Celebrating Animals | Confronting Cruelty

THE HUMANE SOCIETY
OF THE UNITED STATES

Why the Federal Animal Welfare Act (AWA) Standards Are Inadequate to Protect Dogs in Puppy Mills

The standards of care set forth in the Animal Welfare Act, 7 U.S.C. §§ 2131-2159, and its implementing regulations, 9 C.F.R. §§ 1.1 *et. seq.*, are insufficient to ensure animal welfare. The following provides several reasons as to why reliance on the federal licensing and inspection system to protect animals is misplaced.

1. AWA Standards of Care are Minimal, Vague, and Difficult to Enforce

The AWA standards of care are minimal survival, rather than optimal, standards. Facilities can be in compliance with the AWA while still keeping hundreds of dogs in small, stacked wire cages for their entire lives, without enrichment or human attention. The use of stacked, wire cages is standard in commercial breeding facilities, including USDA-licensed facilities. It is one of the most problematic features of large-scale kennels because it places dogs at significant risk for disease and injury, and yet it is entirely permissible under the AWA regulations. *See* 9 C.F.R. § 3.6. When cages with wire or slatted flooring are stacked, urine, feces and other waste flows down from higher cages onto the dogs in the lower cages. Cage stacking is also problematic because it encourages overcrowding, obstructs air and light flow, and hinders proper care and cleaning. Moreover, although the rules state that cage flooring must be "constructed in a manner that protects the dogs' and cats feet and legs from injury," and does "not allow the dogs' and cats' feet to pass through any openings in the floor," this language has little practical effect because: (1) it fails to specify a maximum size for the cage floor openings, allowing breeders to make that determination, and (2) entrapment of feet and limbs is simply inevitable with flooring made of wire or "mesh," the term used in the regulations. *See* 9 C.F.R. § 3.6(a)(2)(x).

Among other problems with the section addressing "primary enclosures," in addition to its failure to prohibit wire flooring and stacking, are the space requirements. A cage need only be 6 inches taller than the enclosed dog's height, and only 6 inches longer and wider than the dog's length. *See* 9 C.F.R. § 3.6(c)(1)(i). Moreover, the minimum width and length requirements apply only to adult dogs and weaned puppies (*id.*); as such, a nursing mother housed with her puppies need only "be provided with an additional amount of floor space [that is] based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian." *Id.* § 3.6(c)(1)(ii). This language is so discretionary and vague so as to be unenforceable in practice.

The AWA does not require that dogs be regularly let outside of their cages for exercise, nor does it mandate socialization. There is no limitation on the number of times a female dog may be bred in any given time period. Breeders need only provide bedding when the ambient temperature is below 50 degrees, and, with respect to indoor housing, bedding may be substituted with "other methods of conserving body heat," such as "solid resting boards." 9 C.F.R. §§ 3.2(a), 3.3(a). The regulations allow dogs to live in the cold and heat as long as the temperature does not, "for more than 4 consecutive hours when dogs...are present," "fall below 45 degrees" or "rise above 85 degree." *Id.* § 3.2(a). Also, there is no requirement that dogs receive regular veterinary exams. The regulations merely require the provision of "adequate veterinary care." *Id.* § 2.40(a). Therefore, because this language is so subjective, dogs may go years, or even a lifetime, without ever being examined by a veterinarian. Indeed, as evidenced by inspection reports available on USDA's website (*see* pp. 3-5), dogs are often left to suffer from serious, even life-threatening diseases and injuries unless and/or until an inspector orders the breeder to have them examined.

Moreover, many of the standards are discretionary and the terms vague, which allows breeders to operate according to what they determine is appropriate care. For example, the regulations frequently use subjective terms like "adequate" to describe the threshold of care, without further definition or explanation: "adequate veterinary care" (9 C.F.R. § 2.40), "adequate running potable water" (*id.* § 3.1(d)), "adequate shelter from the elements" (*id.* § 3.3(d)), "adequate protection and shelter from the cold and heat" (*id.* § 3.4(b)(1)), etc. Similarly, dogs must be provided with "the *opportunity* for exercise" (*id.* § 3.8 (emphasis added)) and housing must be "*sufficiently* heated and cooled *when necessary*" and "*sufficiently* ventilated (*id.* §§ 3.2(a)-(b), 3.3(a)-(b) (emphasis added)). These vague and

subjective standards make it extremely difficult for the agency to engage in meaningful enforcement.

2. USDA's Enforcement System is Anemic; Noncompliant Breeders Remain in Business

In many cases, the already weak standards are rendered almost meaningless as result of the infrequency of inspections and the agency's routine failure to take enforcement action against noncompliant breeders. A 2010 report issued by the USDA Office of the Inspector General, available at http://www.usda.gov/oig/webdocs/33002-4-SF.pdf, is instructive. The report found, among other things, that the agency's "enforcement process was ineffective in achieving dealer compliance with AWA and regulations, which are intended to ensure the humane care and treatment of animals." *Id.*, p. 8. It further describes cases of extreme suffering found at noncompliant facilities, including a dog with a serious bite wound that, after having been left untreated for a week, "resulted in the flesh around the wound rotting away to the bone" (*id.*, p. 11); dogs who were catatonic and infested with fleas (*id.*, p. 12), and; dead and "starving dogs [who] had resorted to cannibalism" (*id.*, p. 13).

Examination of USDA inspection reports of inspections conducted in the past several years, which are available on the agency's website at https://acissearch.aphis.usda.gov/LPASearch/faces/LPASearch.jspx, reveal that enforcement remains inadequate and noncompliant breeders are often permitted to operate with impunity. Indeed, The Humane Society of the United States' recently published "A Horrible Hundred" report, available at http://www.humanesociety.org/assets/pdfs/pets/puppy_mills/100-puppy-mills-report.pdf, describes dozens of USDA-licensed facilities that continue to receive licenses year after year despite a history of egregious animal welfare violations:

- Barbara Gullett/Gullett Kennel – Russellville, AR....*At its most recent inspection in September 2012, the kennel was cited for two bulldogs in need of veterinary care, including one who had "green drainage" coming from the eye and another whose eye was "red with drainage," and puppies were found in stacked, wire cages with excessive feces...On October 5, 2010, a USDA inspector required Gullett to obtain medical care for several sick puppies who were coughing and had "serious nasal discharge" as well as three adult bulldogs with eye problems. The inspector also attempted to check on a sick bulldog who had been documented during the previous inspection and was told that the dog had died. When asked for an explanation, Gullett admitted*

that the bulldog had died after her husband "tied the animal onto the bed of a flatbed pickup truck then returned to the kennel." Left unattended, the bulldog had fallen off the truck bed and hung herself, according to the inspector's report. USDA #71-A-0748. [p. 3]

- Sarah Young/Cedar Springs Kennel – Hardy, AR...*Multiple serious violations have been documented by USDA inspectors at Cedar Springs Kennel as recently as February 2013, when a USDA inspector found two Cocker Spaniels with very visible eye problems who had not been treated by a vet; the breeder admitted that one of them had had the problem for "approximately 9 months." The inspector also documented a repeat violation during the same inspection for approximately 131 dogs left out in the cold without adequate protection from the elements...During a November 2011 inspection, a USDA inspector noted: "In one enclosure the dealer had housed two females which were due to whelp. During the inspection the adults were found together with three dead puppies in various stages of dismemberment."...On May 7, 2008, when a USDA inspector inquired about one of the sick dogs who had been identified previously, he was told that "the dog died within a few hours of that last inspection and no consultation with a veterinarian had taken place." USDA # 71-A-0676.* [p. 4]

- Elmer Lapp/ Pine Hill Kennel – Hagerstown, IN...*Pine Hill Kennel has accumulated some gruesome USDA violations in recent years, including repeated violations for improperly docking (cutting off) puppies' tails. At its most recent inspection in February 2013, an inspector found puppies with recently docked tails which had been glued together at the base with expired surgical adhesive, a limping Boston Terrier, a matted shih tzu with dental disease, and more repeat violations for issues such as insects and feces in the dogs' food, filthy conditions, and "rodent feces throughout the facility." Prior violations cited by USDA inspectors at Pine Hill Kennel have included: bloody puppies with recently docked tails found lying on a bloody floor (April 2010); repeat violations in May 2012 for several dogs in need of veterinary care, including a limping shiba inu with an injured leg who had blood all over the floor of her enclosure; sale of underage puppies; beetles and worms found in the dogs' food; conditions in some of the kennels that were so filthy that some of the dogs had no clean area to lie down on; having an unlicensed person cropping puppies' ears instead of a licensed veterinarian, and many other problems. USDA #32-A-0363.* [p. 7]

- Barbara Crick / Cricks Kennels – Burwell, NE...*The kennel has been cited for repeated problems with unsafe and shoddy housing and piles of feces, as well as dogs kept in extremely hot enclosures (over 91 degrees F) in August without adequate protection, and dogs kept in below-freezing temperatures in the winter (26 degrees F). In 2012, the operator was repeatedly cited for filthy and unsafe conditions. In 2008, a USDA inspector found a horrific sight: "a dead female golden retriever that had been tied to a post behind the east kennel and shot in the head with a .22 caliber gun"... USDA #47-A-0426.* [p. 26]

These are but a few examples of the numerous noncompliant breeders the USDA continues to re-license.