

July 19, 2004

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RE: Cruelty to Animals at Pilgrim's Pride Corporation:
Request for Prosecutorial Action

Dear Mr. See:

I am writing to direct your attention to recent conduct in Moorefield, W.Va., witnessed and documented by an investigator for People for the Ethical Treatment of Animals (PETA), which constitutes egregious violations of W. Va. Code § 61-8-19. Cruelty to animals.

The conduct at issue occurred on a daily basis between September 3, 2003, and May 5, 2004, at a poultry slaughterhouse owned and operated by Pilgrim's Pride Corporation and located at 129 Potomac Ave., Moorefield, WV 26836.

W. Va. Code § 61-8-19 prohibits cruelty to animals and criminalizes the following conduct:

- (a) If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandons any animal to die, or uses, trains or possesses any domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than one thousand dollars or confined in the county or regional jail not more than six months, or both so fined and confined.
- (b) If any person intentionally tortures or maliciously kills an animal, or causes, procures or authorizes any other person to torture or maliciously kill an animal, he or she is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than three years and be fined not less than one



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thousand dollars nor more than five thousand dollars. For the purposes of this subsection, “torture” means an action taken for the primary purpose of inflicting pain.

Enclosed is edited video footage that contains examples of hundreds of violations of the statute, which transpired during the course of an eight-month PETA investigation and were documented in their entirety in a series of videos filmed by the investigator. As one expert in farmed-animal husbandry summarizes, the video footage reveals “workers gratuitously bouncing live chickens off walls, slamming birds brutally to the floor, jumping on the animals viciously with one or both feet, kicking birds, [and] throwing birds at other employees”¹

The unedited video footage is available on request and contains evidence of scores of additional violations of the statute. In addition, please find attached a declaration provided by the PETA investigator, which documents further instances of cruelty to animals.² The declaration is offered in support of the allegations contained herein, and the PETA investigator is available to assist your office upon request and at your convenience.

The complaint against the actions of employees at the slaughterhouse and Pilgrim’s Pride Corporation is detailed below. Attached are statements by independent, internationally renowned experts in the field of animal husbandry that unequivocally declare that the actions depicted in the edited video footage fall below the parameters of usual and accepted industry standards and, moreover, are intentionally abusive, cruel, and malicious.³

The videos and declaration provide incontrovertible evidence of intentional torture and malicious killing of chickens at the above-referenced facility and thus warrant an investigation and prosecution of all culpable parties.

I. OVERVIEW OF INCIDENTS OF CRUELTY TO ANIMALS AT PILGRIM’S PRIDE

The majority of the conduct was commonplace and directed at live, fully-conscious chickens. The conduct is described in general terms to include the following:

- Stomping and jumping on live, fully conscious chickens
- Slamming live, fully conscious chickens against the wall, floor, and machinery
- Kicking live, fully conscious chickens
- Plucking feathers off live chickens in order to “make it snow”

¹ Letter from Bernard E. Rollin, Ph.D., Distinguished Professor, Professor of Philosophy, Animal Sciences, Biomedical Sciences and University Bioethicist, Colorado State University, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (June 28, 2004). Ex. 1.

² Declaration of XXX. Ex. 2.

³ The enclosed video titled “Pilgrim’s Pride Investigation” contains all scenes that were viewed by the independent experts, as well as additional scenes that further document the conduct at issue. A copy of the video titled “Chicken Slaughterhouse Investigation,” which was viewed by the experts, is also enclosed.

- Putting a latex glove over the head of a live chicken and watching the animal struggle and suffer as she slowly suffocates
- Twisting the necks of live chickens until the animals' heads detach from their bodies
- Squeezing live chickens until feces are expelled from their rectums and directing the stream of feces into the eyes of other chickens
- Dropping a coffee can filled with concrete onto live chickens
- Tossing live chickens across the room and punting the animals while employees play "football" with the birds
- Beating live chickens with a rubber hose
- Spray painting live chickens, directing the aerosol into the eyes and faces of the birds
- Breaking live chickens' legs because the animals struggle when they are picked up
- Breaking the bodies of live chickens in half by smashing the animals against the metal rail of the conveyor belt
- Punching live chickens
- Breaking the wings of live chickens
- Smashing live chickens against the metal rail to make their heads pop off
- Beating live chickens with a metal rod
- Discarding injured chickens in a bin where the birds are left to suffer for hours or suffocate under the bodies of other birds

These and similar behaviors were part of the daily routine at the Pilgrim's Pride slaughterhouse in Moorefield, as documented herein, and employees engaged in these behaviors—often with unconcealed amusement—while Pilgrim's Pride management turned a blind eye. As discussed in detail below, each and every one of these behaviors was intentional and malicious, as it was carried out for no purpose other than the infliction of pain on the animals, and thus constitutes a felony as defined by W. Va. Code § 61-8-19(b).

II. SPECIFIC INCIDENTS OF CRUELTY TO ANIMALS AT PILGRIM'S PRIDE

A. Intentional and Malicious Cruelty by the "Live Hangers"

The following section recounts the incidents in the enclosed video titled "Pilgrim's Pride Investigation," which you may wish to review at this time. The edited video is not an exhaustive catalog of every incident witnessed and documented during the course of the investigation; rather, it should be viewed as a condensed, representative summary of routine conduct involving felonious cruelty to animals.

The video footage was filmed in the "hang pen" of the facility, a room where lighting is minimal in order to curtail movement by the chickens and thus make it easier for the employees to restrain, or hang, the chickens as they arrive at the slaughterhouse. As a result, the quality of the video footage is not optimal, and identification of individual

employees in the edited video may be difficult.⁴ Please note that when these and other incidents are viewed chronologically in real time, each individual perpetrator can be positively identified. PETA is prepared to assist your office with this matter upon request.

You may also wish to review the declaration of the PETA investigator at this time. The declaration contains background information that explains the physical environment and places the contents of the edited video in proper context.⁵

The edited video contains repeated examples of conduct that constitutes “intentional torture” and “malicious killing” of animals as defined under W. Va. § 61-8-19(b) and as those terms have been interpreted by the Supreme Court of Appeals of West Virginia.

W. Va. Code § 61-8-19(b) defines “torture” as “an action taken for the primary purpose of inflicting pain”—a definition that applies without question to the behaviors of the employees of Pilgrim’s Pride, as documented by the PETA investigator.

The Supreme Court of Appeals of West Virginia has defined malice as “a term importing wickedness and excluding a just cause or excuse,” and thus, “malice is implied from any deliberate cruel act[.]”⁶ In *State v. Burgess*, the court recognized that when one unlawfully kills an animal who belongs to another person by using a commonly accepted, humane method (e.g., killing a large farmed animal by a bullet to the head), and there is no evidence of any other malice, the act is not malicious and does not violate W. Va. Code § 61-3-27.⁷

However, more importantly, the court confirmed that when deliberate acts cause prolonged suffering prior to an animal’s death (such as the acts that are the subject of this complaint), malice can be inferred and the actor’s conduct constitutes a violation of the law—even when the animal is destined for slaughter for human consumption.⁸

The behaviors of the employees of Pilgrim’s Pride, as set forth below, violate W. Va. Code § 61-8-19(b) because they bear the mark of maliciousness, i.e., they were carried out for no purpose other than to inflict pain on the animals, and because they do not represent “usual and accepted standards” of poultry production and management, the conduct is not exempt from the prohibitions set forth in the statute.⁹

⁴ Please note that the quality of the original Hi8 video is superior to that of the enclosed VHS tape.

⁵ See XXX Decl., ¶9. Ex. 2.

⁶ *State v. Burgess*, 516 S.E.2d 491, 493 (W.Va. 1999) (interpreting W. Va. Code § 61-3-27, which prohibits the “malicious killing” of a domestic animal who belongs to another) (internal citations omitted).

⁷ *Id.* at 494.

⁸ In *Burgess*, the court also noted that even the use of a humane method to kill an animal destined for human consumption can nevertheless be malicious, citing as examples instances in which a defendant “kills the animal for no other reason than just to watch it die; or proof that he did so out of spite ... or to simply annoy the owner ...” *Id.* at 494 n.2.

⁹ W. Va. Code § 61-8-19(f) exempts conduct involving poultry “if kept and maintained according to usual and accepted standards of ... production and management ...” (Emphasis added.) The exemption does not apply to the conduct at issue in this complaint because none of the behaviors represent “usual and accepted standards” of poultry production and management. The conduct constitutes intentional torture and malicious killing and as such is prohibited under W. Va. Code § 61-8-19(b).

1. Stomping Live, Fully Conscious Chickens

Incident 1: March 9, 2004

As XXX (last name unknown, a.k.a. "---") enters the hang pen, he intentionally stomps on a chicken. After XXX steps away, the injured chicken can be seen flapping in the background. XXX proceeds to stomp on another bird.

Incident 2: March 12, 2004

As XXX walks toward the door, he intentionally stomps on a chicken. Then, using his boot, he pins the animal down and grinds the animal's body into the floor. The animal thrashes beneath his boot. XXX steps away from the injured animal and then kicks another bird. Injured birds can be seen flailing on the floor.

Incident 3: April 6, 2004

XXX (last name unknown) enters the hang pen and intentionally stomps on a chicken three times. After the third stomp, the animal continues to thrash. XXX deliberately kicks the animal toward the pile of dead and dying birds. XXX (a.k.a. "---") exits the pen and intentionally slams an animal to the floor.

Incident 4: February 23, 2004

XXX intentionally stomps on chickens, targeting birds with ten consecutive steps.

Incident 5: February 25, 2004

XXX (a.k.a. "---") exits the hang pen; a chicken who has wandered outside is thrown back into the pen. When XXX returns, he intentionally stomps on chickens with both legs. He stomps the animals four times, raising his knees in a tucked position, thereby deliberately increasing the force of his body weight on the birds beneath him.

Incident 6: February 25, 2004

As XXX (a.k.a. "---" or "---") steps away from the hang line, he deliberately stomps on chickens. XXX raises his knees in a tucked position and stomps on the animals seven times. He stomps another bird twice with one leg and then returns to the line.

Incident 7: February 27, 2004

XXX (last name unknown, a.k.a. "---" or "---") enters the pen. As a chicken attempts to exit through the open door, XXX intentionally raises his foot and stomps on the bird. As the bird attempts to evade him, XXX stomps on the bird's wing. When he removes his boot from the animal's body, the injured animal makes another attempt to escape. XXX follows the bird and attempts to stomp on the animal with a series of quick short steps, and when he catches the bird, he stomps on the animal twice.

Incident 8: March 5, 2004

XXX (a.k.a. "---" or "---") drops a bird as he works on the hang line; he intentionally jumps up with both legs and stomps on the discarded bird.

Incident 9: March 5, 2004

XXX steps away from the line and hurls a chicken against the wall. Moments later, a bird falls off the conveyor belt, and XXX deliberately stomps on the animal. Both feet leave the ground, and XXX lands on the bird twice. XXX resumes hanging while the pinned bird struggles beneath his boot. Twenty seconds later, another bird falls from the line. XXX deliberately keeps his right boot on the first bird, pivoting on the body of the animal, and stomps the other bird twice with his left leg. The chicken continues to struggle; again, XXX intentionally stomps the bird and then kicks both chickens to the wall.

Incident 10: February 27, 2004

XXX encounters a chicken and intentionally steps on the animal as he exits the hang pen. Dr. Laurie Siperstein-Cook, a prominent avian veterinarian, singled out this incident of “sadistic cruelty,” stating that the animal “can be seen afterward struggling and flapping on the floor for at least one minute.”¹⁰

Incident 11: February 26, 2004

XXX rakes out chickens from beneath the conveyor belt. He takes one bird, turns, and deliberately slams the bird into the wall. He pins the animal down by stepping on the animal’s flailing wing and proceeds to stomp on the animal, grinding the bird’s body into the floor with his other foot. He deliberately kicks her backwards, behind him. The animal flails in the corner for thirty-eight seconds following the attack.

Incident 12: February 26, 2004

XXX (a.k.a. “---”) enters and deliberately raises his left leg and stomps on a chicken. The animal flails violently; XXX stomps on the chicken again, deliberately shifting his body weight onto his left leg and thus the bird he is standing on. The bird struggles for thirty seconds after XXX removes his leg. As he gathers other birds on the floor, he collects the injured animal and carries her out the door.

Experts agree that the incidents depicted above were intentional and malicious and that the chickens who were so treated were inflicted with severe injuries that caused them to suffer as they awaited slaughter. For example, Dr. Laurie Siperstein-Cook opines, “In most cases, especially where the worker is hopping at random (and seemingly with joy) through the layer of chickens, the chickens would likely suffer injuries of a broken bone (leg, wing or back) or internal bleeding...with damaged bones or internal organs, the chickens would be in pain [and] suffer for long periods until properly slaughtered.”¹¹ Dr. Ian Duncan, one of the world’s most knowledgeable poultry ethologists, adds that “unless the bird’s skull was crushed by the stomping, the death would be a slow and painful one.”¹²

¹⁰ Letter from Laurie Siperstein-Cook, M.A., D.V.M., to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 2, 2004). Ex. 3.

¹¹ Letter from Siperstein-Cook to Akin. Ex. 3.

¹² Letter from Ian J.H. Duncan, B.Sc., Ph.D., Professor of Applied Ethology, Department of Animal and Poultry Science, University Chair in Animal Welfare, University of Guelph, Ontario, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 4, 2004). Ex. 4.

The experts also agree, without qualification, that stomping birds does not constitute a “usual and accepted standard” of poultry production and management. According to Dr. A.B.M. Raj, who has served on international scientific committees addressing humane stunning and slaughter methods, stomping “is not a humane way of killing chickens and one will not find this as an acceptable practice in any text.”¹³ Dr. Ian Duncan responded to the stomping incidents by saying, “This is a completely unacceptable way to kill chickens”¹⁴

2. Kicking Live, Fully Conscious Chickens

Incident 13: March 2, 2004

XXX (last name unknown, a.k.a. “---”) steps back, raises a chicken above his head, and slams the bird against the rail with such force that the bird’s body breaks in two. Next, XXX walks toward the door carrying several birds in each hand. He deliberately kicks the bird who was thrown to the floor at the beginning of the scene. XXX picks up the flailing bird and hangs her on the line.

Incident 14: March 2, 2004

XXX drops a chicken onto the floor; the bird stands in the lighted doorway. XXX turns from the line, draws back his leg and deliberately kicks the animal. The force sends the chicken sailing into the opposite wall; the startled animal runs to the corner of the pen. Dr. Laurie Siperstein-Cook commented on this incident, saying: “[T]he chicken is clearly standing on the floor and the worker kicks it across the room. The chicken can then be seen to be still alive.” Dr. Siperstein-Cook characterized this behavior as “gratuitous cruelty.”¹⁵

Incident 15: March 2, 2004

XXX has his back to the conveyor belt where a chicken is flailing behind him. XXX turns toward the belt, lifts the bird, and drops it. Bracing his arm against the rail, XXX steps back, raises his leg high enough to clear the waist-high rail, and kicks the animal. The bird continues to flail. He grabs the chicken by the tail feathers and slams her against the overhead shackles. XXX continues to torture the animal, wringing the bird’s body in both fists for several seconds. He then turns the bird upside down and walks toward the door, presenting the animal in his outstretched arm to an employee standing in the doorway. The employee smacks the still-struggling bird. XXX returns to the line and hangs the bird.

¹³ Letter from A.B.M. Raj, B.V.Sc., M.V.Sc., Ph.D., Senior Research Fellow, Division of Farm Animal Science, School of Clinical Veterinary Science, University of Bristol, United Kingdom, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (July 1, 2004). Ex. 5.

¹⁴ Letter from Duncan to Akin. Ex. 4.

¹⁵ Letter from Siperstein-Cook to Akin. Ex. 3.

Incident 16: March 9, 2004

XXX steps away from the conveyor belt, walks toward the door, and kicks a chicken with “great force,”¹⁶ causing the animal to collide with the wall. The injured animal flails; XXX walks out the door. Dr. Ian Duncan characterized the kicking in this scene as being “violent as though there is an intention to inflict pain.”¹⁷

Incident 17: February 20, 2004

XXX punches a chicken on the belt; the force of the impact sends the injured animal sailing to the ground, where the animal flails. XXX (last name unknown) then enters and deliberately kicks the same bird, whose wings can be seen flapping as she sails from view.

Incident 18: February 20, 2004

XXX takes a chicken from the belt and throws her to the floor. The injured bird beats her wings on the ground. XXX enters the pen and begins tossing discarded birds into the pile against the wall. The bird who was originally injured by XXX jumps up from the floor. In response, XXX kicks the animal with such force that the collision with the wall causes the animal to bounce off and sail from view.

Unnecessary pain and suffering are inevitable when animals are kicked in the manner seen in the video; experts agree that injuries result, which include bruising and broken bones accompanied by great pain.¹⁸ Dr. Laurie Siperstein-Cook stated, “Even if the goal were to move a chicken out of the way, this is a totally inappropriate way to achieve that. Chickens can easily and harmlessly be brushed aside with a foot without causing injury. These workers clearly go out of their way and seem to take joy in causing pain.”¹⁹

Dr. Donald Maurice Broom, a world-renowned expert on farmed-animal physiology who served as chair of the European Union Scientific Veterinary Committee, pointed out the wanton nature of the conduct: “It is never necessary to kick a chicken vigorously, either deliberately or accidentally, and actions shown in the video would have caused bruising, often with bone breakage, and hence pain, suffering and distress. Many of the birds kicked could be seen to be moving and flapping after the kick in such a way that their continuing consciousness was evident.”²⁰

Experts unanimously stated that kicking chickens fails to comport with “usual and accepted standards” of poultry production and management. Dr. Ian Duncan explained that “kicking is completely unacceptable as a means of moving birds in the industry.”²¹

¹⁶ Letter from Siperstein-Cook to Akin. Ex. 3.

¹⁷ Letter from Duncan to Akin. Ex. 4.

¹⁸ See, e.g., Letter from Duncan to Akin. Ex. 4.

¹⁹ Letter from Siperstein-Cook to Akin. Ex. 3.

²⁰ Statement of Maurice Donald Broom, M.A., Sc.D., Ph.D., Professor of Animal Welfare, Department of Clinical Veterinary Medicine, University of Cambridge, United Kingdom (July 12, 2004). Ex. 6.

²¹ Letter from Duncan to Akin. Ex. 4.

3. Throwing Live, Fully Conscious Chickens at Targets

Incident 19: February 26, 2004

XXX exits the hang pen, and the door shuts behind him. XXX (a.k.a. “---” or “---”) steps away from the line and intentionally hurls a chicken at the door in an attempt to reopen the door. The bird collides with the door and bounces off into the corner of the room. The injured animal flaps on the floor for sixty seconds after impact.

Incident 20: March 3, 2004

XXX removes a chicken from the conveyor belt and hurls her at a member of the hang crew who is standing against the door. The targeted crew member makes an obscene gesture at XXX. Commenting on this incident, Dr. Siperstein-Cook stated that the chicken was “thrown at a person as if playing a game.”²²

Incident 21: March 5, 2004

XXX throws a chicken at XXX as he exits the hang pen. The bird hits XXX in the back and lands on her feet in the doorway. XXX spins around, grabs the struggling bird with both hands, and hurls the animal back onto the conveyor belt.

Incident 22: March 5, 2004

A chicken thrown from the line collides with the door frame. Seconds later, another chicken is deliberately hurled toward the door. After impact, the animal gets to her feet and hurries out the door. Five seconds later, the bird is kicked back into the room. Again, the bird attempts to escape through the open door. The door is intentionally slammed into the bird; the force of the impact shoves the animal back inside. Employees laugh loudly in the background and toss another chicken out of the upper portion of the door.

Incident 23: March 26, 2004

XXX stands back from the line, draws back his leg, kicks a chicken on the conveyor belt, and turns to exit the hang pen. Next, XXX turns away from the line and “knees” XXX as he exits. XXX admonishes XXX, pointing his finger at him, and then exits. XXX hurls a chicken from the conveyor belt at XXX. XXX swivels back around, grabs a chicken from the floor, and tosses it at XXX. XXX takes yet another bird from the conveyor belt and hurls the flailing animal toward the employee outside.

Experts unanimously agree that throwing birds in the manner depicted above results in injuries, such as bruising, dislocated joints, broken bones, and all the attendant pain that is inherent in that level of physical trauma. Moreover, in the above scenes, it is obvious, as one expert noted, that the behavior is carried out for “the amusement of the employees.”²³

Dr. A.B.M. Raj responded to this sort of behavior, saying, “Throwing live birds deliberately, as an object, either on another worker to attract his attention or taunt him,

²² Letter from Siperstein-Cook to Akin. Ex. 3.

²³ Letter from Siperstein-Cook to Akin. Ex. 3.

or to open a door is not an acceptable standard of poultry production and management.”²⁴ Other experts agree.²⁵

4. Slamming Live, Fully Conscious Chickens on the Conveyor Belt Rail, Floor, and Wall

Incident 24: March 2, 2004

XXX collects injured chickens from the floor, picks up one bird by her wing, and deliberately slams her into the wall. XXX picks up a second bird and carries out the same deliberate act. Both birds flap their wings subsequent to impact.

Incident 25: March 2, 2004

XXX takes a chicken from the conveyor belt and slams the bird into the wall. The injured bird bounces off the wall and hits the ground, flapping her wings. Then, XXX removes a chicken from the belt, raises the animal above his head, steps back, and deliberately slams the bird on the rail. The impact splits the bird’s body in two. The ruptured portion of the body hits the floor with such velocity that it bounces up and backwards into the wall.

Incident 26: March 2, 2004

XXX picks up a chicken by the neck and slams the animal into the door frame. The chicken’s wings flap violently prior and subsequent to impact; XXX tosses the injured bird out the door. He picks up another bird and returns her to the conveyor belt, then leans over, grabs a chicken, and slams her against the wall. He picks up another bird and returns her to the conveyor belt. Next, he grabs a chicken and, with a flapping wing in each hand, stretches the wings out and slams the bird into the wall. XXX gathers injured chickens in both hands, and the birds thrash as they are thrown onto the conveyor belt.

Incident 27: February 26, 2004

XXX leans over, picks up a flapping chicken with his left hand, and transfers the animal to his right hand. He raises the animal over his head and slams the chicken onto the floor. He repeats this with a second animal, and then, as he leans against the wall, he reaches down and slams three additional birds on the floor.

Incident 28: March 9, 2004

XXX reaches toward chickens discarded on the floor and grabs one bird with his right hand and another bird by the wing with his left hand. He slams the bird in his right hand against the wall and then does the same with the second animal. The second animal lands on the floor and scurries away with flailing wings. XXX proceeds to slam three additional birds into the wall. The first bird lands on the floor, the second flails her wings and runs in the direction of the line, and the third hits the floor and flails her wings. XXX begins collecting discarded birds, and injured animals are visibly struggling in both his fists.

²⁴ Letter from Raj to Akin. Ex. 5.

²⁵ See, e.g., Letter from Duncan to Akin. Ex. 4.

Incident 29: March 3, 2004

XXX enters the pen, bends over, grabs one chicken by the wing in his right hand, and picks up another by both wings. He hands the first chicken to a live hanger and transfers the other bird to his right hand, grasping the struggling animal by the neck. He then grasps another bird by the neck with his left hand. He pulls his right arm back and intentionally slams the bird against the wall.

Incident 30: February 27, 2004

XXX pivots his body 180 degrees and intentionally slams a chicken against the wall. Subsequent to impact, the injured bird struggles, spinning and flailing for twenty seconds, at which time XXX enters the room, picks up the injured bird, and breaks her neck.

Incident 31: April 6, 2004

This was a markedly violent day at the Moorefield plant. In the space of two minutes and twenty-four seconds, hangers slam at least thirty-six chickens against the wall at an average rate of one animal every four seconds. The birds accumulate in a pile and can be seen struggling, flapping, and flailing against and atop one another. One bird struggles to stand and walks across the bodies of the injured and dying birds beneath her feet. Other birds flap their wings as they are buried beneath the rapidly growing pile of injured animals.

Incident 32: April 6, 2004

114 chickens are slammed against the wall in the space of six minutes and twenty-four seconds. Ten seconds into the sequence, one bird is intentionally slammed against the wall, bounces off, and lands in the lighted doorway. The injured bird can be seen struggling and flailing for five full minutes after impact. Many chickens can be seen flailing and flapping their wings after impact. Hang line supervisor XXX enters, surveys the pile of birds, and as he walks behind the line, he yells, "Hold your fire, hold your fire, hold your fire." When he is no longer in danger of being hit by discarded chickens, he instructs the crew, "Carry on."

Incident 33: April 7, 2004

A chicken is slammed against the wall. The injured animal lands in the corner, where she struggles for thirteen seconds, at which time XXX enters the hang pen and picks up the bird. He turns to say something to a crew member, and placing the chicken between his knees in order to free his arms, he uses his hands to gesture at the employee. He then grabs the chicken and slams her to the floor. He picks up the same chicken in one hand and slams another bird against the wall. Then, he slams the first chicken for a *third* time. In the background, someone shouts, "Harder! Harder!" XXX takes the second chicken and slams her so hard that he decapitates her.

Incidents 34 and 35: March 1, 2004

These scenes provide a close-up view of the injuries sustained by chickens who were slammed against the rail. Incident 34 shows the body of a bird who was broken in half when she was slammed against the rail. Incident 35 depicts the body of a bird who was decapitated in the same manner.

Experts opine that the haphazard manner in which the chickens are slammed against the wall ensures that the chickens are “not likely to be knocked unconscious, but rather suffer broken bones, severe bruising and/or internal injuries [and the chickens] would then suffer from these injuries in great pain until properly stunned and killed.”²⁶ After reviewing the video, Dr. Ian Duncan concludes that there is no justification for the employees’ behavior and that the chickens were “slammed against the wall for malicious reasons.”²⁷ According to Dr. A.B.M. Raj “one could assume that the cruelty caused by slamming live chickens on the conveyor belt rail, floor and wall was to pacify or relieve frustration.”²⁸

And of course, the experts agree that this behavior is not recognized as an accepted standard in the poultry industry. As summarized by Dr. Ian Duncan, “Slamming live birds against a wall is completely unacceptable as a means of killing birds in the industry.”²⁹

5. Other Incidents

The incidents described above are only examples of the hundreds of incidents of cruelty to animals committed by the live hangers and captured by the camera, and these examples are augmented by additional incidents witnessed by the PETA investigator, as set forth *supra* and in the attached declaration. These additional instances involve behavior that can only be described as depraved and include incidents in which XXX used concrete-filled coffee cans to crush birds, XXX used a rubber hose to beat live birds, XXX and XXX used live birds as “footballs,” and XXX placed a latex glove over the head of a live chicken and watched as the chicken struggled to breathe and then died.³⁰ The PETA investigator stands ready to provide additional details about these and other incidents at your convenience.

The evidence set forth in the video and declaration of the PETA investigator demonstrates that live hangers repeatedly commit acts that are malicious and intended to cause the animals pain.³¹ The malice in the live hangers’ actions is further evidenced by the fact that some employees who received belated instruction in the company-sanctioned method of killing chickens, cervical dislocation, repeatedly chose not to use this method.³² Instead, chickens were tortured and left to suffer as the workers exhibited ambivalence and, in some instances, even pleasure.

²⁶ Letter from Siperstein-Cook to Akin. Ex. 3.

²⁷ Letter from Duncan to Akin. Ex. 4.

²⁸ Letter from Raj to Akin. Ex. 5.

²⁹ Letter from Duncan to Akin. Ex. 4.

³⁰ XXX Decl., ¶14. Ex. 2.

³¹ As confirmed by renowned experts in the field of farmed-animal physiology, including Dr. Donald Maurice Broom, chickens “have a full range of sensory abilities,” including “an elaborate pain system.” Broom Statement (July 12, 2004). Ex. 6.

³² XXX Decl., ¶18. Ex. 2.

Dr. Temple Grandin of Colorado State University, a highly sought-after consultant to members of the farmed-animal industry, such as the McDonald's Corporation, summarizes the behavior documented at the Pilgrim's Pride slaughterhouse as "the WORST employee behavior" she has ever witnessed in a poultry facility.³³ Dr. Ian Duncan agrees and concludes that the video contains "some of the worst scenes of animal cruelty that I have ever witnessed."³⁴ This sentiment is further echoed by one of the world's foremost experts in farmed-animal welfare and physiology, Dr. Donald Maurice Broom, who proclaims: "I have visited many poultry slaughterhouses but I have never seen cruelty to chickens to the extent shown in this video."³⁵

The conduct of the live hangers is perhaps best summarized by Dr. Bernard Rollin, who observes that employee behavior is:

... replete with overt cruelty of a sort that has been illegal under the cruelty laws for about 200 years. ... I am referring to intentional, willful, malicious, aberrant, sadistic, purposeful infliction of pain and suffering to no profit-related end, the sort of behavior the anti-cruelty laws were expressly established to prevent and punish.³⁶

B. Intentional and Malicious Cruelty Authorized by Receiving/Hang Line Supervisor XXX

W. Va. Code § 61-8-19(b) extends culpability to any person who "causes, procures or authorizes any other person to torture or maliciously kill an animal." XXX, line supervisor, authorized the malicious conduct of the live hangers and therefore should be charged with felony cruelty to animals.

On April 6, 2004, as documented in Incident 32 in the video, XXX enters the hang pen and surveys a pile of dead and dying birds accumulated in a heap on the floor—obviously a result of the hang workers' throwing live chickens against the wall. His response to the carnage and his only act of intervention takes place as he walks behind the hang crew, making the following statement: "Hold your fire, hold your fire, hold your fire." After Mr. XXX passes by and is no longer in danger of being hit by discarded chickens, he tells the crew, "Carry on."

On April 23, 2004, Mr. XXX enters the hang pen and issues the following order: "Don't kill the birds the improper way because we have inspectors here today."³⁷

³³ Letter from Temple Grandin, B.A., M.S., Ph.D., Associate Professor, Department of Animal Sciences, Colorado State University, to Cem Akin, Research Associate, People for the Ethical Treatment of Animals (June 23, 2004). Ex. 7. (Emphasis in original.)

³⁴ Letter from Duncan to Akin. Ex. 4.

³⁵ Broom Statement. Ex. 6.

³⁶ Letter from Rollin to Akin. Ex. 1.

³⁷ XXX Decl., ¶16. Ex. 2.

Thus, on at least two occasions, Mr. XXX acknowledges that birds are being injured as they are thrown across the room by the live hangers and yet fails to enjoin the behavior, as is his responsibility in the position of supervisor of the hang line. Mr. XXX's conscious decision to overlook the illegal behavior of his subordinates confers a management-level seal of approval on the behavior. Mr. XXX's reaction, or lack thereof, to the cruelty he witnesses in effect authorizes hang workers to "torture" and "maliciously kill" chickens during the course of their employment at the Moorefield facility and, as such, XXX is in direct contravention of W. Va. § 61-8-19(b).

C. Intentional and Malicious Cruelty Caused, Procured, and Authorized by Pilgrim's Pride Corporation and Its Officers

Pilgrim's Pride "causes, procures or authorizes" instances of felony cruelty to animals because the corporation and its officers:

- (1) fail to instruct employees in acceptable methods by which to handle and kill chickens;
- (2) fail to provide adequate supervision of employees with regard to the acceptable methods by which to handle and kill chickens; and
- (3) consciously ignore evidence of an excessive difference in the number of chickens trucked to the facility for slaughter and the number of carcasses entering the "dressing" stage of processing.

Remarkably, the PETA investigator was not instructed in the company-sanctioned method for killing chickens—cervical dislocation—until he had worked in the hang pen for more than five months. And even then, the instruction amounted to no more than a thirty-second demonstration by Mr. XXX, in which he used hand gestures to mime the proper procedure (no live chicken was used in the demonstration).³⁸ The PETA investigator was not aware of other instruction offered within his period of employment in cervical dislocation or any other topic related to animal welfare.

The "Pilgrim's Pride Corporation Partner Handbook," a 51-page employee policy manual that is distributed to each new employee, is devoid of such information; it contains no mention of animal-welfare policy or procedures, much less how or where to receive instruction in such matters.³⁹ Clearly, animal welfare is not a priority for the Pilgrim's Pride Corporation. If it were, thorough instruction in proper handling and killing of chickens, as well as other animal-welfare issues, would be mandatory for each employee prior to contact with live animals.

Moreover, the corporation's failure to provide adequately trained supervisors authorizes the cruelty, as is evident in the discussion, *supra*, of XXX's ambivalence in the malicious conduct in the hang pen. In addition, the PETA investigator observed Mr. XXX attempt to perform cervical dislocation only once in an eight-month period, and the supervisor did

³⁸ XXX Decl., ¶18. Ex. 2.

³⁹ XXX Decl., Atch. C "Pilgrim's Pride Corporation Partner Handbook" (April 1, 2002).

so in an improper and ineffective manner, only injuring the chicken.⁴⁰ Thus, it is evident that not even personnel in management positions have received proper instruction in this procedure or in their individual responsibility to ensure that the animals under their watch are handled and killed according to accepted standards and thus in compliance with the law.

This glaring lack of training did not evade the experts who reviewed the video. As Dr. A.B.M. Raj notes: “The workers do not seem to have adequate training to perform the task and, certainly, lack aptitude and attitude required to [handle] live chickens”⁴¹ Dr. Temple Grandin affirms that abuse of animals in this industry occurs when “management fails to train and supervise their employees,”⁴² and Dr. Bernard Rollin recommends “the harshest penalties mandated by law . . . particularly for the managers who allowed such behavior to become a pattern” at the Moorefield facility.⁴³

Employees of the Pilgrim’s Pride Corporation are given free reign by the corporation to determine how the live chickens are handled and killed, and as documented herein, the employees have determined that cruelty will be the standard operating procedure. Yet Pilgrim’s Pride has not challenged that determination. The intentional and malicious behavior documented *supra* is the direct result of Pilgrim’s Pride’s conscious disregard for the welfare of the animals owned by the corporation.

The PETA investigator also observed that the numbers of chickens thrown from the conveyor belt, slammed, and stomped by employees increased on days when the number of chickens delivered to the facility exceeded what could be reasonably processed by the workers. This marked increase was also observed on days when intake was normal but the speed of the shackle line was too fast.⁴⁴

The disproportionate number of discarded and unprocessed chickens on these occasions would be obvious to management personnel upon a survey of the hang pen. Further, this information would be reflected in facility records, such as daily reports that document the pounds of discarded animals entering the on-site rendering facility.

The Pilgrim’s Pride Corporation has an affirmative duty to conduct business in a manner that complies with West Virginia state law. Thus, the billion-dollar corporation is obligated to ensure that its policies and procedures meet, at a minimum, the usual and accepted standards of care for the animals in their possession. Pilgrim’s Pride has not only failed to meet its responsibility, but also not made any effort to prevent or address violations of law that routinely occur (often within view of management personnel) in the corporation’s facility.

⁴⁰ XXX Decl., ¶18. Ex. 2.

⁴¹ Letter from Raj to Akin. Ex. 5.

⁴² Letter from Rollin to Akin. Ex. 1.

⁴³ Letter from Duncan to Akin. Ex. 4.

⁴⁴ XXX Decl., ¶10. Ex. 2. Only management personnel are authorized to alter the speed of the shackle line to accommodate variations in intake or on days when employees are absent.

The violations are caused by a lack of essential training and policy and further countenanced by a lack of adequate supervision and disciplinary action. The result of Pilgrim's Pride's indifference toward the welfare of the animals it owns and slaughters plainly causes, procures, and authorizes the intentional and malicious behavior documented *supra*. As such, the Pilgrim's Pride Corporation must be held accountable for the violations of W. Va. Code § 61-8-19(b) discussed herein.

D. Failure to Provide Proper Shelter and Medical Treatment by the Pilgrim's Pride Corporation

W. Va. § 61-8-19(a) provides: "If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering ... he or she is guilty of a misdemeanor"

Throughout the course of his employment, the PETA investigator observed and documented acute lesions, i.e., ammonia burns, on the feet of countless numbers of chickens on a daily basis.⁴⁵ (Photographs of the lesions are attached to the declaration of the PETA investigator.) As the photographs make obvious, this condition is extremely painful. Dr. Siperstein-Cook confirms, "The burns would be as painful as any burns would be, but in addition they are on the points on the feet that bear the most weight." The simple act of standing causes these animals to be "in constant pain."⁴⁶ Another expert pointed out that the lesions, "as severe as they appear to be in your photographs," would be so painful that the birds would "be reluctant to move even to feed and drink."⁴⁷

These ammonia burns develop when chickens are raised in densities that are too high, with poor-quality litter and inadequate ventilation, and thus would have been the direct result of unsanitary conditions at the facilities that contract with Pilgrim's Pride to raise the chickens. According to Dr. Bernard Rollin, the ammonia burns are "... evidence of a badly run and managed operation, since to have such lesions the animals must have been living and walking in unacceptable levels of excrement."⁴⁸

As stated on the corporation's Web site, Pilgrim's Pride employs "Broiler Flock Supervisors" whose primary responsibility is to "Monitor[] and oversee[] basic husbandry practices of contract growers and all additional duties involved."⁴⁹ Few husbandry practices are more "basic" than providing animals with adequate shelter. Clearly, these duties would include the prevention, detection, and treatment of ammonia burns.

⁴⁵ XXX Decl., Attch. A.

⁴⁶ Letter from Siperstein-Cook to Akin. Ex. 3.

⁴⁷ Letter from Raj to Akin. Ex. 5.

⁴⁸ Letter from Rollin to Akin. Ex. 1.

⁴⁹ "Broiler Flock Supervisor" "Positions Summary"

<http://pilgrimspride.com/company/displayJobDescription.asp?id=203> (last accessed July 14, 2004).

Pilgrim's Pride acknowledged the presence and seriousness of the ammonia burns as early as September 10, 2003, at a monthly meeting held for employee representatives and management.⁵⁰ In subsequent meetings, management personnel repeatedly conceded that conditions in the grower facilities were responsible for the burns and acknowledged that the problem could have been corrected by altering the conditions in which growers housed the animals.⁵¹ Yet, as substantiated by photographs taken on March 25, 2004, and April 5, 2004, the corporation failed to take proper corrective action that would have alleviated the suffering of the chickens.⁵²

The corporation has an ongoing duty to modify conditions inside the barns as "necessary to sustain normal health and fitness or to end suffering." In consciously disregarding these duties, Pilgrim's Pride is in violation of W. Va. Code § 61-8-19(a).

III. CONCLUSION

The state of West Virginia is one of forty-one states to acknowledge the seriousness of animal abuse by adopting a felony cruelty statute that provides stiff penalties to address acts of violence against animals. The innumerable incidents of cruelty documented in the video and declaration are self-evident; the extreme nature of the acts cannot be interpreted as other than intentional and unnecessarily cruel. Moreover, the maliciousness demonstrated by employees of the Pilgrim's Pride Corporation is unmistakable. PETA respectfully requests that you charge all culpable parties, including the individual employees depicted in the video, supervisory personnel, and the Pilgrim's Pride Corporation, with multiple violations of W. Va. Code § 61-8-19.

Sincerely,



Lori Kettler
Counsel
Research & Investigations Department



Leana Stormont
Law Clerk
Research & Investigations Department

⁵⁰ See Day Shift Town Meeting Notes, September 10, 2003. XXX Decl., Attch. B.

⁵¹ See Day Shift Town Meeting Notes, January 14, 2004, and March 24, 2004. XXX Decl., Attch. B.

⁵² A broiler chicken reaches market-weight in approximately 40 days and thus, at a minimum, Pilgrim's Pride had ample opportunity to correct the inadequate conditions for subsequent flocks.