

Alliance for Animals

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October 4, 2009

Axel V. Wolff, M.S., D.V.M.
Director, Division of Compliance Oversight
Office of Laboratory Animal Welfare (OLAW)
National Institutes of Health
RKL 1, Suite 360, MSC 7982
6705 Rockledge Dr.
Bethesda, MD 20892-7982

Dear Dr. Wolf:

We have not had a response from your office to our August 3, 2009 complaint regarding apparent violations of the University of Wisconsin, Madison's Public Health Service Assurance (currently: A3368-01). If your office is not the appropriate recipient of our complaint please let us know which office this complaint should be directed to as soon as you possibly can.

The University of Wisconsin, Madison is located in Dane County. Enclosed is a letter from Dane County District Attorney, Brian W. Blanchard. Mr. Blanchard writes regarding the university's denial that the short succinct statute means what it says (In its entirety: 951.025: "Decompression prohibited. No person may kill an animal by means of decompression."):

It is irrelevant that Wisconsin's flat prohibition appears to have arisen out of concern about use of decompression chambers as a euthanasia technique, because **the plain language of the statute is unambiguous and no purpose other than a flat ban can be read into the statute.** The legislature established a per se category of offense, assigned it to the forfeiture level, and **decided not to shield bona fide research from its reach,** regardless of the degree to which these experiments are scientifically sound and morally justified. Legislators settled on language that goes beyond the euthanasia context. Whether or not the explicit thought ever passed through the mind of any legislator, **the legislature decided to use sweeping language that unambiguously prohibits the use of decompression chambers for any use, even peer reviewed scientific research, that kills an animal.** [Emphasis added.]

Public Health Service Policy on Humane Care and Use of Laboratory Animals [<http://grants.nih.gov/grants/olaw/references/phspol.htm#Introduction>] explains that the Policy **"does not affect applicable state or local laws or regulations which impose more stringent standards for the care and use of laboratory animals."** [Emphasis added.]

We again call your attention to the following early statement in the *Guide (Guide for the Care and Use of Laboratory Animals, National Research Council, 1996):*

Animal facilities and programs should be operated in accord with this *Guide*, the Animal Welfare Regulations, or AWRs (CFR 1985); the *Public Health Service Policy on Humane Care and Use of Laboratory Animals*, or PHS Policy (PHS 1996); and other applicable federal (Appendixes C and D), and local laws, regulations, and policies. (p 2)

Clearly and unambiguously, the University of Wisconsin, Madison has been violating its Public Health Service Assurance since at least 1988.

We urge you to take swift action on this matter. It appears from the District Attorney's letter that he plans to simply ignore any future violations of this statute by the university. But the spirit and letter of the PHS Policy are clear. Institutions submit an Assurance as a promise to NIH (and indirectly, to the citizens of the United States) that they will conform to all applicable laws governing the treatment of animals, not only to those laws a District Attorney might decide to enforce.

We look forward to your response.

Sincerely,

Rick Bogle
Co-Director, Alliance for Animals

encs:

Our original complaint. August 3, 2009.
Letter from District Attorney Blanchard to UW attorney Ben Griffiths. October 2, 2009.

cc:

Congresswoman Tammy Baldwin

Senator Russ Feingold

Senator Herb Kohl

Patricia A. Brown
Acting Director
Office of Laboratory Animal Welfare
National Institutes of Health

Eileen M. Morgan
Director, Division of Assurances
Office of Laboratory Animal Welfare
National Institutes of Health

