

House Bill 873 (Animal Research)

Comments by Erik Hendricks, Executive Director
The Pennsylvania Society for the Prevention of Cruelty to Animals
Before the Judiciary Committee
of the
Pennsylvania House of Representatives
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The Pennsylvania SPCA is the oldest and largest humane society in Pennsylvania. We serve 46 of the 67 counties in the Commonwealth from our six locations around the state. In 1988 our agents made more than 900 routine inspections of animal facilities and investigated more than 3500 complaints of abuse or neglect.

In animal welfare circles around the country Pennsylvania is not known as a humane state. This image has come about mostly because of our problems with pit bull fighting, cock fighting, puppy mills, an entrenched hunting and trapping tradition and the use of live birds as targets rather than clay pigeons. House Bill 873 gives us the opportunity to show the rest of the country that Pennsylvanians do care about animals. We do not expect that our cruel heritage is going to be redressed in one fell swoop, but House Bill 873 would certainly be a positive step toward making our state a more humane place. It would demonstrate that we do care for the needs of animals. It would put us in a leadership role rather than that of a follower. During recent times, unfortunately, when it comes to improving the human/animal relationship Pennsylvania has not set the pace for the rest of the country. House Bill 873 gives us the chance to do so in at least one aspect of the human/animal relationship.

Legitimate institutions and commercial laboratories need not fear the provisions of this bill. As far as the search warrant authority is concerned, such authority is not taken lightly by any humane organization that I am aware of and I have not heard of any humane group that has abused its privilege in this regard. It must

be remembered that the procurement of a search warrant is not simple or automatic. There must be "probable cause" detailed in the warrant and it has to be reviewed and authorized by an assistant district attorney and a judge. Also, the agent of a humane society who would falsely swear out a warrant is taking the chance of being personally sued for false prosecution and of being charged with the crime of "false swearing," a second-degree misdemeanor. I doubt that even the most aggressive humane officer would risk a jail sentence and civil penalties just to procure a warrant to get him into a laboratory.

I can't imagine a legitimate laboratory ever allowing "probable cause" to exist in its operations, but any that would should certainly be subject to scrutiny. However, it must be remembered that the procuring of a search warrant is not the same as the filing of a criminal charge. The warrant merely allows access to an area that cannot normally be seen and - when justified - it allows the searcher to seize items or take photographs as evidence for a criminal case. It will not become a tool of harassment by overzealous humane society agents because of the checks and balances that are already built into the search warrant process that is outlined in Pennsylvania's "Rules of Criminal Procedure."

While some might argue that even though there have been no abuses of the humane societies' search warrant authority up until now, the use of animals in laboratories is such a hot issue that it will inspire such abuses. I seriously doubt that because there is another "hot issue" in animal welfare that involves an area that is not exempt from our current search warrant authority - factory farming. I have heard of no instances of factory farmers - those who raise animals in very large numbers under unnatural (though legal) conditions - being harassed by warrant-wielding fanatics.

Also, it should be noted that if House Bill 873 becomes law it will give humane societies only a limited range of authority in laboratory situations. With the exceptions of the Draize and LD-50 tests, which are specifically outlawed, it is not within the power of a humane society to interfere with an experimental process. The humane societies will only be able to act if the care of the

animals outside of the actual experimental process violates a subsection of section 5511 of the Crimes Code. Authorization of individual experimental processes will come from the rules, regulations and guidelines put forth by the government agencies empowered to oversee those institutions using animals in research. Enforcement of those rules, regulations and guidelines will come from government inspectors and each research institution's animal care committee. Our role will be adjunctive and limited, just as it is with the rest of the animal-oriented situations where local and state police have authority to act, but look to humane societies to assist in this area of law enforcement while they concentrate on other crimes considered to have a higher priority.

Simply put, we would hold the researcher to the same standards of animal care in his laboratory that we already hold him to at his home, where we have had search and seizure authority for many years. Just as you have "survived" and actually prospered under the "government in the sunshine" law, so to will the research institutions after the doors are opened a crack and a little sunlight is let in. In our own case our shelter animals are housed and cared for under full public scrutiny and even the sad process of euthanasia is open to public view.

Justification for the continued use of the Draize and LD-50 tests seems to be based only on fears of potential product liability lawsuits and the attendant costs of settling or litigating such suits. They certainly do not represent modern science. I would think that a manufacturer in Pennsylvania would welcome an excuse - the excuse being that such testing is against the law - to rid itself of the expense of putting every product it makes through these tests just so that it can present the test results as part of its defense in a product liability action. Alternatives already exist for the Draize test, and the LD-50 test has always strained logic, though it appeals to statisticians who like round numbers. While it is inherently cruel, from a scientific standpoint the Draize test at least has a valid control mechanism (the rabbit's untouched other eye) whereas there is no control in the LD-50 test - it is strictly an arbitrary numbers game where the physiological variables are too great to allow for any validity. From one viewpoint the LD-50 might be an improvement over the old "royal

taster" method of toxicity testing, but that is about all that can be said for such a barbaric "test."

We urge you to pass House Bill 873 out to the floor so that this bill will get the airing it deserves and so that Representatives from every part of the state can voice their constituents' opinion on a topic that really affects everyone.

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For the committee's information here is the policy that we adopted in 1984 on the use of animals in research:

The Pennsylvania SPCA opposes the use of animals in research where such animals experience prolonged pain or stress.

The Pennsylvania SPCA advocates the development of research alternatives and will give financial aid to organizations or institutions which develop such alternatives as: computer models, use of one-cell life forms, tissue cultures or any other methods or techniques that reduce or eliminate the need for animals in an experimental process.

The Pennsylvania SPCA advocates a clearing house for all grants by federal and state agencies or tax-exempt foundations so that any experiments that are deemed redundant, trivial or of dubious value will be obviated by a denial of funding. This clearing house would require that the experimenter must use whatever valid humane alternatives are available and applicable.

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