 2003) estimates that the total cost for the complete installation of one controlled-atmosphere killing processing line is around \$1.3 million (all monetary figures in this paragraph have been converted to U.S. dollars using the exchange rates as of May 30, 2003, and have been adjusted for inflation from 1995 to 2002 using the *Columbia Journalism Review*'s “Dollar Conversion Calculator” Web site). Using figures from Anglia Autoflow Ltd. (www.aaflo.org), one of the the leading European manufacturers of controlled-atmosphere killing systems designed to kill birds in transport crates prior to shackling, Raj (1998) broke down the total and estimated that, in order to maintain a line speed of 70,000 birds per day, approximately 240 modules, holding 288 birds each, would be needed, at an approximate cost of \$2,322 per unit or \$557,280 for 240. The controlled-atmosphere killing equipment itself would cost approximately \$387,095, and the loading machinery would cost another \$387,095. It is important to note, however, that with the rapid improvements in equipment technology within this sector, it is expected that these costs would be even lower today (Raj 1998).

According to Anglia Autoflow's sister company, American Autoflow, Inc., which serves North and South America, the “average price for an in-plant Easyload system fitted with gas stunning; washer; automatic drawer loading and unloading is approximately 1.5 million USD” (Burgos 2003). Ian Taylor, sales director of American Autoflow, also explains (Taylor 2003) that if the source of the live birds is in close proximity to the slaughterhouse, which is often the case, or if the producers already have a “drawer system” in place, as is reportedly the case with some KFC suppliers, such as Perdue Farms, Inc., then loading modules can be double-shifted at no additional cost, allowing the system to process approximately 128,000 birds per day (two eight-hour shifts running at 8,000 birds per hour). However, if additional modules are required to double-shift the line, Taylor estimates that the added cost would be only about \$350,000 more than the initial \$1.5 million investment. Thus, according to this estimate, which was provided in September 2003, between \$1.5 million and \$1.85 million would be required to

install a controlled-atmosphere killing line capable of processing 46,720,000 birds per year (with two shifts running daily).

According to KFC's Web site (www.kfc.com/about/facts.htm as of Dec. 31, 2002), the company processes 351 million chickens for consumption every year in the U.S. and 736 million worldwide. A slaughter line that processes 128,000 birds per day will process 46,720,000 per year, and therefore, about eight such lines would be needed to maintain KFC's annual U.S. rate, and about 16 lines would be needed worldwide. Based on American Autoflow's estimates, the start-up cost for installing the eight controlled-atmosphere killing lines required to meet KFC's current U.S. production levels would be between \$12 million and \$14.8 million. Installing the 16 controlled-atmosphere killing lines needed to meet KFC's worldwide production levels would cost between \$24 million (without extra modules) and \$29.6 million (with extra modules). As explained below, these costs will be rapidly offset.

Operating Costs

According to the EIPPCB (2003), the estimated operating costs of using an 80 percent nitrogen/20 percent argon mixture are between 58 and 97 cents per 100 birds (0.58 to 0.97 cents per bird). According to a recent article in *WATT Poultry USA*, Ian Taylor from American Autoflow estimates that the gas cost of stunning is between 0.5 and 0.75 cents per bird. For a line that processes 128,000 birds per day, these figures translate to between \$640 and \$1,241. Once the benefits of using controlled-atmosphere killing (as described below) and the current operating costs of using electrical stunning are subtracted, these costs are relatively insignificant. Figure 1 uses the estimates above to summarize the minimum and maximum costs of gas for various operations which, according to *The Washington Post*, represent typical-sized commercial poultry slaughterhouses (Goodman 1999):

Figure 1: Weekly Cost of Gas for Slaughterhouses

Number of birds slaughtered per week	Minimum cost	Maximum cost
490,000	\$2,450	\$4,753
580,000	\$2,900	\$5,626
730,000	\$3,650	\$7,081
896,000	\$4,480	\$8,691
980,000	\$4,900	\$9,506
1,000,000	\$5,000	\$9,700
1,250,000	\$6,250	\$12,125

Based on these figures, the total cost of gas for slaughtering the 351 million birds KFC processes for U.S. consumption each year is between \$1,755,000 and \$3,404,700. For the 736 million birds it processes worldwide, the annual cost of gas would be between \$3,680,000 and \$7,139,200.

Savings From Improved Meat Yield and Quality

(Please note: The figures in this section have been calculated using the 1995 U.S. market rates and have been adjusted for inflation from 1995 to 2002.)

Controlled-atmosphere killing provides producers with improved meat yield and carcass quality when compared to different types of electrical stunning methods, which are "frequently criticised on ... meat quality grounds" (Raj et al. 1997, p 169). In fact, the European Commission's Scientific Committee on Animal Health and Animal Welfare (1998, p 3) writes that "[a]nother advantage of gas stunning or gas killing methods, in comparison with electrical stunning, is that they may improve carcass and meat

quality.” **These improvements include fewer broken bones, less hemorrhaging, and reduced bruising.**

Farsaie et al. (1983) report that **bruising may be found on up to 25 percent of broilers** processed in the U.S., and according to the United States Department of Agriculture (USDA 2002), **in a recent year, almost a million carcasses were condemned due to bruising. Such bruising could be virtually eliminated through the use of controlled-atmosphere killing**, which would “improve the yield and the value of products” (EIPPCB 2003, p 288) and almost completely eliminate blood stains (Raj 2003), which also cut into profits. Specifically, controlled-atmosphere killed broilers showed a lower incidence of broken bones and breast- and leg-muscle bruising. It has been suggested that the increased incidence of leg bruising from electrical stunning was a direct result of shackling live birds, a process which would be eliminated through the use of controlled-atmosphere killing. Even industry journals recognize this problem: A recent article in *Poultry* (McGuire 2003, p 2) reports that “[d]uring processing, shackles can be too tight and the hanging of the bird too rough, which causes more severe bruising in the thigh areas.” And the Canadian Food Inspection Agency (1999a) found that “the use of controlled atmosphere stunning in poultry reduces the incidence of broken bones, bruises and haemorrhages in muscle, all of which are commonly associated with electrical stunning.” Researchers at the University of Bristol (Raj et al. 1997, p 173) compared the carcasses of controlled-atmosphere-stunned broilers with those of electrically stunned broilers and concluded that the incidence of broken bones and breast-muscle hemorrhaging would be “substantially reduced by gas killing of broilers.” Raj and Gregory (1991, p 127) also found this to be the case and concluded that “the advantages of gaseous stunning include improved meat quality, fewer broken bones and less muscle haemorrhaging in the carcasses.”

Even a small increase in meat yield per bird due to controlled-atmosphere killing would lead to a significant increase in revenue, which would **easily and quickly offset the initial costs of adopting controlled-atmosphere killing methods**. With as little as a 1 percent increase in yield, Raj (1998) estimates that, for a plant that processes 1.3 million broilers per week (or 67.6 million per year)—estimating the average dressed-carcass weight at 2 kg and the market value at \$2.2 per kg of boneless breast meat—an additional \$950,400 in revenue (or 1.402 cents per bird) can be gained per year. Applying this estimate to the 351 million chickens slaughtered by KFC in the U.S. each year, an additional revenue of \$4,921,020 per year would be achieved, and applying it to the 736 million birds slaughtered internationally, **an additional \$10,318,720 in revenue would be achieved**. Reducing the number of dead on arrivals by eliminating the dumping and other rough handling that is inherent to electrical stunning would provide yet another source of increased revenue, probably into the millions of dollars. It is also important to note that the significant rearing costs associated with each bird (i.e., feeding, housing, lighting, transport, etc.) are completely lost when a carcass is condemned or discarded. By increasing meat yield, producers that use controlled-atmosphere killing would be able to recoup these otherwise-wasted costs, providing yet another financial advantage of this method.

Savings From Reduced Refrigeration and Energy Costs

Raj et al. (1997) found that the pH in carcasses falls more rapidly when controlled-atmosphere killing is used than when electrical stunning is used, resulting in faster carcass maturation and enabling early filleting. This has important financial implications, as refrigeration can be significantly reduced, thus saving on storage, energy, refrigeration equipment, and maintenance costs. The EIPPCB (2003, p 287) also reports that controlled-atmosphere killing results in “[r]educed energy consumption due to reduced refrigeration time and space requirements because it is no longer necessary to mature the carcasses.”

Savings From Reduced Internal and External Contamination

According to the USDA (2002), **in a recent year, almost 5.5 million chickens were condemned for being contaminated. All three forms of potential contamination (described below) would be almost completely eliminated under the controlled-atmosphere killing model**, during which birds are killed

in their transport containers rather than being dumped and, therefore, are not able to inhale in the stun bath or defecate in the scald tank.

- **Reduced stun bath contamination:** During electrical stunning, chickens tend to defecate and inhale water during the initial spasm caused by being electrically shocked. Gregory and Whittington (1992) examined this by including a radioisotope in the stun bath and then looking at carcasses to determine whether or not internal radioactivity was detected. The results clearly showed that “chickens can and do inhale water during electrical stunning in a waterbath” and that “[n]o remedy is available at the moment” (p 362). The authors suggest that the respiratory tract can, thus, become contaminated with bacteria from the stun bath and leak onto the edible portions of the carcass during evisceration.
- **Reduced scald tank contamination:** During electrical stunning, external contamination is also a concern because of the tendency that birds have to defecate in the scald tank while they are still alive, which is a common occurrence in U.S. slaughterhouses. Subsequent birds are then dipped into the contaminated water, necessitating excessive rinsing later down the line.
- **Reduced microbial contamination from live dumping:** The dumping of live birds onto the conveyor during the electrical stunning process leads to scratches and wounds as they land on other birds or otherwise struggle. Raj (1998, p 3) speculates that the skin wounds incurred not only reduce the value of the carcass, but “can become a potential site for microbial attachment.”

Savings From Other Sources

In addition to the carcass- and meat-quality improvements mentioned above, there are additional financial benefits that can be achieved through controlled-atmosphere killing, such as increased meat yield, reduced refrigeration, energy, and labor costs, improved worker conditions and safety, and environmental benefits.

- **Reduced labor costs:** The labor cost of controlled-atmosphere killing is substantially lower than the labor cost of electrical stunning. The elimination of live-bird handling reduces injuries and the resulting medical claims and, since the birds are killed in their crates, the labor costs relating to killing and shackling the birds are reduced. Additionally, the reduction in bruising and broken bones diminishes the significant need for carcass and fillet examination. Raj (1998) estimates that (adjusting for inflation from 1995 to 2002) **a typical U.S. slaughterhouse that processes 1.3 million broilers per week incurs more than \$248,000 per year in labor costs “associated with carcass handling.”** Even beyond these savings, the less problematic shackling of dead birds, as opposed to live, struggling ones, will allow for more efficient labor and will reduce the number of workers needed to achieve the same rate of shackling.
- **Improved worker conditions and safety:** The Canadian Food Inspection Agency (CFIA 1999, p 1) concluded that “[t]he environment for the [personnel] working in the poultry stunning area is also very much improved with the use of controlled atmosphere stunning. Dust is reduced since unconscious birds are placed on the evisceration line.” Obviously, this will reduce worker attrition, sick and other leave, medical claims, and insurance costs to a significant degree.
- **Environmental benefits:** The improved quality and yield of controlled-atmosphere killing leads to a “reduced by-product destined for disposal as waste,” and “[t]he increase in yield in turn leads to a tendency to store more of the slaughterhouse output in conditions which won’t cause spillage or odour problems” (EIPPCB 2003, p 287). While electrical stunning models typically require about 15 liters of water to rinse the carcass of each bird (Raj 2003), the controlled-atmosphere killing model’s reduced contamination means that less water is needed for rinsing carcasses—an advantage that leads to less runoff and reduced water-treatment needs.

- **Improved Shelf Life and Quality:** Raj (1998b, p 3) explains that using inert gases induces anoxia on the cellular level in carcass muscles, which can “change the oxidation/reduction (radox) potentials” and, thus, lead to “increased shelf-life of meat due to a slow rate of development of off-odours ... and discoloration.” The Canadian Food Inspection Agency (1999a) states that controlled-atmosphere killing “is also reported to produce more tender breast meat than when electrical stunning is used.” Taken together, this means that controlled-atmosphere-killed birds produce better quality meat that lasts longer, in terms of smell and color, than electrically stunned birds.

Payback Period

Considering the increased revenue created by improving meat quality and lowering operating costs through the switch to controlled-atmosphere killing using inert gases, **the initial costs of switching to the system would be recouped quickly.** Costs will be offset in an even shorter time period for plants that are using electrical stunning equipment that must be replaced anyway. Based on the estimates above, a plant that installs a controlled-atmosphere killing line at a cost of either \$1.5 (without extra modules) or \$1.85 million (with extra modules, to be used when the source of live birds is not located near the slaughter facility or when drawer systems are not already in place, as previously described), with a capacity to slaughter 896,000 birds per week or 46,720,000 annually, would have a yearly operating cost of as little as \$233,600 and a yearly increase in revenue of \$655,014 ($46,720,000 \times 1.402$ cents) from increased meat yield. **The added revenue from increased meat yield alone would pay for the controlled-atmosphere killing line in about 3.5 years if extra modules were not needed and about 4.5 years if extra modules were required.** Or, over KFC’s entire annual U.S. production, assuming between \$12 million and \$14.8 million in start-up costs, with yearly operating cost of as low as \$1,755,000 ($351 \text{ million} \times 0.5$ cents), coupled with yearly savings of \$4,921,020 ($351 \text{ million} \times 1.402$ cents) from increased meat yield, the payback period could be as little as approximately 3.5 years based on increased meat yield alone, or about 4.5 years if extra modules were required. Similarly, a payback period of as little as about 3.5 years could be achieved worldwide, based on increased meat yield alone (and considerably faster when other savings are considered), assuming \$24 million in start-up costs without extra modules, yearly operating costs of as little as \$3,680,000 ($736 \text{ million} \times 0.5$ cents), and yearly savings of \$10,318,720 ($736 \text{ million} \times 1.402$ cents) in meat yield, or about 4.5 years if extra modules were needed.

Again, it must be emphasized that these payback periods have been estimated using increased meat yield alone, and when all the other benefits are factored in, producers using controlled-atmosphere killing systems will begin to realize significant economic savings over electrical stunning systems well before the 3.5 to 4.5 year mark. **In fact, Raj (2003) estimates that, taking sources of increased revenue discussed above into account, the initial costs of implementing a controlled-atmosphere killing system could be recouped within a year. Figure 2 summarizes the costs and benefits of switching to a controlled-atmosphere killing system in which birds are killed in transport containers prior to being shackled:**

Costs and benefits of switching to controlled-atmosphere killing (CAK) system when current equipment is replaced	
COSTS	
Modules	
CAK equipment	
+ Loading machinery	
CAK equipment subtotal	
Replacement cost of current equipment	
Initial investment	
Annual savings	
Payback period	

Increased Future Profits

Once payback has been achieved, increased revenue can be expected at a rate of \$9,020 per million birds (\$14,020 in increased meat yield revenue minus \$5,000 for the cost of gas). Based on the 736 million chickens slaughtered by KFC last year, once the initial costs of the controlled-atmosphere killing system are recovered, **controlled-atmosphere killing would result in an additional \$6,638,720 in profit annually** from improvements in meat yield alone when compared to an electrical stunning system, and these gains would continue for the life of the equipment. It is also important to note that when elements of the equipment have to be replaced, the subsequent costs will be significantly less than the initial purchase since certain components (e.g. modules) can have greater longevity than others. For easy reference, Figure 3 on the following page shows the basic breakdown of all the figures referred to within this document.

II. Mechanical Catching

The use of machines during the catching process also results in financial savings for the producer. Elrom (2000) concludes that "[m]any works in the professional literature indicate that the use of a mechanic combine, which was developed for this purpose, is preferable to manual handling on economic and welfare considerations. It seems that the mechanical combine decreases the DOA [dead-on-arrival] values, improves the welfare of the birds and decreases bruising, bone fractures and skin torsion."

Knierim and Gocke (2003) also found that "[c]atching machines are advantageous with regard to labour costs and standards." Thornton (1994) found that mechanical catching could result in savings of at least 60 percent on labor when compared to manual catching. Lacy and Czarick (1998) estimated that, when compared to a typical nine-person catching crew, mechanical catching would save at least \$143,000 per year in labor costs. Furthermore, they conclude that "assuming a cost of \$175,000 for a mechanical harvester, **the reduction in labor cost alone would pay for a harvester in less than 15 months. This payback estimate does not include additional savings likely in reduced bruising to birds, reduced**

workman's compensation claims, or reduced worker health care costs." Another recently published article (Bellett 2003) estimated the cost of one popular model at \$200,000. If we use this price range (between \$175,000 and \$200,000) and subtract the yearly labor savings estimated by Lacy and Czarick, we find that **after two years, producers would actually have saved between \$86,000 and \$111,000 per machine** by switching to mechanical catching.

Figure 3: Summary of Key Costs and Benefits of Implementing Controlled-Atmosphere Killing Systems for KFC's Local, National, and International Operations

Start-up costs using American Autoflow estimates	Single plant	U.S.	International
No. of chickens slaughtered per year	46,720,000	351,000,000	736,000,000
Cost per line (at 128K birds/day) without extra modules	\$1,500,000	\$1,500,000	\$1,500,000
Cost per line (at 128K birds/day) with extra modules	\$1,850,000	\$1,850,000	\$1,850,000
No. of lines needed (at 128K birds/day per line)	1	8	16
Start-up costs without extra modules	\$1,500,000	\$12,000,000	\$24,000,000
Start-up costs with extra modules	\$1,850,000	\$14,800,000	\$29,600,000

Start-up costs using EIP/CB (2003) and Raj (1998) estimates	Single plant	U.S.	International
No. of chickens slaughtered per year	51,100,000	351,000,000	736,000,000
Cost per line (at 70K birds/day)	\$1,300,000	\$1,300,000	\$1,300,000
No. of lines needed (at 70K birds/day per line)	2	14	29
Start-up costs	\$2,600,000	\$18,200,000	\$37,700,000

Operating costs	Single plant	U.S.	International
No. of chickens slaughtered per year	46,720,000	351,000,000	736,000,000
Minimum cost of gas per chicken	\$0.005	\$0.005	\$0.005
Annual operating costs	\$233,600	\$1,755,000	\$3,680,000
3.5-year minimum operating costs	\$817,600	\$6,142,500	\$12,880,000
4.5-year minimum operating costs	\$1,051,200	\$7,897,500	\$16,560,000

Increased meat yield revenue	Single plant	U.S.	International
No. of chickens slaughtered per year	46,720,000	351,000,000	736,000,000
Increased meat yield revenue per bird	\$0.01402	\$0.01402	\$0.01402
Annual increase in revenue from meat yield	\$655,014	\$4,921,020	\$10,318,720
3.5-year revenues from increased meat yield	\$2,292,550	\$17,223,570	\$36,115,520
4.5-year revenues from increased meat yield	\$2,947,565	\$22,144,590	\$46,434,240

Annual increased meat yield revenue after payback	Single plant	U.S.	International
Annual increase in revenue from meat yield	\$655,014	\$4,921,020	\$10,318,720
Annual minimum operating costs	\$233,600	\$1,755,000	\$3,680,000
Net annual revenue from increased meat yield after payback	\$421,414	\$3,166,020	\$6,638,720

Payback period based on increased meat yield	Single plant	U.S.	International
Total 3.5-year costs based on start-up costs without extra modules	\$2,317,600	\$18,142,500	\$36,880,000
Total 3.5-year benefits from increased meat yield	\$2,292,550	\$17,223,570	\$36,115,520
Total 4.5-year costs based on start-up costs with extra modules	\$2,901,200	\$22,697,500	\$46,160,000
Total 4.5-year benefits from increased meat yield	\$2,947,565	\$22,144,590	\$46,434,240

It has been reported that one of KFC's suppliers, Purdue Farms, Inc., employs approximately 150 human chicken catchers (Meat Industry Internet News Service 2000)—with between seven and 10 catchers in a typical crew (Lacy and Czarick 1998)—and slaughters about 586,040,000 birds annually (WATT PoultryUSA 2003). This means that between 15 and 21 crews are employed to catch all of Purdue's chickens, giving an average annual catching rate of between 27,906,667 and 39,069,333 birds per crew. If we very conservatively apply the low end of this range to KFC's production rates, we find that it would need approximately 13 crews to catch all the birds slaughtered for U.S. consumption and 27 crews worldwide.

It has been found that machines can catch at approximately the same rate as manual catching crews (Associated Press 2003, Lacy and Czarick 1998) but do not tire or slow down at the end of the shift like their human counterparts. Based on this, KFC would need approximately 13 catching machines in the U.S. and 27 machines internationally. For the latter, the initial cost would be approximately \$4,725,000 (at \$175,000 per machine), which would result, exclusively on the basis of labor costs, in a **net savings, by the end of the second year, of about \$3 million and an annual savings, beyond the second year, of about \$3.86 million based solely on labor savings.**

Ian Taylor (2003) of American Autoflow, Inc., provided another estimate and stated that, if used during two shifts daily, a single machine can catch about 2 million birds per month. Using this, we find that 31 machines would be needed to serve KFC's producers worldwide, resulting in an initial cost of \$5,425,000 (at \$175,000 per machine), which would, again, result in **great savings, based on labor costs alone, of about \$3.441 million by the end of the second year, and about \$4.433 million annually thereafter.** The actual savings would certainly be much higher once all the advantages were included. The producer community has already caught on to this: Top companies such as Purdue Farms, Inc., and Tyson Foods, Inc., are already using catching machines at some of their facilities. **It is crucial, however, that only the best machines are used and that they are carefully monitored.**

III. Animal Care Standards (ACS)

The ACS standards were developed by KFC's own poultry experts and represent the absolute least that KFC can do to eliminate the worst abuse and neglect of chickens. It is difficult to estimate the cost that KFC's suppliers would incur by adopting the ACS, as PETA does not know the precise degree to which each of KFC's suppliers is presently out of compliance. However, it is important to note that adopting the ACS for chickens requires **no major fixed costs** since the program requires, largely or exclusively, simple changes in practices, upkeep, and training and does not require new housing structures or equipment. These costs should not prove to be overly burdensome, and the increased revenue stemming from the adoption of controlled-atmosphere killing and mechanized gathering (as detailed above) will more than make up for them.

Furthermore, consider the potential economic impact that becoming the first large company to adopt these standards would have for KFC. Not only would PETA's campaign against KFC end, which would return customers to KFC and save the company considerable public relations costs, but KFC could cultivate the image of a company that sincerely cares about animal welfare and is willing to adopt groundbreaking new guidelines to ensure that animals raised for its restaurants are not grossly abused. A recent poll showed that 62 percent of Americans favor strict laws to protect farmed animals from abuse, so clearly, KFC could reach a large potential customer base with this image.

Conclusion

The analyses above show that every slaughter plant that adopts a controlled-atmosphere killing system and each farm that utilizes mechanized gathering in place of the current manual-gathering methods will accrue substantial savings. When these savings are applied to all of KFC's international suppliers for their 736 million chickens, the savings would be well into the tens of millions of dollars after only a short

period of time. The savings are so substantial that the technology can reasonably be expected to pay for itself within a year, and the savings will continue to accrue in perpetuity. The ACS standards are also very likely to pay for themselves through improved worker satisfaction and carcass quality and an increased customer base. Even the basic costs associated with the ACS would be more than offset by the increased revenue from controlled-atmosphere killing and mechanized gathering. Taken as a whole, PETA's recommendations make sense from an economic standpoint. KFC should not be intimidated by the initial investment because, like any good investment, it will earn back its initial costs and result in continued profits for years to come.

The strongest argument for improving animal welfare is the moral one. Chickens, like all animals, deserve to be protected from the worst abuses that they suffer on factory farms and at slaughter. KFC's public claims to be addressing these abuses show that the company recognizes the validity of this argument. However, improving animal welfare makes sense objectively as well. Adopting controlled-atmosphere killing, mechanized gathering, and the ACS is a win-win situation: KFC has the opportunity to take the moral high road and profit from it as well.

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Mechanization of Catching as a Potential Means to Improving Chicken Welfare

Manual Catching

The commercial “catching” of broiler chickens and other birds who are headed for the slaughterhouse is often a violent process in which birds are manually caught by workers who carry them upside-down by one leg, four or six to a hand, before throwing them forcefully into crates on transport vehicles. During the process, or as a result of it, birds suffer through great stress, broken bones, bruising, and even death.

Lacy and Czarick (1998) write that injuries to birds during manual catching and crating are, indeed, a concern. Knierim and Gocke (2003) found that “[t]he catching process entails a high risk not only of stress but also of injury and death to the birds.” Gerrits *et al.* (1985) found that most “transport damage” occurred during catching and crating. Kettlewell and Turner (1985) found that as many as 20 percent of birds in some U.K. flocks experience injuries during catching that lead to downgrading. Farsaie *et al.* (1983) report that bruising may be found on up to 25 percent of broilers processed in the U.S., and the Associated Press (2003) reports that “up to 25 percent of boilers on some farms are hurt in the [catching] process.” Grandin (2003) recently reported that a Canadian slaughterhouse failed her animal welfare audit because 5.4 percent of the birds had broken wings caused by rough handling by chicken catchers.

Eyewitness accounts verify the severe injuries that occur during the process. Two former catchers recently wrote statements describing their experiences in detail (Haberstock and Mitchell 2003). Habersstock states, “[W]e held four [chickens]—each by one leg—in each hand,” and goes on to explain, “Carrying four chickens in each hand puts a lot of pressure on certain chickens, causing their legs to pop out of joint or crush under the weight of the other chickens.” When birds are loaded onto transport vehicles, Habersstock says, “The swinging motion that was used to lift the chickens up to the loaders caused the most damage because the pressure of the swing and the weight of the other chickens pushing down on the leg of the chicken on the end caused the leg to shatter or pop.”

Many injured and suffering birds were left to languish as unfortunate casualties of the catching and crating processes: “Around the loading doors, there were a lot of injured chickens, lingering in pain on the ground. These chickens had either been dropped by the loaders or were left behind in the catching and loading frenzy. Many of these chickens couldn’t walk properly and, therefore, could not move themselves out from under our feet, so they were injured and crushed. In all the barns, including the kosher barn, I witnessed chickens who wandered out in the open being kicked and stepped on by workers, then left to die with damaged legs and broken wings.”

Mitchell describes how gates designed to corral the birds crushed many in the process: “The heavy gates ... were thrown around the barn to trap the chickens so that they would be easier to catch. ... [T]he catchers threw the gates around without regard for the chickens’ safety, crushing and trapping many of them beneath the gates. If the gates were not even with the ground, the catchers would lean all their weight on the gates and force them to the floor, crushing the live chickens who were caught below.” Mitchell also witnessed deliberate physical abuse: “The chickens tried to huddle in groups, but, occasionally, one would stray into the middle of the floor and get stepped on and kicked around.” Animal welfare expert Temple Grandin (2003) recently stated that since workers are often paid by the weight that they load onto the truck, welfare problems arise

during loading. Mitchell's testimony supports this, and she explains that on one chicken farm, a worker was assigned to kill underweight birds "by smash[ing] the skulls of the 'runts' until they were dead" in order to "get a higher weight in the truck [because] they wanted to load only the big chickens and kill the smaller ones."

Clearly, physical injury, stress, and suffering are legitimate threats for birds who are subject to manual catching. Furthermore, the rates of injury are actually significantly higher than those reported in studies that look at birds *after* they are caught because those studies do not necessarily take into account animals who are killed or left for dead before even making it onto the truck—as described in the catcher's testimony.

Mechanical Catching

Over the years, automated machines have been developed to capture birds and place them into crates with minimal human interaction. Many of these machines accomplish this through the use of rotating rubber "fingers" and conveyor belts. Studies show that such mechanization not only improves welfare, when using a well-designed machine that is gentle on birds, but is also more economical for the producer.

Knierim and Gocke (2003) found that "[i]njury rates of all types were significantly reduced after mechanical catching" and that "[t]his improvement was highest with respect to leg injuries." Elrom (2000) reports that in the U.K. and overseas, a comparison of mechanical and manual methods of catching broilers revealed that mechanized methods resulted in a significantly lower incidence of injuries, including dead-on-arrivals, broken legs, broken wings, and bruising. In the non-U.K. data, there were improvements of 25, 77, 30, and 84 percent in these areas, respectively, when using a catching machine, and there were more than four times as many broken legs and more than eight times as much bruising when using manual methods. Even Perdue Farms, Inc., one of the world's leading poultry producers, recently started using catching machines in some of its facilities and has reported a 14 percent decrease in bruising and stated that the machines "aren't as rough on the birds" (Meat Industry Internet News Service 2000). A worker from Tyson Foods, Inc., who used to catch chickens manually but now does so with a machine, was recently quoted as saying, simply, "This is much easier on everybody" (Associated Press 2003).

Duncan *et al.* (1986) found that machines were better than manual methods in terms of stress to the birds as well. The study found that birds caught by machines returned to a normal heart rate more quickly than those caught manually, "suggesting they were less stressed," and the duration of tonic immobility—when birds are literally frozen with fear—was much longer for birds who had been caught manually. The study concluded that "both measures of short-term stress suggested that the birds were less frightened after being harvested by machine" and that "one possible way of alleviating the catching and crating problem is to harvest the birds mechanically." A published article in *Poultry International* also found that using a mechanized method seemed to reduce stress levels for birds (Anon 1984). Gross and Seigel (1980) confirm that direct contact with humans is, indeed, a source of stress for chickens. And other "research has shown that handling alone significantly raised plasma corticosterone [an indicator of stress] concentration in young chicks" (Elrom 2000). Professor Michael Lacy of the University of Georgia's Poultry Science Department was recently quoted as saying that chickens hate being manually caught and turned upside-down because it "...freaks out the birds" (Associated Press 2003).

Another benefit of using machines for catching is that—unlike manual handling, which has the tendency to become rougher as the process continues—mechanized handling is consistent from start to finish. It has been written that as fatigue and frustration from the "physically demanding nature of the work" set in, workers tend to become rougher with birds in an attempt to finish the job quickly, and as a result, "careful handling becomes secondary" (Lacy and Czarick 1998). Machines would have no such degradation effect.

It is important to note, however, that improvements in welfare can only be achieved if the utmost care is taken to find a well-designed mechanized system that handles birds gently. Humane handling must be made a foremost priority in order to avoid the same problems that are associated with manual methods.

Economic Benefits of Mechanical Catching

Not only does the use of machines improve welfare for birds during the catching process, it also results in financial savings for the producer. Elrom (2000) concludes that “[m]any works in the professional literature indicate that the use of a mechanic combine, which was developed for this purpose, is preferable to manual handling on economic and welfare considerations. It seems that the mechanical combine decreases the DOA [dead-on-arrival] values, improves the welfare of the birds and decreases bruising, bone fractures and skin torsion.”

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It is also important to note that machines can catch at approximately the same rate as manual catching crews (Associated Press 2003, Lacy and Czarick 1998) but do not tire or slow down at the end of the shift like their human counterparts. Ian Taylor (2003) of American Autoflow, Inc., estimates that, if used during two shifts daily, a single machine can catch about 2 million birds per month.

Conclusion

Every effort should be made by producers to help alleviate the intense animal suffering currently experienced during the manual catching process. Clearly, one of the most effective steps that can be taken toward this goal involves the use of a well-designed catching machine that gently gathers birds. Lacy and Czarick (1998) describe the improvements that can be achieved succinctly: “The benefits of mechanical harvesting as compared to hand catching include lower costs and improved working conditions. In addition, studies conducted thus far indicate that mechanical harvesting will improve bird welfare both from a stress and injury standpoint.” With several companies already using this technology to improve welfare and economic analysis showing that doing so can actually save money, there is no reason to delay the implementation of well-designed catching machines that make humane handling the top priority.

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The Case for Controlled-Atmosphere Killing of Poultry in Transport Containers Prior to Shackling as a Means for More Humane Slaughter Rather Than Electrical Stunning

The practice of electrically stunning poultry, which is standard in North American slaughterhouses (Boyd 1994), results in both welfare and carcass-quality problems. In terms of welfare, the many variables and frequent process failures associated with electrical stunning methods make it difficult to ensure adequate stunning and result in pain and suffering for birds who experience prestun shocks, have their necks sliced open, and are dipped in scalding hot water, often while still fully conscious. Furthermore, the uncrating, shackling, and conveying of live birds that always precedes electrical stunning has been shown to cause severe stress and injury, which lead to a decrease in meat quality. On the other hand, the controlled-atmosphere killing of poultry—using a mixture of inert gases in air with no more than 2 percent residual oxygen by volume, preferably 80 percent nitrogen and 20 percent argon—helps to significantly alleviate many of these animal-welfare and carcass-quality issues and actually leads to increased revenue. Thus, this method should be adopted by producers immediately.

Section I: The Electrical Stunning Model

Dumping

Serious animal-welfare problems associated with the electrical stunning of poultry are painfully evident before stunning even takes place. In order to facilitate the process, birds are dumped from transport vehicles onto a conveyer before being subjected to a stressful procedure called “shackling.” Birds awaiting shackling are sometimes overloaded onto the conveyer and end up suffocating to death as other birds are dumped on top of them. Overcrowding and rough handling during unloading and dumping lead to a relatively high number of dead-on-arrivals.

Shackling

During shackling, birds are hung upside-down by their legs on a line of shackles moving so fast—approximately 182 birds per minute at some plants—that it is impossible to humanely handle the birds. Leg deformities and other injuries typical of large broilers may exacerbate the pain as their sensitive periosteal are pinched and compressed by the metal shackles. Gregory and Wilkins (1989) found that, after shackling, 3 percent of broilers had broken bones and 4.5 percent had dislocations. Another study by the same authors (1990), which looked at hens before and immediately after shackling, found a 44 percent increase in newly broken bones following shackling. Others conclude that shackling can, indeed, be both a physiologically and psychologically painful experience (Sparrey and Kettlewell 1994; Gentle and Tilson 1999).

Improper Stunning and Temporary Immobilization

After enduring the stress of being dumped and shackled, the birds proceed to the stunning area, where they are passed through an electrically charged water bath before having their throats cut. “Humane slaughter,” as defined by law for most species in many developed countries, requires that animals be rendered unconscious and, thus, insensible to pain prior to slaughter. In order to make claims that slaughter is humane, it is critical that this be accomplished—without exception and with minimal stress to the animals involved. However, when using electrical stunning methods on chickens, it is almost impossible to

ensure that every animal is rendered unconscious because the varied nature of the birds hinders the effectiveness of the electrical settings. In other words, because each bird has a different weight, fat content, age, number of feathers, level of cleanliness, brain resistance, and leg size (which determines shackle-to-leg contact)—all of which influence the effectiveness of an electrical stun—it is nearly impossible to ensure proper stunning unless the settings are changed to accommodate each individual bird. Boyd (1994, p 227) concludes that “[t]he high occurrence of improper stuns is testimony to the difficulty of controlling all these variables,” and as a result, “under many commercial conditions in poultry slaughterhouses, we have little reason to believe that proper electrical stunning is achievable consistently.” This was confirmed by a Farm Animal Welfare Council report (Heath 1984) to the British minister of agriculture, which surveyed facilities in the United Kingdom and found that one-third of chickens were improperly stunned and not rendered insensible to pain during electrical stunning.

Although it has been argued that settings in excess of 120mA may induce unconsciousness in chickens if applied properly, others have called this theory into question. The most accurate indication of insensibility to pain is an isoelectric (flat) EEG pattern. Electrical stunning, however, does not immediately produce such a pattern. It has been hypothesized that the epileptiform brain activity that electrical stunning does induce in some animals is akin to a human *grand mal* epileptic seizure wherein the subject is unconscious. And while this argument may be appropriate for sheep and pigs, who display the high-frequency polyspike activity found in *grand mal* seizures after being electrically stunned, chickens present a markedly different reaction. In fact, in 90 percent of chickens, electrical stunning produces low-frequency polyspike activity that is “associated with *petit mal* epilepsy in humans and is not necessarily associated with unconsciousness” (Boyd 1994, p 224); this was also suggested by Gregory and Wotton (1987). Higher voltage settings do not necessarily remedy the problem by causing higher frequency polyspike activity, which implies that regardless of the electrical settings, chickens may not be rendered unconscious as a result of stunning unless they are killed (Gregory 1986; Gregory and Wotton 1987).

Furthermore, research presented at a recent symposium on the humane slaughter of farm animals (Gregory 1986) suggests that birds may still be able to experience pain after electrical stunning but are not able to display a pain reflex because of temporary paralysis. A study authored by four British poultry slaughter supervisors (Richards et al. 1967, p 361, cited in Heath et al. 1981) concluded that electrical stunning is fraught with problems and acknowledged that “electrical paralysis may occur under certain conditions in man and other animals, during which pain can be perceived but reaction to it is impossible.” Other researchers (Katme 1986; Gerlis 1986) at the aforementioned symposium presented evidence that even the shock, which is supposed to immediately and painlessly render the animals unconscious, is, in fact, intensely painful.

In addition to the general efficacy problems of electrical stunning, even when conducted as planned, frequent system failures cause further complications. Prestun shocks are both painful and common, occurring, for example, when a bird’s wing comes in contact with the stun bath before the bird’s head. Testimony from the “McLibel” lawsuit revealed that, according to Dr. Neville Gregory, up to 13.5 percent of broilers at one particular slaughterhouse were being shocked before fully entering the stun bath (CIWF §3.2.3). Chief Justice Bell, who presided over the case, concluded that the prestun shocks were indeed cruel (Wolfson 1999).

Other birds are able to completely avoid the stun bath by lifting their heads or flapping their wings, and these birds are fully conscious when they are moved to the next area. Raj (1998b, p 1) explains that there is, indeed, “pain and distress experienced by some conscious birds which miss being stunned adequately (due to wing flapping at the entrance to the water bath stunners).” During the McLibel lawsuit, Dr. Gomez Gonzales, a meat-management technician for the McDonald’s Corporation, testified that between 1 and 2 percent of chickens miss the stun bath in the company’s U.S. slaughterhouses (Wolfson 1999). This has serious welfare consequences for birds who are conveyed to the killing area while still fully conscious.

The tendency for improper electrical stunning is even more pronounced in the United States where, despite studies showing that higher electrical settings do not “adversely affect the carcass appearance” (Griffiths and Purcell, 1985; p 382), most producers insist on keeping settings that are too low—significantly lower than the 120mA used at most facilities in the United Kingdom—to achieve anything more than temporary paralysis. A metastudy of electrical stunning methods (Boyd 1994, p 221) verifies that in North America, “the development and application of [electrical] poultry stunning had more to do with facilitating processing than with humane slaughter.” In fact, one U.S. manufacturer of electrical stunning equipment wrote that “[t]he typical amperage used in stunning by our pulsating direct current pre-stunner is approximately 12 to 15 mA” (Austin 1994, cited in Davis 1996, p 167). Such low electrical settings have particularly dangerous consequences for birds who are paralyzed but still alert after passing through the stun bath and for those who miss the “killing machine” altogether and fully recover by the time that they reach the “killer” or scald tank.

Throat-Cutting

After being stunned—or rather, temporarily immobilized or even entirely conscious after completely missing the stun bath due to avoidance behavior—birds are conveyed toward an automated spinning blade, commonly referred to as the “killing machine,” which is designed to cut their necks. Some conscious birds are able to avoid this blade, as well, by lifting their heads or flapping their wings. Recent research (Boyd 1994, p 226) that examines the electrical stunning of poultry verifies that “birds dodge the knives, some completely, some partially, because they are not fully stunned.” Gregory (1991) wrote that “problems associated with inefficient neck cutting [are] only too common in poultry processing plants.” The McLibel lawsuit highlighted the high number of occasions during which broilers were still fully conscious during neck-cutting. For example, Chief Justice Bell estimated that based on the evidence presented during the trial, more than two birds per minute in the U.S. were fully conscious as their throats were cut (McSpotlight 1997, p 31). When Dr. Gomez Gonzales’ estimate that between 1 and 2 percent of chickens miss the stun bath in McDonald’s U.S. slaughterhouses (see previous section) is applied to U.S. Department of Agriculture statistics (USDA 2003) for a typical year (e.g. 8,716,099,000 chickens were slaughtered in the U.S. in 2002), it can be concluded that every year, up to 175 million chickens completely miss the stun bath and have their throats cut while they are still fully conscious.

After going through the “killing machine,” birds usually pass by a knife-wielding manual killer, commonly referred to as simply “the killer,” but with such fast-moving lines, it is impossible to ensure that every bird is dead, let alone unconscious, before proceeding to the scald tank.

Scalding

Birds are dipped into the scald tank, which contains scalding hot water, to facilitate feather removal. Heath et al. (1981) determined that sentient birds are, indeed, sometimes scalded. Another survey (Griffiths and Purcell 1984), which examined various chicken processing plants in Australia, also concluded that some birds are “not killed before they reach the scald tank.” At least two studies have concluded that “red-skin” chicken carcasses, commonly found when electrical stunning methods have been used, are caused by a physiological response to heat when live birds enter a scald tank (Heath et al. 1983; Griffiths and Purcell 1984). Perhaps the most compelling evidence that live birds reach the scald tank on a routine basis in the U.S. comes from the USDA itself. On its Food Service Inspection Service (FSIS) Web site and in instructional materials used to train inspectors (FSIS 2001, p 12), the USDA states, “Poultry that die from causes other than slaughter are condemned under the cadaver category. These birds are not dead when they enter the scald vat. When submerged in the water, they drown.” Furthermore, under a U.S. federal regulation (9 CFR, Ch III, Part 381, §381.90) titled “Cadavers,” “carcasses of poultry showing evidence of having died from causes other than slaughter [i.e. in the scald tank] shall be condemned.” According to USDA poultry slaughter statistics for a recent year (2002), more than 3.7 million chickens were classified as “cadavers” and had been either scalded to death or drowned in the scald tanks.

Section II: The Controlled-Atmosphere Killing Model

Improved Welfare

Clearly, electrical stunning methods result in severe welfare problems for billions of birds each year in the U.S. alone. On the other hand, the controlled-atmosphere killing of birds in their transport containers (prior to shackling)—using a mixture of inert gases, such as nitrogen or argon in air with less than 2 percent residual oxygen—has proved to be both far more humane and less likely to cause carcass degradation, two convincing reasons for producers to immediately adopt such systems. Under the most humane controlled-atmosphere killing model, birds are taken directly from the transport vehicles in their crates or modules, which are inserted into a chamber where controlled-atmosphere killing occurs. The dead animals are then shackled, cut, bled, scalded, and eviscerated. At no point during this process do the animals have any chance of experiencing pain or suffering.

The switch from electrical stunning to controlled-atmosphere killing would result in such vast welfare improvements that according to one of the world's foremost experts on the subject (Raj 1998b, p 1), doing so would eliminate the "stress and trauma associated with removing conscious birds from their transport containers, in particular, under the bird handling systems which require tipping or dumping of live poultry on conveyors; the inevitable stress, pain and trauma associated with shackling the conscious birds, i.e. compression of birds' hock bones by metal shackles; the stress and pain associated with conveying conscious birds hanging upside down on a shackle line which is a physiologically abnormal posture for birds; the pain experienced by some conscious birds that receive an electric shock before being stunned (pre-stun shocks); ... the pain and distress experienced by some conscious birds which miss being stunned adequately (due to wing flapping at the entrance to the water bath stunners) and then pass through the neck cutting procedure; [and] the pain and distress associated with the recovery of consciousness during bleeding due to inadequate stunning and/or inappropriate neck cutting procedure." The Canadian Food Inspection Agency (1999a) also recently issued a news release stating that an "advantage of using [controlled-atmosphere killing] for poultry is that it eliminates uncrating and shackling of conscious birds and thus contributes to reduce stress to the birds. The procedure is fast, painless, efficient and there is no risk of recovery from unconsciousness."

The figure on the following page compares electrical stunning to controlled-atmosphere killing and gives an overview of the welfare consequences of each.

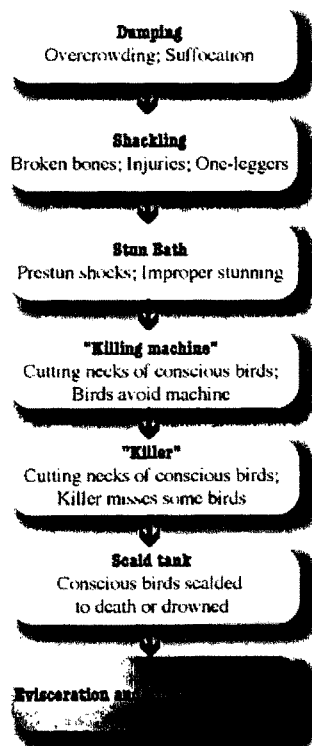
Inert Gases, Such as Nitrogen and Argon, Are the Most Humane

Research shows that inducing anoxia with inert gas mixtures—such as nitrogen or argon in air with no more than 2 percent residual oxygen—which can be breathed, undetected, by animals under the right circumstances, is the most humane controlled-atmosphere killing method available for poultry and can be used to create a non-aversive atmosphere where birds die painlessly. Raj (1994) reported that in one study, researchers observed that 100 percent of the tested hens voluntarily entered a feeding chamber filled with 90 percent argon, where they were killed by the gas without any detrimental effects. Raj (1996, p 593) also found that "... because argon is an inert gas with no taste or odour, most of the turkeys did not detect its presence, and they didn't show any signs of respiratory discomfort before they lost consciousness." And after visiting a chicken slaughterhouse that employed a controlled-atmosphere killing system using inert gases, Duncan (1997 p 9) was compelled to write, "In my opinion, this is the most stress-free, humane method of killing poultry ever developed. The birds are quiet throughout the operation. They remain in the transport crate until dead and the killing procedure itself is fast, painless, and efficient. There is no risk of recovery from unconsciousness."

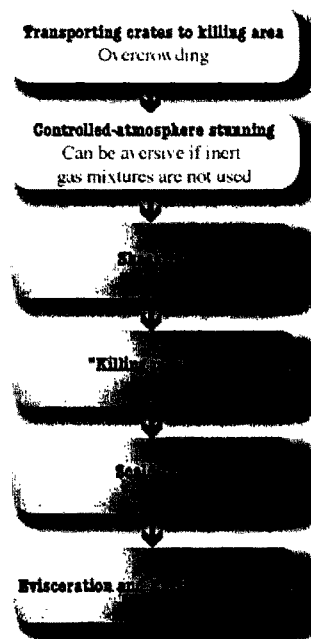
While both nitrogen and argon have been found to be suitable, nitrogen is gaining popularity because it is typically less expensive and easier to distill from atmospheric air than argon. In fact, some plants are able to separate nitrogen from air on their own, enabling them to avoid buying it from external sources. In fact,

even though argon is heavier and easier to contain, nitrogen's relative cheapness has enticed producers in Europe to the point that it has become the standard in poultry slaughterhouses that use gas. In the U.K., the Department for Environment, Food & Rural Affairs (DEFRA) recently amended legislation to allow the use of nitrogen in poultry slaughterhouses, and according to the European Commission (2003, p 288), "[T]here are at least 4 companies in the UK using a predominantly nitrogen based gas mixture for killing chickens and turkeys." In Canada, the Canadian Food Inspection Agency has also approved the use of inert gases to kill poultry (CFIA 1999b).

ELECTRICAL STUNNING MODEL AND POTENTIAL WELFARE CONSEQUENCES



CONTROLLED-ATMOSPHERE KILLING MODEL AND POTENTIAL WELFARE CONSEQUENCES



**NOTE: SHADED BOXES REPRESENT
STAGES WHERE BIRDS ARE DEAD
AND THUS THERE ARE NO WELFARE
CONSEQUENCES**

Carbon Dioxide Can Be Detrimental to Welfare

When inhaled, carbon dioxide has been shown to be highly aversive to humans (Gregory et al. 1990) and birds. Raj (1998a, p 1818) states that “[c]arbon dioxide is an acidic gas and is pungent to inhale at high concentrations. It is also a potent respiratory stimulant that can cause breathlessness before the loss of consciousness. The welfare implication of this is that birds could experience unpleasant sensations either during initial inhalation of carbon dioxide or during the induction phase.” The European Commission’s Scientific Committee on Animal Health and Animal Welfare (1998, p 1) explains that “while CO₂ is able to stun or kill, it is also [an] irritant, for example, to mucous membranes of the nose and mouth due to the formation of carbonic acid.” In fact, in one study, Raj (1994) reports that researchers observed that while 100 percent of tested hens voluntarily entered a feeding chamber filled with 90 percent argon, where they were killed by the gas, fewer than half would even set foot in a chamber containing carbon dioxide. Raj (1996) also found that with a mixture containing high levels of carbon dioxide, turkeys displayed discomfort via head-shaking and gasping. The U.K.’s Department for Environment, Food & Rural Affairs (2001) confirms these findings by reporting that “[o]bservational studies have shown nitrogen and other inert gases to be less aversive to birds than carbon dioxide.”

Other studies confirm that birds, as well as humans, can only tolerate carbon dioxide levels up to 30 percent (Gregory et al. 1990; Raj 1998a). Therefore, if producers insist on using some carbon dioxide, the concentration must not exceed 30 percent, and it must be used in conjunction with inert gases, such as nitrogen or argon in air. Indeed, according to a European Commission draft document (EIPPCB 2003, p 288), this is by no means the optimal concentration as “research during 2001 indicated that the adoption of a gas mixture consisting of 80% by volume nitrogen and 20% by volume argon, is considered to be better than the carbon dioxide-argon mixture from bird welfare and meat quality points of view.”

Close Monitoring Needed to Ensure That Birds Are Killed

The residual oxygen levels in an inert-gas-based system must be carefully maintained at less than 2 percent to ensure rapid brain-function loss, as several researchers have found that trapped air between birds or crates can raise the residual oxygen to levels that can prevent proper killing. Also, in order to ensure that recovery of consciousness does not occur, it is crucial that the birds be killed by the gas, not merely stunned, before being shackled. Studies examining the batch stunning of chickens using various gas concentrations found that many birds rapidly regained consciousness, suggesting that mere stunning may be unsuitable on welfare grounds. Raj and Gregory (1990, p 366) have recommended that “birds should be killed rather than stunned by the stunning gases” and that this “will not only obviate the recovery of consciousness, but subsequent operations such as uncrating and shackling of the birds and neck cutting would be performed more easily on the dead and hence relaxed carcasses.”

Section III: Advantages of the Controlled-Atmosphere Killing Model for Producers

Improved Carcass and Meat Quality

In addition to the welfare benefits, controlled-atmosphere killing also provides producers with improved quality when compared to different types of electrical stunning methods, which are “frequently criticised on ... meat quality grounds” (Raj et al. 1997, p 169). The European Commission’s Scientific Committee on Animal Health and Animal Welfare (1998, p 3) agrees, writing that “[a]nother advantage of gas stunning or gas killing methods, in comparison with electrical stunning, is that they may improve carcass and meat quality.” These improvements include fewer broken bones, less hemorrhaging, reduced bruising, reduced internal and external contamination, improved shelf life and quality, and unimpeded bleed-out rates:

Fewer broken bones, less hemorrhaging, and reduced bruising: Researchers at the University of Bristol (Raj et al. 1997, p 173) compared the carcasses of gas-stunned broilers with those of electrically stunned broilers and concluded that the incidence of broken bones and breast muscle hemorrhaging would be

“substantially reduced by gas killing of broilers.” Raj and Gregory (1991, p 127) also found this to be the case and concluded that “the advantages of gaseous stunning include improved meat quality, fewer broken bones and less muscle haemorrhaging.” Another study at the University of Bristol (Raj et al. 1990, p 725) found that “gaseous stunning of broilers produced relatively better quality carcasses and meat than electrical stunning and therefore may have commercial advantages.” Specifically, gassed broilers had a lower incidence of broken bones and breast- and leg-muscle bruising. The authors suggested that the increased incidence of leg-muscle bruising during electrical stunning was a direct result of shackling live birds. Even industry journals recognize this problem; a recent article in *Poultry* (McGuire 2003, p 2) reports that “[d]uring processing, shackles can be too tight and the hanging of the bird too rough, which causes more severe bruising in the thigh areas.” And the Canadian Food Inspection Agency (1999a) found that “the use of controlled atmosphere stunning in poultry reduces the incidence of broken bones, bruises and haemorrhages in muscle, all of which are commonly associated with electrical stunning.”

Farsaie et al. (1983) report that bruising may be found on up to 25 percent of broilers processed in the U.S., and according to the USDA (2002), in a recent year, almost a million carcasses were condemned. Controlled-atmosphere killing would significantly reduce both these problems, and the resulting reduction in bruising would have important implications for the producer because it would “improve the yield and the value of products” (EIPPCB 2003, p 288) and almost completely eliminate blood stains (Raj 2003).

Reduced internal and external contamination: During electrical stunning, chickens tend to defecate and inhale water during the initial spasm from being electrically shocked. Gregory and Whittington (1992) examined this tendency by including a radioisotope in the stun bath and then looking at carcasses to determine whether internal radioactivity was detected. The results clearly showed that “chickens can and do inhale water during electrical stunning in a waterbath and that no remedy is available at the moment” (p 362). The authors suggest that the respiratory tract could, thus, be contaminated with bacteria from the stun bath, which could leak onto the edible portions of the carcass during evisceration.

When using electrical stunning, chickens commonly enter the scald tank while they are still alive (see “Scalding” section above). When this happens, external contamination is a concern because of live birds’ tendency to defecate in the scald tank. Subsequent birds are then dipped into the contaminated water, which necessitates excessive rinsing with water later down the line.

Furthermore, the dumping of live birds onto the conveyor under the electrical stunning model leads to scratches and wounds because the birds land on each other or otherwise struggle or panic as they try to regain their bearings. Raj (1998b, p 3) speculates that these skin wounds not only reduce the value of the carcass, but “can become a potential site for microbial attachment.”

The controlled-atmosphere killing model would almost completely eliminate all three forms of potential contamination because birds would be killed in their transport containers rather than being dumped and would, therefore, be unable to inhale in the stun bath or defecate in the scald tank. This has significant implications for producers since, according to the USDA (2002), in a recent year, almost 5.5 million chickens were condemned for being contaminated.

Improved shelf life and quality: Raj (1998b, p 3) explains that using inert gases induces anoxia on the cellular level in carcass muscles, which can “change the oxidation/reduction (radox) potentials” and, thus, lead to “increased shelf-life of meat due to a slow rate of development of off-odours ... and discoloration ...” The Canadian Food Inspection Agency (1999a) states that controlled-atmosphere killing “is also reported to produce more tender breast meat than when electrical stunning is used.” Taken together, these statements mean that controlled-atmosphere killing produces better quality meat that lasts longer, in terms of smell and color, than electrically stunned birds.

Unimpeded bleed-out rate: Raj et al. (1997) looked into the concern that the bleed-out rate of controlled-atmosphere-stunned birds is not as good as that of electrically stunned birds and found that after one minute, the differences were “not sufficient to impede the bleeding efficiency of broilers.” A European Commission draft document (EIPPCB 1998, p 287) also reports that gas killing “does not impede blood loss, therefore, residual blood in the carcass meat is low.”

Increased Revenue

In addition to the carcass and meat quality improvements mentioned above, there are additional financial benefits that can be achieved through controlled-atmosphere killing, which result from such factors as increased meat yield; reduced refrigeration, energy, and labor costs; improved worker conditions and safety; and environmental benefits:

Increased meat yield: The controlled-atmosphere killing model results in increased meat yield by reducing the number of broken bones and the amount of hemorrhaging and bruising. Even a small increase in meat yield per bird can lead to a significant increase in revenue. For example, with as little as a 1 percent increase in yield, Raj (1998) estimates that, for a plant that processes 1.3 million broilers per week—estimating the average dressed-carcass weight at 2 kg and the market value at \$2.2 per kg of boneless breast meat—an additional \$950,400 in revenue (or 1.402 cents per bird) can be gained per year.

Reducing the number of dead-on-arrivals, which can be achieved by eliminating dumping and other areas of rough handling that are inherent to the electrical stunning process, will provide yet another source of increased revenue. It is also important to note that the significant rearing costs associated with each bird (i.e., feeding, housing, lighting, transport, etc.) are completely lost when a carcass is condemned or discarded. By increasing meat yield, producers who use controlled-atmosphere killing would be able to recoup these otherwise-wasted costs, providing yet another financial advantage.

Reduced refrigeration and energy costs: Raj et al. (1997) found that controlled-atmosphere killing causes a more rapid pH fall in the carcasses than electrical stunning, resulting in faster carcass-maturation times and enabling early filleting. This has important financial implications, as refrigeration can be significantly reduced, thus, saving on storage, energy, and refrigeration equipment and maintenance costs. The EIPPCB (2003, p 287) also reports that controlled-atmosphere killing results in “[r]educed energy consumption due to reduced refrigeration time and space requirements because it is no longer necessary to mature the carcasses.”

Reduced labor costs: A reduction in bruising and broken bones lowers labor costs by reducing the need for carcass and fillet examination. This is significant, considering that Raj (1998b) estimates that a typical U.S. slaughterhouse that processes 1.3 million broilers per week incurs more than \$248,000 (figure adjusted for inflation from 1995 to 2002) per year in labor costs “associated with carcass handling.” Also, the less problematic shackling of dead birds—as opposed to live, struggling ones—allows for more efficient labor and could reduce the number of shacklers needed to achieve the same rate.

Improved worker conditions and safety: The Canadian Food Inspection Agency (CFIA 1999, p 1) concluded that “[t]he environment for the [personnel] working in the poultry stunning area is also very much improved with the use of controlled atmosphere stunning. Dust is reduced since unconscious birds are placed on the evisceration line.” U.S. poultry slaughterhouse workers attest to the physical dangers of shackling live birds or trying to cut the throats of improperly shackled birds under the electrical stunning model. The use of controlled-atmosphere killing would mean that only dead birds would be shackled, which would completely alleviate these dangers and the frustrations associated with them—improving the physical work environment and reducing injury-related costs and lost time.

Environmental benefits: Improved quality and yield from controlled-atmosphere killing leads to a “reduced by-product destined for disposal as waste,” and “the increase in yield, in turn, leads to a tendency to store more of the slaughterhouse output in conditions which won’t cause spillage or odour problems” (EIPPCB 2003, p 287). Also, reduced contamination means that less water is needed to rinse off carcasses—the electrical stunning model typically uses about 15 liters of water per bird (Raj 2003)—thus, there is less run-off and reduced water-treatment needs.

Section IV: Costs of the Controlled-Atmosphere Killing Model

The initial cost of switching from electrical stunning to controlled-atmosphere killing can be offset and surpassed by gains achieved from improving consumer perception through welfare improvements, improving carcass quality and meat yield, and lowering costs by reducing the need for refrigeration, storage, labor, and environmental cleanup. Raj (1998b, p 4) explains that there are also intangible benefits, that “[i]t will be unrealistic to put a price tag on improved bird welfare, opportunity to develop new process technology and the market lead,” and that the additional revenue through increased meat yield (see “Increased meat yield,” above) “should be considered in calculating the payback period.”

Start-Up Costs

A European Commission draft document on the “Best Available Techniques in the Slaughterhouses and Animal By-products Industries” (EIPPCB 2003) estimates that the total cost for the complete installation of one controlled-atmosphere killing processing line using inert gases is around \$1.3 million (all monetary figures in this paragraph have been converted to U.S. dollars using the exchange rates as of May 30, 2003, and have been adjusted for inflation from 1995 to 2002 using the *Columbia Journalism Review*’s “Dollar Conversion Calculator” Web site). Using figures from Anglia Autoflow Ltd. (www.aaflo.org), one of the leading European manufacturers of controlled-atmosphere killing systems designed to kill birds in transport crates prior to shackling, Raj (1998) broke down the total and estimated that, in order to maintain a line speed of 70,000 birds per day, approximately 240 modules, holding 288 birds each, would be needed, at an approximate cost of \$2,322 per unit or \$557,280 for 240. The controlled-atmosphere killing equipment itself would cost approximately \$387,095, and the loading machinery would cost another \$387,095. It is important to note, however, that with the rapid improvements in equipment technology within this sector, it is expected that these costs would be even lower today (Raj 1998).

According to Anglia Autoflow’s sister company, American Autoflow, Inc., which serves North and South America, the “average price for an in-plant Easyload system fitted with gas stunning; washer; automatic drawer loading and unloading is approximately 1.5 million USD” (Burgos 2003). Ian Taylor, sales director of American Autoflow, also explains (Taylor 2003) that if the source of the live birds is in close proximity to the slaughterhouse, which is often the case, or if the producers already have a “drawer system” in place, as is reportedly the case with some major U.S.-based companies such as Perdue Farms, Inc., then loading modules can be double-shifted at no additional cost, allowing the system to process approximately 128,000 birds per day (two eight-hour shifts running at 8,000 birds per hour). However, if additional modules are required to double-shift the line, Taylor estimates that the added cost would be only about \$350,000 more than the initial \$1.5 million investment. Thus, according to this estimate, which was provided in September 2003, between \$1.5 million and \$1.85 million would be required to install a controlled-atmosphere killing line capable of processing more than 46.7 million birds per year (with two shifts running daily).

Operating Costs

According to the EIPPCB (2003), the estimated operating costs of using approximately 17 liters of gas mixture per bird—with an 80 percent nitrogen, 20 percent argon mixture—are between 58 and 97 cents per 100 birds (0.58 and 0.97 cents per bird). And in a recent article in *WATT Poultry USA*, Ian Taylor from American Autoflow estimates the gas cost of stunning to be between 0.5 and 0.75 cents per bird. For

a line that processes 128,000 birds per day, these figures translate to between \$640 and \$1,241 per day. Once the benefits of using controlled-atmosphere killing and the current operating costs of using electrical stunning are subtracted, the costs of controlled-atmosphere killing are relatively insignificant. Raj (1998b) puts it into perspective when he describes the cost of controlled-atmosphere killing as “reasonable and affordable to improving welfare of billions of poultry slaughtered for human consumption.”

Payback Period

Considering the increased revenue created by improving meat quality and lowering operating costs, the initial costs of switching to a controlled-atmosphere killing system can be recouped quickly. Costs will be offset in an even shorter time period for plants that are using electrical stunning equipment that must be replaced anyway. Based on the estimates above, a plant that installs a controlled-atmosphere killing line at a cost of either \$1.5 million (without extra modules) or \$1.85 million (with extra modules), with a capacity to slaughter 128,000 birds per day (46,720,000 annually), would have yearly operating costs of as little as \$233,600 and a yearly increase in revenue of \$655,014 ($46,720,000 \times 1.402$ cents) from increased meat yield. The added revenue from increased meat yield alone would pay for the controlled-atmosphere killing line in about 3.5 years if extra modules were not needed and in about 4.5 years if extra modules were required.

Once payback has been achieved, increased revenue can be expected at a rate of \$9,020 per million birds (\$14,020 in increased meat yield revenue minus \$5,000 for the cost of gas). For a line capable of processing 128,000 birds per day, once the initial costs of the controlled-atmosphere killing system are recovered, this translates to an additional \$421,414 in profit annually from improvements in meat yield alone when compared to an electrical stunning system, and these gains would continue for the life of the equipment. It is also important to note that when elements of the equipment have to be replaced, the subsequent costs will be significantly less than the initial purchase since certain components (e.g. modules) can have greater longevity than others.

Again, it must be emphasized that these payback periods have been estimated using increased meat yield alone, and when all the other benefits are factored in, producers using controlled-atmosphere killing systems will begin to realize significant economic savings over electrical stunning systems well before the 3.5- to 4.5-year mark. In fact, Raj (2003) estimates that, taking all the sources of increased revenue discussed above into account, the initial costs of implementing a controlled-atmosphere killing system could be recouped within a year.

The following figure summarizes the costs and benefits of switching to a controlled-atmosphere killing system using inert gases in which birds are killed in transport containers prior to being shackled:

Costs and benefits of switching from electrical stunning to controlled-atmosphere killing (CAK) system when current equipment is replaced

COSTS	
Modules	
CAK equipment	
+ Loading machinery	
<hr/>	
CAK equipment subtotal	
- Replacement cost of current equipment	
<hr/>	
Subtotal	
CAK equipment subtotal	
Replacement cost of current equipment	
<hr/>	
Subtotal	
CAK equipment subtotal	
Replacement cost of current equipment	
<hr/>	
Subtotal	

Section V: Conclusion

It is clear that electrical stunning methods used in the U.S. do not lead to humane deaths for chickens. During this process, chickens endure the stress and pain of being dumped onto a crowded conveyor, where they sometimes suffocate; being hung upside-down on shackles and, sometimes, being ripped from the shackles when they are improperly hung; and experiencing painful prestun shocks from the stun bath.

Most birds are immobilized from the stun bath but fully conscious when they have their necks cut, and many are scalded alive. Controlled-atmosphere killing methods using mixtures of inert gases, preferably 80 percent nitrogen and 20 percent argon, help significantly alleviate these welfare problems and, at the same time, improve carcass quality and revenue for the producer. The initial costs for a complete controlled-atmosphere killing line can be recovered quickly—within 3.5 to 4.5 years based on improvements in meat yield alone and much faster as other benefits are realized. After payback, producers will experience even greater savings and will continue to profit at an accelerated rate as a result of the switch.

Several systems that use controlled-atmospheres to kill birds with inert gases in transport containers prior to shackling are currently available for commercial use, and a number of large-scale systems have already been implemented in Europe, and even North America, with great success. The U.K.'s Animal Welfare Minister Elliot Morley put it best when he explained that adopting a controlled-atmosphere killing model for poultry has "the double advantage of offering the industry an opportunity to boost welfare standards and cut costs at the same time" (DEFRA 2001). Considering the many problems inherent to electrical stunning methods and the resulting animal suffering—especially in the U.S., where settings are kept disturbingly low—there is no reason for producers to delay researching and implementing a controlled-atmosphere killing system if industry claims that animal welfare is a priority are to be taken seriously.

This report was completed on October 8, 2003. Please direct any questions or comments to Cem Akin at 757-622-7382, extension 1492, or email CemA@peta.org.

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September 2, 2003

David Novak, CEO
Yum! Brands, Inc.

3 pages via fax: 502-874-8315

Dear Mr. Novak,

Thank you for Jonathan Blum's letter of August 20. It is unfortunate that no one from Yum! Brands (Yum) was willing to meet with Dr. Gross while he was in Louisville.

The reason for this letter is to express our dismay at the departure of Dr. Joy Mench and Ms. Adele Douglass from your farmed-animal welfare panel. While the panel does still include Drs. Ian Duncan and Temple Grandin, three of the five positions are now filled by industry representatives or apologists who either do not have animal welfare as a priority or have such strong ties to the industry that they will be unlikely to push for real reform. It is also disturbing that you have four additional KFC representatives involved, considering KFC's track record to date on these issues. On a panel of this type, of course, one person can scuttle real progress.

As I'm sure you must concede, these changes, together with your decision not to take the best science-based counsel of Drs. Grandin and Duncan, mean that your audit process would not be able to enforce real improvements if you were ever to require them. Based on the panel's new composition, as well as the horrific abuse discovered at your 2001 "supplier of the year" in the United Kingdom, we are modifying what we are asking KFC to do to eliminate the worst abuse of chickens.

In order for PETA to end its campaign, we would now need KFC to adopt the "ACS Plus Three":

The "Animal Care Standards" (ACS) developed by Dr. Mench, Ms. Douglass, and other experts have the support of Drs. Duncan and Grandin, who still sit on your panel. They are available online at the "Humane Farm

Animal Care” Web site, and I have mailed hard copies of the ACS to you, Ms. Bachelder, and Mr. Blum.

Please note that the ACS do not guarantee “humane” treatment of chickens and are not “free range” guidelines. These guidelines are designed in such a way that even the largest chicken factory farms and slaughterhouses can easily implement them. They do not require that chickens be given access to fresh air or sunlight or that they be allowed to raise their own young or even build nests. They merely eliminate egregious neglect and abuse on farms and in slaughterhouses. That said, the ACS would represent a real improvement, and they would prohibit some of the worst abuses.

The ACS does leave a few of our key and minimum demands incompletely addressed, despite the overwhelming scientific support for all our demands on animal-welfare grounds, as well as the economic support for them from a business standpoint, because the ACS were designed to be an option for small farms that might, unlike KFC suppliers, find it financially impossible to purchase new equipment or dictate breeding programs. Therefore, in addition to the need for KFC to adopt the ACS, we recommend the following:

- 1) Phase in humane gas killing of chickens, as described in previous correspondence, which is supported by KFC’s panelists
- 2) Phase in humane, mechanized chicken-catching, as previously described and as supported by your panelists
- 3) Phase in a breeding program for leaner, stronger, and less aggressive chickens, as previously described and as supported by your panelists

The ACS program represents a minimum standard and the program is equipped and designed to audit for stricter standards, so you can easily require the “ACS plus three” requirements of your suppliers under ACS guidance and enforcement so that you would not have to run your own independent program.

On your new Web site, you state that “Yum! Brands believes treating animals humanely and with care is a key part of our quality assurance efforts.” We would like to schedule a meeting to discuss this new approach and to hear your ideas about what would be a reasonable timeframe for the adoption of the ACS plus three. I would also like to point out once again that as soon as KFC pledges to adopt PETA’s recommendations internationally—not overnight, but within a reasonable timeframe—we will gladly call off our campaign against KFC.

Please contact me at your convenience to arrange a meeting to discuss these new recommendations.

I can be reached at 757-622-7382, extension . . . , or via e-mail at
Thank you for your time and attention to this important matter.

Sincerely,

Bruce G. Friedrich
Director of Vegan Outreach

cc: Jonathan Blum, Yum! Brands
Cheryl Bachelder, KFC
Russell Simmons, Chair, Hip Hop Summit Action Network
(HSAN)
Dr. Benjamin Chavis Muhammad, President & CEO, HSAN
Dr. Joy Mench, University of California, Davis
Dr. Temple Grandin, Colorado State University
Dr. Ian Duncan, University of Guelph
Adele Douglass, American Humane Association
Dr. Steven J. Gross, PETA



Department of Justice

STATEMENT

OF

**MCGREGOR W. SCOTT
UNITED STATES ATTORNEY
EASTERN DISTRICT OF CALIFORNIA**

BEFORE THE

**UNITES STATES SENATE
COMMITTEE ON THE JUDICIARY**

CONCERNING

ANIMAL RIGHTS: ACTIVISM VS. CRIMINALITY

PRESENTED ON

MAY 18, 2004

STATEMENT OF
MCGREGOR W. SCOTT
UNITED STATES ATTORNEY
EASTERN DISTRICT OF CALIFORNIA

BEFORE THE

UNITES STATES SENATE
COMMITTEE ON THE JUDICIARY

Good afternoon Mr. Chairman, members of the committee. I am pleased to have the opportunity to appear before you today to discuss the threat posed by animal enterprise terrorism and eco-terrorism, and the efforts by the Department of Justice to meet this threat.

Animal enterprise terrorism and eco-terrorism is just that: terrorism. Whether intended to cause the destruction of property or, increasingly, harm to persons, eco-terrorism poses a significant threat to public safety in our country. Animal enterprise terrorism and eco-terrorists commit arson, trespass, burglary, extortion, and aggravated assault. They vandalize and destroy property. The FBI has reported that since 1996, these terrorists have committed more than 1,000 acts of terrorism, causing more than \$100 million in damage. These crimes have included vandalizing an animal experimentation lab in California, burning a meat processor in Oregon, sabotaging logging equipment in Indiana and Washington, "liberating" more than 5,000 mink at a fur farm in Michigan, raiding a vaccine research facility in Wisconsin, setting fire to a ski resort in Colorado, and fire bombing BLM centers in Oregon and California. Increasingly, these terrorists are targeting not only property, but people as well, threatening violence against individuals who have done nothing more than work for or with a particular company or institution. Make no mistake about it, the individuals who commit these crimes are hardcore, dangerous, and well-funded criminals whose weapons are firebombs, timed detonation devices,

Molotov cocktails, and poison. A recent review of one group's website revealed how-to guides on "The politics and practicalities of arson" and "What to do if a federal agent tries to question you." These groups are quick to point out that no one has yet been killed in one of their attacks, as if that fact somehow excuses their other criminal activity.

I should note that we are well aware that millions of Americans belong to legitimate animal welfare and animal protection groups. They speak for a longstanding tradition in this country that abhors cruelty to animals. They advance their cause and seek reforms by lawful means, in legislative votes, court decisions, and ballot initiatives. These advocates for the decent treatment of animals should not be confused with individuals involved in animal enterprise terrorism. This latter movement can be traced back to the early 1980s and the efforts of Earthfirst, an environmental group known for tree-spiking which involved driving metal spikes into trees to prevent them from being cut or milled into lumber. In the late 1980s, the movement became even more radicalized with the emergence of groups like the Earth Liberation Front ("ELF") and the Animal Liberation Front ("ALF"). ELF became a household name in 1998 when it claimed responsibility for a fire at the Vail ski resort that resulted in more than \$12 million in damage. ELF has also targeted housing developments, logging trucks, office buildings, and university facilities. ALF is closely related to ELF and is known for damaging and sabotaging facilities that house animals used for research and other purposes. Among ALF's self-described "successes" include causing millions of dollars in damage on the campus of the University of California, Davis in 1987, setting fire to a U.S. Department of Agriculture building in Olympia, Washington in 1998, and causing a \$1 million fire at a New Mexico primate lab in 2001. Another group, ironically known as "The Justice Department," has its roots in Great Britain and

has claimed responsibility for sending envelopes containing razor blades dipped in rat poison to 80 researchers, hunting guides, and others in England, Canada, and around the U.S.

It is important to note that the infamous Unabomber, who was successfully prosecuted in my own district, admitted during his trial that he had been in contact with eco-terrorists and identified at least one of his targets after reading about him in the Earthfirst journal.

In short, the animal enterprise and eco-terrorism problem is significant, wide-spread, and growing, and the Department of Justice takes it very seriously. Federal, state, and local authorities are diligently working together to investigate, prosecute, and whenever possible, prevent terrorist acts committed by these groups. Like terrorism generally, animal enterprise and eco-terrorism is a priority for the Department of Justice and the U.S. Attorneys around the country. Just as we have stepped up our efforts to combat terrorism abroad, we must also recognize the growing danger presented by animal and eco-terrorism at home.

The Department of Justice, including both the FBI and the U.S. Attorneys' offices, have responded to the terrorism threat by significantly increasing the number of resources devoted to counterterrorism investigations and prosecutions. Joint Terrorism Task Forces (JTTFs) have been established in dozens of cities across the country in an effort to enhance cooperation among local, state, and federal counterterrorism assets. During the past few years, the FBI has made numerous arrests and the U.S. Attorneys have successfully prosecuted several eco-terrorism cases, including an arson and extortion case in Phoenix, arson cases in New York, and Michigan, and an animal enterprise terrorism case in Wisconsin. Despite these successes, however, investigating and prosecuting these cases is not easy. In fact, several cases remain pending with

no arrests or indictments, including investigations into arson at BLM facilities in California and Oregon.

One of the difficulties in prosecuting these cases is the inadequate scope of 18 U.S.C. Section 43, which makes it a crime to travel in interstate or foreign commerce or use the mail for the purpose of causing damage to an animal enterprise. The current animal enterprise terrorism statute is insufficient to address the threat posed by terrorist acts committed against research laboratories, businesses, and other entities that use animals. At present, the statute applies only when there is "physical disruption" to the functioning of the enterprise that results in damage to or loss of property. Enterprises, however, have been harmed economically by threats, coercion and other methods of intimidation -- often directed at employees, customers, or vendors of an animal enterprise -- that do not fall within the existing criminal prohibition. For example, ALF's Stop Huntingdon Animal Cruelty ("SHAC") campaign has targeted an animal testing company called Huntingdon Life Sciences. ALF's strategy seems to include not only attacks on Huntingdon itself, including damaging Huntingdon property and the homes of Huntingdon employees, but has also included attacks or threats against Huntingdon's insurance carrier (Lloyds), banker (Bank of America), and even companies that merely trade Huntingdon's stock (Schwab and eTrade). Another example of ALF targeting a secondary or collateral entity is the recent bombing of The Shaklee Corporation, a California biotech firm. Even though Shaklee is generally considered to be a relatively animal-friendly company, its associations with other companies, including Huntingdon, has made it a target.

While animal terrorists are increasingly targeting not only animal enterprises themselves, such as research facilities and companies that engage in animal testing, but also anyone who is

believed to be engaged in the provision of services to such animal enterprises, federal law does not currently equip the Department with the necessary tools to effectively prosecute the perpetrators of such conduct. The Department therefore supports amending the animal enterprise terrorism statute to prohibit the use of threats, vandalism, property damage, trespass, persistent and harassing communications, intimidation, or coercion in order to cause economic disruption to an animal enterprise. This new offense is needed to address unambiguously harassing and threatening conduct directed at animal enterprises as well as their employees, customers, or vendors, conduct that currently causes substantial economic harm.

Additionally, the current penalties for those who violate the animal enterprise terrorism statute are inadequate and may fail to deter much of the criminal conduct prohibited by current law. For example, in the absence of death or serious bodily injury, those who perpetrate animal enterprise terrorism are now eligible for a maximum of three years in prison under the statute. In many cases, however, such a penalty does not reflect the gravity of the offense, and the Department therefore supports increasing the existing penalties for animal enterprise terrorism in those cases where terrorists cause substantial economic damage. If an animal terrorist, for example, causes millions of dollars in economic damage to an enterprise, he or she should be eligible for more than three years imprisonment.

Finally, the Department supports adding the animal enterprise terrorism statute as a predicate for electronic surveillance and monitoring. Law enforcement agents currently possess the authority to conduct electronic surveillance - by petitioning a court for a wiretap order - in the investigation of many terrorism crimes and ordinary, non-terrorism crimes, such as drug crimes, mail fraud, passport fraud, etc. However, current law does not allow investigators to conduct

electronic surveillance when investigating animal enterprise terrorism. Such surveillance would be helpful in preventing this type of terrorism and should be allowed when investigators have probable cause to believe that an individual is committing, has committed, or is about to commit a violation of the animal enterprise terrorism statute. Given the serious and often violent nature of animal enterprise terrorism, the Department urges Congress to correct this deficiency in current law.

In conclusion, animal enterprise and eco-terrorism poses a serious threat to the safety and security of our fellow citizens. Combating this threat is a priority for the Department of Justice, and in order to win this battle, federal prosecutors must have every tool necessary to effectively prosecute this criminal activity. As always, the Department stands ready to work with Congress to ensure that our efforts are successful. In particular, the Department looks forward to working with this Committee in the weeks and months to come to improve the animal enterprise terrorism statute.

Again, thank you for the opportunity to testify on this very important topic. I look forward to your questions.

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Southern Poverty Law Center

From Push to Shove

Radical environmental and animal-rights groups have always drawn the line at targeting humans. Not anymore.

A Chicago insurance executive might seem like one of the last people who'd be opening a letter with this succinctly chilling message: "You have been targeted for terrorist attack."

But that's what happened last year, when a top official at Marsh USA Inc. was informed that he and his company's employees had landed in the crosshairs of an extremist animal rights group. The reason? Marsh provides insurance for one of the world's biggest animal testing labs.

"If you bail out now," the letter advised, "you, your business, and your family will be spared great hassle and humility."

That letter — and the harassment campaign that followed, after Marsh declined to "bail out" — was another shot fired by Stop Huntingdon Animal Cruelty (SHAC).

This British-born group, now firmly established in the United States, is waging war on anyone involved with Huntingdon Life Sciences, which tests drugs on approximately 70,000 rats, dogs, monkeys and other animals each year. In the process, SHAC is rewriting the rules by which even the most radical eco-activists have traditionally operated.

In the past, even the edgiest American eco-warriors drew the line at targeting humans. They trumpeted underground activists' attacks on businesses and laboratories perceived as abusing animals or the environment — the FBI reports more than 600 incidents, causing \$43 million in damage, since 1996.

But spokespeople for the two most active groups in the U.S., the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF), have always been quick to claim that their underground cells have never injured or killed any people.

Since 1999, however, members of both groups have been involved with SHAC's campaign to harass employees of Huntingdon — and even distantly related business associates like Marsh — with frankly terroristic tactics similar to those of anti-abortion extremists.

Employees have had their homes vandalized with spray-painted "Puppy killer" and "We'll be back" notices. They have faced a mounting number of death threats, fire bombings and violent assaults. They've had their names, addresses and personal information posted on Web sites and posters, declaring them "wanted for collaboration with animal torture."

When cowed companies began responding to the harassment by pulling away from Huntingdon, many radical environmentalists cheered — even when SHAC's actions clearly went over the "nonviolent" line.

Still, the ELF and ALF insist that they remain dedicated to what their spokespeople describe as nonviolent "economic sabotage," such as tree-spiking and arson. They vigorously deny the label that increasingly sticks to them: "eco-terrorist."

Spokespeople continue to chant the public-relations mantra that the ALF's David Barbarash invoked again on National Public Radio this January: "There has never been a single case where any action has resulted in injury or death."

SHAC's escalating violence is not unique. North America's most active and widespread eco-radicals — the ELF and ALF took credit for 137 "direct actions" in 2001 alone — have clearly taken a turn toward the more extreme European model of activism. The rhetoric has begun to change along with the action.

Reached by the *Intelligence Report*, SHAC-USA's Kevin Jonas — a former ALF spokesman — was unusually frank

about the lengths to which the new breed of activists will go.

"When push comes to shove," Jonas said, "we're ready to push, kick, shove, bite, do whatever to win."

'Igniting the Revolution'

The far left has long been skirting the edge. In the 1980s, the standard-bearer of the movement was EarthFirst!, a radical group inspired by the novels of Edward Abbey, who romanticized a life of "monkey-wrenching," or sabotage, to protect the environment from rapacious corporations and developers.

Using the model of "leaderless resistance" long advocated by white supremacist tactician Louis Beam — small, independent underground cells carrying out actions, with no hierarchy for law enforcement to go after — EarthFirst! brought "direct action" to the forefront of the environmental movement.

The most controversial of EarthFirst! techniques was tree-spiking, which involved pounding metal spikes into trees to prevent them from being cut or milled into lumber. Typically, tree-spikings were accompanied by warnings designed to cut down on the possibility of injuring or killing timber workers.

But timber companies pointed out that some of the spikes would remain in trees long after the warnings had been forgotten, and said the technique put loggers and sawmill workers at risk of severe injury or even death. Such tactics resulted in the first references to environmentalists as terrorists.

Responding to criticism in the early 1990s, EarthFirst! members began to ponder a more moderate approach. This did not sit well with radicals, who left to found the ELF in Brighton, England, in 1992.

In its video, "Igniting the Revolution," the ELF says it realized "that to be successful in the struggle to protect the Earth, more extreme tactics must be utilized. Thus the Earth Liberation Front was born."

Coming to America

It wasn't until 1998, when one of the ELF's underground cells burned down a major part of a new ski resort near Vail, Colo., that the group became a household name. The fire caused a whopping \$12 million in damage and put eco-radicalism back in the headlines.

But news reports failed to note this was not a homegrown movement. The ELF, in fact, is an outgrowth of the European animal-rights movement more than American environmentalism. Its closely linked predecessor, the ALF, got its start in Britain in 1976 before crossing the Atlantic Ocean.

And while U.S. environmental activists still have a largely positive image, with the Sierra Club's peaceful lobbying efforts setting the tone in most people's eyes, activists of the British ALF and its continental cohorts have given the European movement a very different reputation.

Eco-activists there are seen by many as dangerous and reckless criminals — and they often live up to the billing, as the SHAC campaign (along with letter bomb attacks that have maimed one secretary and injured a furrier and his 3-year-old daughter) so vividly demonstrates.

In February 2001, Huntingdon's managing director in Great Britain, Brian Cass, was badly beaten outside his home by three masked assailants swinging baseball bats. Shortly after the attack, British animal rights activist David Blenkinsop, a friend of SHAC-USA's Kevin Jonas, was arrested and sentenced to three years in prison for the assault.

At around the same time, Andrew Gay, Cass' marketing director, was attacked on his doorstep with a spray that left him temporarily blinded, writhing on the ground in front of his wife and young daughter.

Ronnie Lee, one of the British founders of the ALF, applauded the beating of Cass. "He has got off lightly," Lee said. "I have no sympathy for him."

Joining in the jubilation were some American eco-radicals.

"If it happens and it works," Last Chance for Animals boss Chris DeRose said of attacks like the Cass beating, "then that's great."

A Growing Radicalism

When longtime ELF spokesperson Craig Rosebraugh was called to testify before Congress about domestic terrorism this February, he invoked the Fifth Amendment with gusto. But Rosebraugh did answer written questions from a congressional subcommittee, and he didn't mince words.

Asked whether he feared an ELF action could one day kill someone, Rosebraugh sounded a lot like Ronnie Lee.

"No," he wrote, "I am more concerned with massive numbers of people dying at the hands of greedy capitalists if such actions are not taken."

Connections between the ALF and ELF run deep. From the start, they made pledges of solidarity, and they clearly shared a coterie of hard-line activists. They were also structured similarly, with a handful of activists designated as spokespeople who would announce and encourage "direct actions."

Essentially, anyone who carried out one of these actions — whether or not they were acquainted with the groups' aboveground spokespeople — became, in effect, a member.

The structure is remarkably similar to that of the so-called Army of God, a violent anti-abortion "group" that is "joined" by simply carrying out an attack and claiming credit. Although there is no real "membership," these groups can appear large because every attack undertaken in their name generates significant publicity.

At the Hilton, Violence is Cheered

Rosebraugh signed on to the movement after spending a night in jail with a prominent ALF activist in 1997. Eleven weeks later, he delivered his first message on behalf of the ALF: Activists had broken into a mink farm and released hundreds of animals, costing the business some \$300,000.

The next year, Rosebraugh switched to the ELF, proudly announcing the Vail arson on the ALF's Web site. (The ELF didn't set up its own site until 2001.)

To this day, the ELF has much more in common — sharing both members and tactics — with the ever-more-radical ALF than with any other environmental group in the U.S.

ELF activists like Rosebraugh are regularly invited to speak at the animal rights conference held every year in the Washington, D.C., area on the week of July 4. The event is funded by several animal-rights groups, the most prominent of which are People for the Ethical Treatment of Animals, or PETA, and the more moderate Humane Society of the United States.

The conference setting is surprisingly highbrow, held for the past two years in the marble-clad McLean Hilton, which employs a well-known Vegan chef. But the discussions are down and dirty, dealing forthrightly with the role of violence in the fight for animal rights. At last year's conference, PETA's Bruce Friedrich was candid enough.

"If we really believe that animals have the same right to be free from pain and suffering at our hands," Friedrich told a panel, "then of course we're going to be blowing things up and smashing windows. ... I think it's a great way to bring about animal liberation, considering the level of suffering, the atrocities. I think it would be great if all of the fast-food outlets, slaughterhouses, these laboratories, and the banks that fund them, exploded tomorrow.

"I think it's perfectly appropriate for people to take bricks and toss them through the windows. ... Hallelujah to the people who are willing to do it."

The assembled activists applauded. And as they milled around between speeches and panels, there was still more evidence that the edge of American eco-advocacy is becoming even edgier.

Representatives from the ALF, ELF and SHAC — all of whom claim to be independent groups — shared a table, handing out their pamphlets and T-shirts. On the back of one of the shirts was a typical slogan: "Words Mean Nothing ... Action is Everything!"

'Devastate to Liberate'

The terrorist attacks of Sept. 11, 2001, did not dampen the enthusiasm of America's eco-radicals for direct action. But something did change when those attacks brought down the World Trade Center: Americans' tolerance for anything that smacks of terrorism.

So when the ALF set a \$1 million fire at a primate lab in New Mexico on Sept. 20, and when an ELF cell set a

University of Minnesota genetics lab ablaze this Jan. 29, corporate groups, members of Congress, conservative commentators and the FBI joined in a chorus decrying the acts as "eco-terrorism."

The targets of these acts couldn't have agreed more.

"These are clearly terroristic acts," said Charles Muscoplat, dean of agriculture at the University of Minnesota. "Someone could get hurt or killed in a big fire like we had."

Activists continued to insist that the eco-terror label was "ludicrous," and that law-enforcement officials were engaged in a witch hunt cheered on by corporate interests.

"I mean, what was the Boston Tea Party," ALF spokesman Barbarash asked rhetorically on NPR, "if not a massive act of property destruction?"

Barbarash went on: "Property damage is a legitimate political tool called economic sabotage, and it's meant to attack businesses and corporations who are profiting from the exploitation, murder and torture of either humans or animals, or the planet. ... [T]o call those acts terrorism is ludicrous."

Their case was bolstered in June, when a San Francisco jury found that law-enforcement officials (including three FBI agents) violated the civil rights of EarthFirst! activists Judi Bari and Darryl Cherney — to the tune of \$4.4 million in damages.

Bari and Cherney were on their way to an EarthFirst! rally in 1990 when a pipe bomb exploded in Bari's Subaru station wagon. Authorities claimed that the two were planning to use the bomb, but Bari and Cherney consistently denied any knowledge of the explosives, saying they had been falsely pegged as eco-terrorists and in fact were the victims of an assassination attempt.

Though the Bari/Cherney verdict was a setback for those decrying "eco-terrorism," the similarity between eco-radicals' methods and those of more stereotypical "terrorists" has made the comparison seem natural to more and more observers. The increasingly inflammatory rhetoric of the groups hasn't helped.

Last year, the ELF put up two new manuals on its Web site — "Setting Fires With Electrical Timers: An Earth Liberation Guide" and "Arson Around With Auntie alf." An ELF communiqué went even further, saying the group was now targeting "FBI offices and U.S. federal buildings," "liberal democracy" and even "industrial civilization" itself.

For its part, while it advises non-violence, the ALF's "Beginner's Guide to Direct Action for Animal Liberation" opens with the slogan, "Devastate to Liberate."

The booklet goes on to offer handy tips for relatively mild sabotage — gluing locks, spray-painting slogans and threats, smashing windows, "rippin' shit up" — but it also includes easy-to-follow instructions for "a few simple incendiary devices" like Molotov cocktails.

A more detailed "ALF Primer" has three single-spaced pages devoted to arson. "As dangerous as arson is," the primer advises, "it is also by far the most potent weapon of direct action."

SHAC Ups the Ante

Meanwhile, SHAC was teaching other potent lessons — and getting results that have only spurred eco-radicals on.

Last year, Barclay's Bank in the United Kingdom pulled its financing of Huntingdon Life Sciences, saying it "couldn't guarantee the safety" of its employees. Charles Schwab, an American financial firm, also pulled out after protesters occupied its offices in Birmingham, England.

When Huntingdon moved to the U.S. last year, hoping to escape the wrath of U.K. activists, the violence didn't let up. SHAC-USA's Web site boasted that a company vice president here "was visited several times, had several car windows broken, tires slashed, house spray painted with slogans. His wife is reportedly on the brink of a nervous breakdown and divorce."

In July 2001, a related group, "Pirates for Animal Liberation," took responsibility for trying to sink the private yacht of a Bank of New York executive to protest the bank's connection with Huntingdon.

The Stephens Group, an investment firm in Arkansas, was subjected to a campaign of harassment after announcing

a \$33 million loan to Huntingdon. After backing out this February, CEO Warren Stephens said the company had been "aware of the activists, but I don't think we understood exactly what lengths they would go to."

SHAC-USA rejoiced along with its allies in the ALF and ELF.

"If we can push this domino down," Kevin Jonas told *US News & World Report*, "there is no domino we can't push down."

Targeting Scientists, and Others

Scientists have been increasingly targeted — with similar success. In July, Dr. Michael Podell halted his AIDS studies and resigned from Ohio State University, giving up a tenured position and a \$1.7 million research project.

Podell, who was using cats to study why drug users seem to succumb more quickly to AIDS, received nearly a dozen death threats after PETA put the experiment on its "action alert" list. Podell was sent a photograph of a British scientist whose car had been bombed. "You're next" was scrawled across the top of the photo.

The use of animals in research has decreased in the last few decades, according to government estimates — and the use of cats has dropped a whopping 66 percent since 1967. But scientists say that some research, like Podell's, cannot be done with computer modeling or with human subjects.

"It's a small number of animals to get information to potentially help millions of people," Podell told *The New York Times*.

But that argument did not hold water with PETA, or with the local protest group that sprung up in Columbus. Eventually, they wore down Podell.

"Scientists tend to be good targets," Frankie Trull, president of the Foundation for Biomedical Research, which promotes "humane and responsible" animal testing, told the *Intelligence Report*. "Their temperament is such that they don't really fight back. The ALF is like the bully in the schoolyard for them."

Pumped up by their victories, eco-radicals have made it clear that their agenda is broadening in a big — and potentially dangerous — way.

If President Bush expands the nuclear-power industry, said a spokesperson for SHAC-USA, that industry will be targeted next. The ultimate target, as the ELF says in a video, is nothing short of "the entire capitalist system."

The Justice Department

While SHAC sets a new standard for eco-terrorism, another British import is making American and Canadian authorities even more nervous.

Since it sprang up in 1993, the so-called Justice Department has claimed responsibility for hundreds of violent attacks in the U.K. With an underground cell structure similar to those of the ALF and ELF, the Justice Department has made creative use of letter bombs, which have injured several people, and sent out scores of envelopes rigged with poisoned razor blades.

The *London Independent* called the Justice Department's attacks "the most sustained and sophisticated bombing campaign in mainland Britain since the IRA was at its height."

In January 1996, after the group became active in North America, the Justice Department claimed responsibility for sending envelopes with blades dipped in rat poison to 80 researchers, hunting guides and others in British Columbia, Alberta and around the United States.

The blades were taped inside the opening edge of the envelopes, poised to cut the fingers of anyone opening the letters.

"Dear animal killing scum!" read the note inside. "Hope we sliced your finger wide open and that you now die from the rat poison we smeared on the razor blade." The letter signed off, "Justice Department strikes again."

Authorities in Great Britain have suggested that Keith Mann of the ALF currently serving an 11-year prison sentence in Britain, founded the Justice Department, although that has not been proven.

A Taste of Fear

Just as EarthFirst! ultimately became too "tame" for the eco-saboteurs who formed the ELF, groups like the Justice Department seem to attract frustrated activists who don't want to hold the line against harming humans. The existence of such violent spinoffs, including the Animal Rights Militia, allows ELF and ALF to continue claiming ethical purity by way of comparison.

How do these groups defend their methods? "If the animals could fight back," says the Justice Department, "there would be a lot of dead animal abusers already."

The group's fact sheet — posted on an ALF Web site — makes it clear that the Justice Department thinks of itself as a more extreme version of the ALF.

"The Animal Liberation Front achieved what other methods have not while adhering to nonviolence," the Justice Department manifesto reads. "A separate idea was established that decided animal abusers had been warned long enough. ... [T]he time has come for abusers to have but a taste of the fear and anguish their victims suffer on a daily basis."

A similar thought occurred to one of America's legendary terrorists, Ted Kaczynski. And the connection is more than philosophical.

During his trial, Kaczynski admitted that he was in contact with EarthFirst! during his Unabomber days. In fact, he found at least one of his targets — Thomas Mosser, a New Jersey advertising executive, who was killed instantly when he opened a package from the Unabomber — by reading about Mosser's firm in the *EarthFirst!* journal.

In his manifesto, Kaczynski sounded for all the world like an eco-extremist as he took credit for Mosser's violent death: "We blew up Thomas Mosser last December because he was a Burston-Marsteller executive. Among other misdeeds, Burston-Marsteller helped Exxon clean up its image after the Exxon Valdez Incident."

Officials noted that Kaczynski misspelled the company's name — it should be Burson, not Burston — precisely the same way that EarthFirst! did. They also noted that, as reported in the

Washington Post, the *EarthFirst!* journal got it wrong: Burson-Marsteller "never worked for Exxon on the spill." Thanks to incorrect information from EarthFirst!, Mosser was killed for something his company never did.

A Murder in the Netherlands

Frustration with the slow pace of nonviolent change appears to be epidemic in the movement. In September 2001, ALF co-founder Ronnie Lee told *Jane's Intelligence Review*, "So far no one on the other side has ever been seriously harmed or killed. But that may now change."

It didn't take long for Lee to be proved right. This May, as the debate over "eco-terrorism" raged in the United States, an apparent "eco-assassination" in Europe sent shockwaves through the environmental activists and their targets.

Less than two weeks before voters in the Netherlands would choose a new government, animal-rights activist Volkert van der Graaf allegedly pumped six bullets into Pim Fortuyn, a right-wing anti-immigration candidate for prime minister. Van der Graaf may have been enraged by Fortuyn's support of pig farmers in a debate with animal rights activists.

Fortuyn's death at the hands of a veteran activist spawned a wave of "I-told-you-so" editorials in European newspapers, which have sharply criticized the escalating violence of radical activists in recent years, warning that murder was the next step.

Fortuyn, a dog lover whose environmental views were generally more moderate than his hard-right stance on immigration, had expressed similar exasperation earlier in the campaign, telling the green group Milleudéfense, "I'm sick to death of your environmental movement."

Could eco-activism spawn another van der Graaf — or another Kaczynski — in the United States? If it happens, don't expect the ALF or ELF to take responsibility.

The groups' guidelines for cell members always include a crucial escape clause, like this one in "Frequently Asked Questions About the Earth Liberation Front": "If an action similar to one performed by ELF occurred and resulted in

an individual becoming physically injured or losing their life, this would not be considered an ELF action."

'Rethinking Nonviolence'

By refusing to take responsibility for any actions that harm humans, the ALF and ELF implicitly acknowledge that violence directed at people is a foreseeable result of the tactics they promote. Their ever-more-fiery rhetoric and increasingly brash methods could inspire future Kaczynskis and van der Graafs.

In fact, the 32-year-old van der Graaf was the founder of Zeeland's Animal Liberation Front before he went on to found Milieu Offensief (Environment Offensive). His story reads like a cautionary tale, especially now that the American ELF and ALF seem to take their cues from the Europeans.

While van der Graaf was an avowed enemy of factory farming, most of his attacks on farmers had been peaceful. Environment Offensive filed more than 2,200 lawsuits against big farming interests.

"His weapon was the law," a member of Environment Offensive told Dutch television.

But van der Graaf was apparently provoked to more drastic action by his frustration with fighting "the system." When Dutch police searched the suspect's home after Fortuyn's murder, they found documents linking van der Graaf to a recent outbreak of direct-action attacks on a mink factory and a poultry farm.

They also found that van der Graaf apparently hadn't intended to stop with Fortuyn: He had floor plans of the homes of three of Fortuyn's fellow List Party candidates for the parliament.

What happens when U.S. companies and politicians keep getting in the way of eco-radicals' goals? Peter Singer, a Princeton University philosopher and long-time darling of many eco-radicals, recently acknowledged the quandary faced by many in the movement — and the direction in which it clearly seems headed.

"We who have an affinity with non-human animals and nature," Singer told the Australian *Herald-Sun*, "are finding it increasingly difficult to love our fellow man."

Kevin Jonas of SHAC-USA, which is inspiring a new breed of activist, put it even more bluntly. "There's a very famous quote by John F. Kennedy," he told the *Intelligence Report*. "If you make peaceful revolution impossible, you make violent revolution inevitable."

Indeed, further violence seems almost inevitable. Just ask Craig Rosebraugh, the long-time ELF spokesman who recently left that post to pursue theoretical work for the movement.

Attending the Institute for Social Ecology at Goddard College in Vermont, Rosebraugh's master's thesis has a revealing working title: "Rethinking Nonviolence: Arguing for the Legitimacy of Armed Struggle."

BC/bk4180

17 May 2004

Senator Orrin G Hatch
Chair, US Senate Judiciary Committee
Senator Dirksen Building
Senate Office Building
Room 224
Washington DC 20510

Dear Senator Hatch

Huntingdon Life Sciences (HLS) is one of the world's largest and most respected animal research centres. Our main laboratories are in the UK but we also have over 200 people at our facility in Princeton, New Jersey. As a result, we have been a focus for animal rights protests for many years both in the US and UK. However, the current campaign, ongoing now for over four years and organised under the banner of Stop Huntingdon Animal Cruelty (SHAC) has been by far the most viscous to date. If you will permit I will focus on the activism that has occurred in the UK, as it appears that, unfortunately, this is one of our more "successful exports" – new activist tactics from the UK are now readily taken up by those in the US.

Utilising new communication technologies, such as the internet and mobile phones, activist co-ordinators have been able to direct much of the UK's protest activity towards HLS and many of our stakeholders, thus diverting attention from the rest of the research community. However, during this time a number of extremely damaging, violent campaigns have also been waged against smaller targets, mostly research animal breeders; these have received far less media attention but have often resulted in the demise of the targeted enterprise.

In contrast a well-publicised campaign launched last year, Stop Primate Experiments At Cambridge (SPEAC), claimed success when Cambridge University made the decision **not** to build a new primate research facility. The activists have moved on, buoyed by their "success" and their major academic target is currently a partly built animal facility at Oxford University. It will come as no surprise that these campaigns have adopted most of the intimidatory tactics developed and fine-tuned by SHAC activists over the past few years.

In the UK we, quite rightly, afford animals used in research high standards of welfare and protect them with what is generally viewed as one of the most strict pieces of legislation in the world. Sadly, by contrast, we do not offer such effective protection to the researchers who undertake this crucial and essential work – work which is both demanded and controlled by Government. We also fail to protect other stakeholders in biomedical research - these third parties often provide products and services unrelated to research, but activists now consider them "legitimate" secondary or even tertiary targets. As I am sure you are aware, HLS, its employees, its shareholders, its customers and its suppliers have all been targeted and subjected to abuse, intimidation, threats and violence from animal rights activists. Now even "stakeholders of stakeholders" are subjected to the same activism.

Thankfully physical attacks on people and car arsons outside homes in the middle of the night, which were a feature of the campaign three years ago, do appear to have stopped with the imprisonment of one of the perpetrators. However once these extreme actions have occurred then anyone subsequently targeted will question whether similar serious violence could happen again – and to them. Effectively, people are being terrorised and yet the Police currently can do little to control or stop it. This situation is iniquitous and offensive to law and order, yet sadly it is occurring throughout the UK on a daily basis.

The UK Government has been very supportive of biomedical research both in public statements and through specific actions. Legislation has been amended – both in 2001 and earlier this year, some additional Police resources have been committed and the Crown Prosecution Service (CPS) and courts are acting more robustly (at times). In addition the Department of Trade and Industry has supported HLS in a number of fundamental ways, for example in our banking and insurance arrangements – as no high street bank or insurance broker will deal with us for fear of intimidation and violence to their staff.

But we must see further improvements in legislation to control this situation; we must also ensure that the Police really do have the resources to uphold the laws that already exist, and that the CPS and courts are more robust and consistent in their handling of unlawful animal rights activities.

We at HLS, along with many others in the UK research community, have been lobbying Government to introduce new, specific legislation to deal with this increasingly widespread problem. This must include measures to control two of the most unpleasant tactics employed by the activists:

- demonstrations at private residential homes
- secondary and tertiary targeting of individuals and organisations

Both of these tactics must be made illegal.

**Huntingdon
Life Sciences**
Working for a better future

At HLS we respect the opinions of others and believe that everyone has the right to express their views in a legal and peaceful manner. But as individuals we also have rights, as do our stakeholders and associates - sadly these rights are not being upheld in Britain today. It is the role of Government to provide a safe and secure environment so that researchers - and their families - and those supporting them no longer have the prospect of violence and intimidation as an every day part of their lives.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brian Cass', with a horizontal line underneath.

Brian Cass
Managing Director

ANIMAL RIGHTS – ACTIVISM vs. CRIMINALITY**TESTIMONY OF STUART M. ZOLA, PhD****BEFORE THE SENATE COMMITTEE ON THE JUDICIARY****May 18, 2004**

Mr. Chairman and members of the Committee,

Thank you for allowing me to testify today and for conducting this hearing on the threat posed by animal rights extremists. I am Stuart Zola, Director of the Yerkes National Primate Research Laboratory at Emory University. I am testifying today on behalf of the National Association for Biomedical Research (NABR). First let me say, I applaud you for conducting this hearing today and for your continued leadership on this and other biomedical research issues. Animal and eco-terrorism is a growing and increasingly violent problem in this country and your leadership on this issue is desperately needed and greatly appreciated. I also want to thank my fellow witnesses at this hearing for their courage as they are putting themselves at considerable risk by speaking out on this issue.

The National Association for Biomedical Research (NABR) is the only national, nonprofit organization dedicated solely to advocating sound public policy that recognizes the vital role of humane animal use in biomedical research, higher education and product safety testing. Founded in 1979, NABR provides the unified voice for the scientific community on legislative and regulatory matters affecting laboratory animal research. NABR's membership is comprised of 300 public and private universities, medical and veterinary schools, teaching hospitals, voluntary health agencies, professional societies, pharmaceutical companies, and other animal research-related firms.

Animal research has played a vital role in virtually every major medical advance of the last century – for both human and animal health. From antibiotics to blood transfusions, from dialysis to organ transplantation, from vaccinations to chemotherapy, bypass surgery and joint replacement, practically every present-day protocol for the prevention, treatment, cure and control of disease, pain and suffering is based on knowledge attained through research with animals. Ample proof of the success of animal research can be found in the vast body of Nobel Prize winning work in physiology and medicine. Seven out of the last 10 Nobel Prizes in medicine and 68 awarded since 1901 have relied, at least in part, on animal research

In fact, research on animals is in many cases an obligation. According to the Nuremberg Code, drawn up after World War II as a result of Nazi atrocities, any research on humans "should be designed and based on the results of animal experimentation." The Declaration of Helsinki, adopted in 1964 by the 18th World Medical Assembly and revised in 1975, also states that medical research on human subjects "should be based on

adequately performed laboratory and animal experimentation." As well, the FDA expressly requires that laboratory animal tests be conducted both for prescription drugs and over-the-counter drugs before these products can be tested further in humans.

Since its inception, NABR has witnessed many changes in animal rights activism. What began as a grassroots movement has grown into a sophisticated industry. I say industry with good justification – the combined operating budgets of U.S. tax-exempt animal rights organizations approached \$200 million in 2002. Much of this money is directed at ending biomedical research involving animals. NABR is certainly concerned that we are at a severe financial disadvantage regarding advocacy and public relations efforts, but this is not the greatest threat to our members. The increased willingness of some animal rights groups to use violence and to inflict economic and physical damage on any person or entity remotely associated with an organization that uses animals in research, has become an increasingly serious threat to the biomedical enterprise.

Violent acts committed in the name of animal rights have been carried out in this country for more than two decades. In the past, targets have consisted primarily of research facilities and companies as well as researchers and their families. Congress responded to animal rights violence in 1992 by enacting the Animal Enterprise Protection Act of 1992, codified at 18 USC 43. This act made it a federal crime to intentionally cause physical disruption to an animal enterprise by stealing, damaging, or causing the loss of property used by an animal enterprise if these acts resulted in damages exceeding \$10,000. The Act was amended in 1996 and again in 2002. The 2002 amendments made several important improvements to the 1992 Act, including making it a federal crime to engage in the conduct prohibited by the statute in cases in which the resulting damage was less than \$10,000. The 2002 amendments also increased the maximum penalties under the original statute.

A NEW TACTIC – THIRD PARTY TARGETING

Unfortunately, even with the improvements to the Animal Enterprise Protection Act, this law continues to be of limited use to federal law enforcement officials in combating violent and disruptive acts of animal rights extremist individuals and organizations. Moreover, since 1999 violent activists have employed a disturbing new strategy. Tactics still include arson, death threats, sabotage and vandalism, but the new approach is something the activists call "tertiary" or third-party targeting. It is this targeting of third parties that the original Animal Enterprise Protection Act and its subsequent amendments did not envision. Consequently, law enforcement has very limited means to protect these third parties from the actions of animal rights extremists.

By aggressively targeting clients, insurance companies, banks, health providers, accounting firms, shareholders, market makers, internet providers, even lawn care and catering companies, activists have found an effective way to disrupt the financial health and functioning of companies engaged in animal research.

The most successful proponent of tertiary targeting has been a UK-born group called Stop Huntingdon Animal Cruelty (SHAC). SHAC has targeted third-parties since the late 1990's in its campaign against Huntingdon Life Sciences, a large contract research firm. Its targets have included some of the best known financial services companies in the world and the campaign has succeeded to the extent that the UK government has been forced to act as the banker and insurer for Huntingdon Life Sciences. U.S. animal activists have learned well from their UK colleagues and many of the tactics perfected overseas have now been employed against American targets.

A case study outlining the SHAC campaign is attached.

Just to be clear, I am not referring to tactics aimed at tertiary targets that involve the use of picketing, boycotts, letters, phone calls, letters to the editor, advocacy of new laws and regulations, or other forms of legal protest. It is the threat of physical violence, property damage, intimidation, coercion, and harassment that are the key weapons of these campaigns.

A couple of examples may help illustrate SHAC's tactics:

Example #1 -- In March of 2003 SHAC began targeting a large pharmaceutical company. This company was targeted because SHAC accused it of doing business with HLS. The campaign against them began with sporadic letters demanding the company end its relationship with Huntingdon Life Sciences. Next, there were protests at company facilities. Then personal information of company employees, including home phone numbers and addresses, was posted on the internet. This led to numerous phone calls and faxes to the residences of executives, and "home visits" involving a number of activists protesting loudly outside employees' homes, usually in the middle of the night. Sometimes, the home visits included spray painted messages like "Your job supports animal abuse - Drop HLS." One of the company's California facilities was damaged by vandalism with activists spray painting "_____ Kills Puppies" and splashing red paint on windows. Activists even sent a hearse to the home of one terrified employee to collect her body. They also tricked companies into calling employees to discuss their choice of cemetery plots. SHAC states on its Web site that it doesn't advocate violence or illegal acts but its Web site could be interpreted by some to encourage violence. At a minimum, SHAC wants target companies to believe it is prepared to engage in violent acts.

Example #2 -- In 2003, a small family business in Ephrata, Washington was targeted by SHAC because, at the request of a client, it had sent apple samples to HLS in the UK for residue testing in 2000. This four-person contract research laboratory conducts agricultural residue studies on food crops with pesticides. In January, 2003 each member of the laboratory staff began receiving large envelopes full of brochures, newspaper clippings and graphic photos of animals. Letters to the company owner began to arrive in 2003 requesting that they sever their relations with HLS to avoid being "targeted" by SHAC. The company was placed on SHAC's "global target list" on SHAC's Web site. Letters and phone calls arrived from the SHAC USA spokeswoman, Danielle Matthews. She explained to the company owner that if they provided a statement saying that they

would not do business with HLS in the future they would be removed from the list. When asked what would happen if he did not provide such a statement, she asked him how he would like some visitors arriving at his business. She also directed him to their Web site to view disturbing photos of damage they had done to other institutions that had done business with HLS. In October, 2003 the owner submitted to the continuing harassment and provided SHAC the statement necessary to remove them from their target list. Again, SHAC claims it does not engage in violent acts, but its Web site certainly implies that those who don't sever ties with Huntingdon Life Sciences might be subjected to violence. A recent NYT article explained, "Activists like Kevin Jonas, spokesman for the Stop Huntingdon group, insist they are not terrorists. But Mr. Jonas acknowledged that the label may serve the group's purposes. — "The more we're painted in the media as terrorists the better, because no investment banker or pharmaceutical client is going to want to touch Huntingdon with a 10-foot pole." The FBI says the following about SHAC: "Numerous criminal acts, including death threats, vandalism, and office invasions have been conducted by members of SHAC and its support groups."

A copy of one letter sent by SHAC to the Ephrata company is attached.

These are two examples of the kind of activity in which groups like SHAC engage, but SHAC employs a number of other tactics. Threats, intimidation, and harassment often take the form of office invasions, "home visits" to employees, threats to the family members of employees (including children), electronic attacks, late night phone calls, black faxes and other harassing communications. A few examples:

- electronic denial of service attacks where a handful of activists using a computer program anywhere in the world can bombard a web site or email system with so much information that it crashes;
- phone auto-dialers where activists using a computer call company numbers hundreds of times a day, effectively tying up a company's phone system;
- black faxes, where endless sheets of black paper are sent to a fax machine causing it to burn out;
- letters to companies threatening consequences, and citing examples, if they do not cease doing business with Huntingdon Life Sciences
- theft of personal information like home phone numbers, credit card, and social security numbers of company employees and their neighbors, where the information is then posted on the Internet;
- "home visits" where activists visit homes in the middle of the night with bullhorns and distribute "wanted for murder" posters to neighbors;
- smoke bombs set off in office towers, causing the evacuation of hundreds of employees;
- death threats against employees and their families;
- property destruction and vandalism of property like cars, bank machines, locks and windows;
- office invasions, where activists protest outside an office, and then rush in to occupy the facility to steal documents, destroy offices and assault employees.

On August 28, 2003, the campaign against Huntingdon Life Sciences produced a frightening new twist: bombings. Two pipe bombs were set off outside of Chiron Corporation in Emeryville, Calif. The first went off in the early morning hours, but the second was deliberately set for half an hour after the first, designed, we believe, to harm the first responders. Chiron had at one time been a client of Huntingdon Life Sciences and was listed as a target on SHAC's Web site.

On September 26, 2003 a second set of pipe bombs, wrapped in nails, were set off at the Shaklee Corp. facility in Pleasanton, Calif. Shaklee is a subsidiary of a Japanese company that activists have tied to Huntingdon Life Sciences. It is by sheer luck that there were no injuries in either of these blasts.

Responsibility for the bombings was claimed by a previously unknown group calling itself "The Revolutionary Cells for Animal Liberation." But there appears to be an interrelation between activists willing to carry out acts of violence. SHAC, which according to the FBI has an "extensive history of violence" uses its Web site to post lists of targets, including bombing targets Chiron and Shaklee. Those target lists include the home phone numbers and addresses of executives and employees of targeted companies. Groups advocating "direct action" like SHAC and the Animal Liberation Front (ALF) also seem to have leaders in common. For example, Kevin Kjonaas (or Jonas) who speaks for SHAC USA was a one-time spokesperson for the ALF.

DIRECT TARGETING

The direct targeting of facilities and researchers continues as well. In 2002, Ohio State University lost one of its most promising researchers, Dr. Michael Podell. Dr. Podell, a veterinarian, was the recipient of a \$1.7 million grant from NIH to study the role of methamphetamines in the spread of HIV. He used cats in his study, which made him a target of animal activists. Over a three-year period, Dr. Podell's life had been threatened many times. One of these was in the form of a photograph sent to him of a British scientist whose car had been bombed, with the words, "You're next," written across the top. He and his wife received more than 1,000 disgusting letters, e-mails, phone calls and spray-painted messages. Even his young children were confronted at their school. The threats, intimidation and harassment had their intended effect – in June of 2002, Dr. Podell, in fear that his wife and children might be harmed, left Ohio State, his \$1.7 million grant and the world of research. He left the state and reportedly joined a private veterinary practice. The world has lost a talented and highly respected biomedical researcher because of the outrageous actions of animal rights activists. This success will only encourage similar actions against other researchers.

On September 24, 2003, the inhalation toxicology laboratory at the Louisiana State University School of Veterinary Medicine in Baton Rouge was broken into by members of the ALF. Computers and equipment throughout the lab were destroyed causing at least \$250,000 in damage. In their letter claiming responsibility for the attack, the ALF called for an end to the research being conducted. In a message directed at the researcher doing the inhalation studies the group announced, "...your time is up!"

As a result of these campaigns, not only are the rights of companies to freely do business being infringed upon, but security costs are soaring both for private companies and public colleges and universities. Money that could be directed at researching cures and treatments for disease is being re-directed to provide extra security for existing research. Many companies have been forced to hire personal security to protect the homes of their employees.

More often than not, apologists for these terrorists claim that they are exercising their right to free speech. I want to make it very clear that NABR and its members fully support constitutionally-protected rights to free speech. However, coordinated campaigns that include threats, intimidation, coercion, harassment, and other tactics that place people in fear of physical harm to themselves or their friends and families are not forms of protected free speech. These are the tactics that extremist groups are using to forcibly impose their will on our law-abiding organizations, and we urge the Congress to take action by providing federal law enforcement with adequate tools to prosecute those who violate the rights of others.

For many years, our members have sought ways to protect their institutions against the threat of animal rights terrorism. NABR has long been active in working with Congress to find ways of doing that. Now, we find that current laws are inadequate to address the new tactics being employed by animal extremists. In fact, these campaigns seem to be designed to skirt existing laws.

We urge the Committee to help us find ways to protect our members from the evolving tactics of animal rights extremists. The continuation of life-saving medical research, the lives of your constituents -- researchers and their families, and the economic health of this important industry, depends on us finding effective and immediate ways to address this problem. Law enforcement needs new tools to pursue and prosecute those who are perpetrating these violent, organized, and methodical campaigns against institutions that conduct animal research and third parties that do business with them. Our members are urging us to deliver this message to Congress about the need to find ways to protect their facilities, their employees and their families, as well as their life-saving research.

Thank you again, Mr. Chairman, for allowing me to testify, and for holding this important hearing today. I am happy to answer any questions.