



July 13, 2017

Federal Bill Introduced to Prevent Veterans Administration from Using Dogs in Studies

Yesterday evening, it was announced that Reps. Dave Brat (R-VA) and Dina Titus (D-NV) have introduced the [Preventing Unkind and Painful Procedures and Experiments on Respected Species Act of 2017](#), or PUPPERS Act. Likely the result of recent attention on experiments by the Veterans Administration (VA) highlighted by the White Coat Waste (WCW) Project, the bill is relatively straightforward. The PUPPERS Act states the Secretary shall not “purchase, breed, transport, house, feed, maintain, dispose of, or experiment on dogs as part of the conduct of any study that causes significant pain or distress” by the VA. “Pain or distress” is defined in the legislation as research classified in category D or E by the U.S. Department of Agriculture (USDA). Aside from Brat and Titus, the bill is sponsored by Reps. Brian Mast (R-FL), Ted Lieu (D-CA), Dan Donovan (R-NY), and Brendan Boyle (D-PA). [Click here](#) to read more coverage in *The Hill*.

House Appropriations Committee Marks-Up FY18 Agriculture Appropriations Bill

On Wednesday the full House Appropriations Committee considered the Agriculture, Rural Development, Food & Drug Administration, and Related Agencies Appropriations Bill for FY18 to fund the U.S. Department of Agriculture (USDA) and Food & Drug Administration (FDA). The Animal and Plant Health Inspection Service (APHIS) was appropriated \$906 million, \$96 million more than the President’s requested amount, but \$40 million short of the FY17 funding level. The FDA will receive \$2.8 billion, the same as in FY17. The bill also appropriates \$60 million to the FDA as part of the 21st Century Cures initiative enacted last winter. Including revenue from user fees, total funding for the FDA is \$5.2 billion, \$490 million more than in FY17. The USDA will not resume funding the renewal of Class B licensed dealers in FY18. The report requires that most of a \$400,000 increase be used to establish an Institutional Animal Care and Use Committee (IACUC) by the Agricultural Research Service (ARS). The committee also addressed the February 3 removal of data from the USDA’s Animal Care Inspection System database, noting in the report that the USDA “must utilize the resources provided in this bill to promptly finish reviewing the information on its website, restore all legally permissible records previously removed, and resume posting on the USDA website.” To read the FY18 agriculture appropriations bill, [click here](#). The committee’s report on the bill can be [found here](#).

Labor-H Subcommittee Passes FY18 NIH Appropriations Bill in the House

Today, the House Labor, Health and Human Services, Education, and Related Agencies Subcommittee of the House Appropriations Committee passed the [FY18 National Institutes of Health \(NIH\) appropriations bill](#). It now heads to the full committee for consideration. The bill provides \$34.6754 billion in base funding for the NIH and includes the full \$496 million designated for FY18 in the NIH Innovation Account established in the 21st Century Cures Act, for \$35.1714 billion in total FY18 funding. This marks a \$1.1 billion increase from last year; the final FY17 omnibus provided \$33.732 billion in base funding and \$34.084 billion including money appropriated for 21st Century Cures. The bill rejects the President's proposal with regards to facilities and administration expenses. The bill also specifies that, "None of the funds made available by this Act may be used to conduct or support research using human fetal tissue if such tissue is obtained pursuant to an induced abortion." Critical research endeavors were also provided increases:

- \$1.8 billion, a \$400 million increase, for Alzheimer's disease research
- \$336 million, a \$76 million increase, for the Brain Research through Application of Innovative Neurotechnologies (BRAIN) initiative
- \$400 million, a \$80 million increase, for the All of Us research initiative (formerly called the Precision Medicine Initiative)
- \$300 million for the Cancer Moonshot
- \$10 million, an \$8 million increase, for regenerative medicine research
- \$12.6 million for the Gabriella Miller "Kids First" pediatric cancer research initiative.

Massachusetts Committee Hears Testimony on Beagle Freedom Animal Adoption Bills

As reported in last week's *NABR Update*, the Massachusetts Joint Committee on Public Health held a hearing on Tuesday and heard testimony on [H.3232](#) and [H.2454](#), two mandatory research animal adoption bills. James O'Reilly, President of the Massachusetts Society for Medical Research (MSMR), testified in-person against both bills, and others in the research community submitted written testimony in opposition. While the bills are similar in scope, there are also key differences to note: H.3232 includes a two-year time limit for studies involving dogs or cats; and H.2454 broadly defines an animal as a "dog and cat specifically and all other sentient creatures except humans." No action was taken on either bill at Tuesday's hearing.

PETA Publishes 'Dirty Dozen' List of Worst CEOs for Animals in Labs

People for the Ethical Treatment of Animals (PETA) has [published a list](#) of CEOs of institutions that the animal rights organization asserts "are bad news for millions of animals locked in their laboratories." The list includes twelve CEOs of CROs as well as pharmaceutical, chemical, and cosmetic companies. PETA compiled the list by

weighing considerations such as the number of animals euthanized, types of studies conducted, record on compliance with the Animal Welfare Act (AWA), use of alternative methods, and comparison to animal protection standards across the industry.

Companies included on PETA's "[Dirty Dozen](#)" list are Covance; Charles River Laboratories; The Jackson Laboratory; Primate Products, Inc. (PPI); Shin Nippon Biomedical Laboratories USA; Tier 1 Group, LLC; Avon; Merck; Bristol-Myers Squibb; Air France-KLM; Pfizer; and Marshall Farms Group Ltd.

PETA's assessment of each company reflects the organization's extreme animal rights viewpoint. The list includes surreptitious videos, photos, and stories used in attempts to justify the organization's mission to end all animal research and testing.

[Click here](#) to read PETA's list in full. Please do not hesitate to reach out to us at info@nabr.org for crisis management support and media relations guidance. You may also view [NABR's Crisis Management Guide here](#).

Kangaroo Court Examines Monkey Selfies

PETA appealed a decision by the United States District Court for the Northern District of California in the 2015 case of *Naruto v. Slater*. PETA alleges that Naruto, a monkey, is the proper copyright owner of a "selfie" taken with nature photographer David Slater's camera. The district court dismissed the complaint for lack of standing under the U.S. Copyright Act. PETA appealed the decision to the 9th US Circuit Court of Appeals and oral arguments were heard Wednesday, July 12 in San Francisco by a panel of three judges.

Judge Carlos Bea asked PETA council David Schwarz whether the organization has an adequate relationship with the monkey to serve as its "next friend", with standing to sue. Judge N. Randy Smith addressed the issue of injury, asking whether the monkey has somehow suffered damage to its reputation or monetary harm from Slater's use of the image. Judge Smith cited the 9th Circuit's ruling in *Cetacean Community v. Bush*, which said, "If Congress and the President intended to take the extraordinary step of authorizing animals as well as people and legal entities to sue, they could, and should, have said so plainly."

The judges then heard arguments from Slater's attorney, Andrew Dhuey. He briefly explained why non-human animals do not have standing, and argued his client should not have to pay legal fees. The judges explained that, should the case be dismissed for lack of standing, new cases could crop up if the "next friend" relationship is suitably demonstrated.

Angela Dunning, the attorney representing the publishing company, Blurb, that prints books of Slater's photographs, also challenged PETA's arguments. She argued that, under the U.S. Copyright Act, copyright owners must provide written notice to others claiming an interest in the image, and a monkey would be incapable of providing written notice. She further emphasized that it is not entirely clear which monkey took the picture. Slater claims it was a female monkey named Ella, while PETA contends it was

a male monkey named Naruto. Dunning pointed out numerous problems that could arise from granting copyrights to animals. She took a stand against PETA's self-serving financial interests: "This case is brought as a means of highlighting a larger policy issue that is important to PETA... that is precisely what the Supreme Court said a next friend cannot do: use a real party in interest that can't speak for itself to pursue its own agenda..."

While PETA maintains their relationship with the monkey satisfies the "next friend" standard and has standing, the defendants do not seem worried. Speaking to reporters after the arguments, Dhuey reiterated Dunning's claim that this case is a publicity stunt by PETA, and noted the monkey didn't show up to court, "It's like he doesn't even care." We await a ruling from the 9th Circuit on this appeal.

Legal Scholars Taking a Look at Chimps' Personhood

The recent court cases brought by the Nonhuman Rights Project (NhRP) have started to garner attention, not only from animal activists and the research sector, but from the general public as well. Recently, Matthew Goldberg, a Boston-area writer who has been featured in the *Federalist* and *New Boston Post*, wrote a [thought-provoking opinion piece](#) on the subject.

In his article, Goldberg discussed the difference between legal rights and duties, which was a major focus of the court in its most recent decision. The court explained that NhRP's personhood argument is specious—chimps cannot have the legal right to exist without potential use as research subjects precisely because they also cannot, for example, pay a parking ticket or serve a prison sentence for mauling another chimp (or human for that matter).

Goldberg addressed another argument by NhRP, that primate intelligence warrants legal personhood explaining the potential for the use of that precedent to deny rights to humans with limited intelligence or cognitive impairment.

The article seems to conflate rights—to which animals are entitled, as, for example, undergirds laws against animal cruelty—with full personhood, to which animals are not entitled because they are not capable of fulfilling the attendant legal duties.

Goldberg asked thoughtful questions in this piece, leaving room for more dialogue on the subject and possibly signifying increased public attention to and interest in personhood arguments (as will play out again in NhRP's appeal).

Complementary Subscription to *Lab Animal*

Nature's Lab Animal brings you the following message: *Lab Animal* is a peer-reviewed journal publishing timely and informative editorial material emphasizing proper lab animal management and care, targeting audiences in the academic world and applied research industries involved in genetic engineering, human and animal therapeutics, and pharmaceutical drug discovery. Editorial features include transgenics, pain

management, genetics, toxicology, regulations, and many more — as a forward-thinking researcher, you need the information that is brought to you every month in *Lab Animal*. To apply for your free subscription, visit: <https://nature.omedica.com/lab/r-main.do?p=AL0717H>