

BEFORE THE DISTRICT ATTORNEY OF MONTGOMERY COUNTY, PENNSYLVANIA

IN RE PRIVATE CRIMINAL COMPLAINT OF ANIMAL PARTISAN

Private criminal complaint submitted pursuant to Pa. R. Crim. P. 504 requesting
criminal charges against **Leidy's, Inc.**

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I. INTRODUCTION

On behalf of Animal Partisan, I submit this correspondence in support of a citizen's criminal complaint filed pursuant to Pa. R. Crim. P. 504 alleging violation of the Commonwealth's animal cruelty law, 18 Pa.C.S. § 5533(a), by Leidy's, Inc. and one of its employees or contractors.

Upon receipt of a citizen's complaint, the District Attorney "is required to investigate"¹ and approve or disapprove it "without unreasonable delay."² We appreciate your attention to this matter.

Leidy's, Inc. ("Leidy's")³ is a producer of pork products that owns and operates a federally inspected slaughterhouse located at 266 West Cherry Lane, Souderton, Pennsylvania 18964.⁴ The business appears to be owned by [REDACTED] Leidy's advertises that its pigs are "well cared for" and raised "humanely."⁶

Animal Partisan is a legal advocacy organization whose mission is to end the suffering of animals in slaughterhouses, farms, and laboratories by discovering, exposing, and challenging unlawful conduct in all its forms.⁷

II. FACTS GIVING RISE TO COMPLAINT

On March 14, 2022, a United States Department of Agriculture ("USDA") inspector monitoring the slaughter of animals at Leidy's slaughterhouse witnessed an act of abuse that we allege constitutes animal cruelty under Pennsylvania law. The incident was documented in a USDA inspection report, included as Appendix A. In relevant part, the report states:

[Inspector] heard a male voice yelling loudly, hogs squealing loudly and saw the driver beating the hogs repeatedly with a paddle in the truck. The hogs were terrified and they squealed as he beat them with the paddle hurrying them to get off the vehicle. The more he beat them the louder they squealed and he would not stop . . .

The report continues:

[Inspector] shouted...STOP, STOP, STOP but due to the combination of noise inside the truck from him and the hogs the REDACTED could not hear me. REDACTED came to assist me in getting the driver's attention. He knocked on the truck. When we eventually got the driver's attention, he stuck his hear (sic) out and I told him to stop beating, stop yelling, stop stamping his feet at the animals. He asked me "What should I

¹ *In re Private Complaint of Adams*, 764 A.2d 577, 580 (Pa. Super. Ct. 2000).

² Pa. R. Crim. P. 506.

³ Unless stated otherwise, the term "Leidy's" as used in this complaint refers to the corporation and the truck driver.

⁴ *Leidy's, Inc.*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/inspection/fsis-inspected-establishments/leidys-inc>. (last visited Dec. 21, 2022).

⁵ [REDACTED]

⁶ *About Us-Our Partner Farms*, LEIDY'S, INC., <https://leidys.com/our-farms/> (last visited Dec. 23, 2022).

⁷ *Home*, ANIMAL PARTISAN, <https://www.animalpartisan.org/> (last visited Oct. 6, 2022).

do?" I replied, "Stop beating them, stop screaming at them and guide them off the truck." He stopped beating the hogs, and they all came off the truck and were guided into their pens.⁸

After the truck driver stopped beating the pigs, the inspector notified the plant that it had violated federal humane handling laws. The inspector documented the violation which is included as Appendix A.

III. LEGAL ANALYSIS

A. The truck driver's abuse of pigs violates Pennsylvania's animal cruelty law.

Pennsylvania's animal cruelty law prohibits a wide range of conduct, including beating pigs. Leidy's as a corporation and the truck driver involved should both be charged with animal cruelty.

Under the animal cruelty law, 18 Pa.C.S. § 5533(a), "[a] person commits an offense if the person intentionally, knowingly or recklessly illtreats, overloads, *beats*, abandons or abuses an animal."⁹ The law defines a "domestic animal" as "[a] dog, cat, equine animal, bovine animal, sheep, goat or *porcine* animal."¹⁰

The law's application to the present facts is straightforward. First, the pigs transported to Leidy's are considered a "domestic animal" under Pennsylvania law and are therefore protected by the animal cruelty statute.¹¹ Nothing in the law precludes them from protection simply because they were destined for slaughter.

Second, the acts committed against the pigs are plainly prohibited by law. Under Pennsylvania's rules of statutory construction, "words and phrases shall be construed according to rules of grammar and according to their common and approved usage."¹² Merriam-Webster defines the word "beats" as meaning "to strike repeatedly."¹³ As documented in a inspector's report, and apparently undisputed by Leidy's, the truck driver "beat[] the hogs repeatedly with a paddle in the truck" and "beat them with the paddle hurrying them to get off the vehicle."¹⁴ Thus, the truck driver's abuse meets the required actus reus of the statute.

Third, the report indicates that the truck driver intended to beat the pigs and the abuse was no accident. The report indicates that the truck driver repeatedly raised the paddle and beat multiple

⁸ Appendix A – Leidy's, United States Department of Agriculture-Food Safety and Inspector Service Report, March 14, 2022.

⁹ 18 Pa.C.S. § 5533(a).

¹⁰ 18 Pa.C.S. § 5531 (emphasis added).

¹¹ *Ibid.*

¹² 1 Pa.C.S. § 1903

¹³ *Beat*, Merriam-Webster Online Dictionary (2022).

¹⁴ Appendix A.

pigs.¹⁵ Moreover, when told to “[s]top beating them,” he did not deny the statement but simply asked for instructions from the inspector on what to do instead.¹⁶

In sum, the inspector’s report makes clear that the truck driver violated Pennsylvania’s animal cruelty statute. With intent to do so, he repeatedly beat multiple pigs who are protected by law and should be charged with animal cruelty.

B. Leidy’s as a corporation is criminally liable because the truck driver beat the pigs while acting on Leidy’s behalf and within the scope of his employment.

Under Pennsylvania law, the term “person” includes “a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.”¹⁷ A corporation such as Leidy’s¹⁸ may be convicted of a criminal offense under several grounds, one of which is relevant here.

Leidy’s may be convicted of a criminal offense if (a) “the offense is a summary offense” and (b) “the conduct is performed by an agent of the corporation acting in behalf of the corporation within the scope of his office or employment.”¹⁹

Pennsylvania’s animal cruelty statute provides that beating an animal is a summary offense if the violation does not cause bodily injury or place the animal at imminent risk of serious bodily injury.²⁰ Here, based on the inspector’s reports, the pigs reflected no visible injuries²¹ and accordingly, the appropriate charge is a summary offense.

Moreover, the inspector’s report indicates that the beating occurred while the truck driver was delivering pigs to Leidy’s. The report states that the truck driver “arrived at the establishment and delivered” the pigs.²² The report further states that the beating occurred while the truck driver was “hurrying to get them off the vehicle.”²³ Thus, as he was unloading pigs for slaughter who had been delivered to Leidy’s, the truck driver was acting on behalf of the corporation and within the scope of his employment.

Each of the elements for corporate liability are present here. The offense (a) is a summary offense and (b) the driver was delivering and unloading pigs on behalf of Leidy’s and within the scope of his employment. Accordingly, Leidy’s as a corporation should be charged with a summary offense of animal cruelty alongside the truck driver.

¹⁵ Appendix A.

¹⁶ *Ibid.*

¹⁷ 1 Pa.C.S. § 1991.

¹⁸ *Leidy’s*, PENNSYLVANIA SECRETARY OF STATE, <https://www.corporations.pa.gov/search/corpsearch> (last visited Dec. 26, 2022) (Records reflect that as of March 15, 2013, Leidy’s, Inc. merged with New Pennsylvania Survivor).

¹⁹ 18 Pa.C.S. § 307(1).

²⁰ 18 Pa.C.S. § 5533(b)(1-2).

²¹ Appendix A.

²² Appendix A.

²³ *Ibid.*

C. Leidy's cannot avail itself of the "normal agriculture operation" exemption as cruelly beating pigs is not an accepted practice in the pork industry.

Pennsylvania law contains an exemption to cruelty charges for "normal agricultural operations, however, the exemption is inapplicable here. Specifically, 18 Pa.C.S. § 5560 states that:

Sections 5532 (relating to neglect of animal), 5533 (relating to cruelty to animal), 5534 (relating to aggravated cruelty to animal), 5536 (relating to tethering of unattended dog) and 5543 (relating to animal fighting) shall not apply to activity undertaken in a normal agricultural operation.²⁴

The law further defines a "normal agricultural operation" as:

Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.²⁵

The precise definition of "normal agricultural operation" has been addressed twice by the Superior Court. In *Commonwealth v. Barnes*, the court found that normal means "conforming with or constituting an accepted standard, model, or pattern; natural; standard; regular."²⁶ More recently in the case of *In re Private Crim. Complaint Filed by Animal Outlook*, a case involving the abuse of cows at an industrial dairy, the court held that "[T]he exception only applies when the conduct is an accepted standard within the agricultural industry and the defendant acted in the course of business within that industry."²⁷ The court in *Animal Outlook* further stated that:

[T]o determine whether there is adequate evidence to disprove a normal-agricultural-operations defense, we must ascertain whether the certified record contains sufficient evidence that the activities at issue fell outside the bounds of what is considered standard and accepted within the dairy farming industry. Certainly, the recommendations and guidelines of industry groups are pertinent to this inquiry to the extent that they are widely accepted or regular.²⁸

Thus, the question in the present matter is whether beating pigs while unloading them from a transport truck at the slaughterhouse is a "standard and accepted" practice in the pork industry. The answer is indisputable—such abuse is not "standard and accepted." In fact, the USDA, every major pork industry association, and the nation's largest veterinary associations all consider Leidy's conduct an "unacceptable" act of "abuse":

- The **USDA** cited Leidy's for violating federal law, specifically 9 CFR § 313.2(a) (part of the Federal Meat Inspection Act and Humane Methods of Slaughter Act), which requires

²⁴ 18 Pa.C.S. § 5560.

²⁵ 18 Pa.C.S. § 5531.

²⁶ *Commonwealth v. Barnes*, 427 Pa. Super. 326, 629 A.2d 123, 129 (Pa. Super. 1993).

²⁷ *In re Private Crim. Complaint Filed by Animal Outlook*, 271 A.3d 516, 523 (Pa. Super. 2022).

²⁸ *Id.* at 528.

that “[a]nimals are unloaded and driven to pens with a minimum of excitement and prod use.”²⁹ The USDA further found that Leidy’s had violated 9 CFR § 313.2(b) which requires that “Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury.”³⁰

- The **American Association of Swine Veterinarians** (“AASV”), an industry association with over 1,300 members in 40 countries,³¹ classifies “[m]alicious hitting/beating of an animal” as an act of willful abuse.³² “Malicious hitting/beating” is further defined as “forcefully striking an animal with closed fist, foot, handling equipment (e.g. sorting board, rattle paddle, etc.) or other hard/solid objects that can cause pain, bruising or injury.” AASV further states that “[w]illful acts of neglect or abuse are unacceptable and are not tolerated” and that “[w]illful abuse and neglect are defined as *acts outside accepted production practices* that intentionally cause pain and suffering.”
- In its “Transport Quality Assurance Manual”, the **Pork Checkoff** classifies “[h]itting or beating an animal” as a “willful act of abuse”³³ The Pork Checkoff is an entity created by Congress whose mission includes promoting pork and providing resources to pork producers.³⁴
- The **North American Meat Institute** (“NAMI”) states that “[h]itting or beating an animal” is an “egregious act of abuse no matter where or why [it] occur[s].”³⁵ NAMI is the “oldest and largest trade association representing U.S. packers and processors of beef, pork, lamb, veal, and turkey.”³⁶
- The **American Veterinary Medical Association’s** Guidelines for the Humane Slaughter of Animals state that “[a]cts of abuse that should never be tolerated include but are not limited to. . . beating animals.”³⁷

²⁹ Appendix A; 9 CFR § 313.2(a); Food Safety and Inspective Service Directive 6900.2, United States Department of Agriculture, https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6900.2.pdf (last visited Dec. 23, 2022).

³⁰ 9 CFR § 313.2(a).

³¹ *About the AASV*, AMERICAN ASSOCIATION OF SWINE VETERINARIANS, <https://web.aasv.org/about/> (last visited Dec. 21, 2022).

³² *AASV Anti-Abuse Position Statement*, AMERICAN ASSOCIATION OF SWINE VETERINARIANS, <https://web.aasv.org/position-statements/position-anti-abuse/> (last visited Dec. 21, 2022).

³³ *Transport Quality Assurance Handbook*, PORK CHECKOFF, p.60, <https://d3fns0a45gcg1a.cloudfront.net/sites/all/files/documents/TQA/2014-Version5/TQAHandbookV5.PDF> (last visited Dec. 21, 2022).

³⁴ *About Pork Checkoff*, PORK CHECKOFF, <https://porkcheckoff.org/about/> (last visited Dec. 21, 2022).

³⁵ *Recommended Animal Handling Guidelines and Audit Guide*, NORTH AMERICAN MEAT INSTITUTE, p.12, https://www.animalhandling.org/sites/default/files/forms/Animal_Handling_Guide012021.pdf (last visited Dec. 21, 2022).

³⁶ Home, NORTH AMERICAN MEAT INSTITUTE, <https://www.meatinstitute.org/> (last visited Dec. 21, 2022).

³⁷ *AVMA Guidelines for the Humane Slaughter of Animals*, AMERICAN VETERINARY MEDICAL ASSOCIATION, <https://www.avma.org/sites/default/files/resources/Humane-Slaughter-Guidelines.pdf>, p.12 (last visited Oct. 7, 2022).

- The **Pig Site**, a pork industry educational resource operated by Global Ag Media, states that “[h]itting and kicking pigs is not acceptable” and that pigs “should always be allowed to move at their own pace to avoid causing stress.”³⁸

Not a single authority sanctions the type of abuse Leidy’s inflicted upon these pigs while unloading them for slaughter. As such, the act is not an “accepted standard within the agricultural industry” and Leidy’s cannot avail itself to the “normal agricultural operation” exemption.³⁹

D. The District Attorney is not prevented from pursuing criminal charges based on Leidy’s status as a federally regulated slaughterhouse.

Leidy’s is not immune from prosecution for animal cruelty simply because it engages in a federally regulated business. Moreover, any actions taken or not taken by the USDA have no bearing on the Commonwealth’s ability to pursue criminal charges for animal cruelty.

This issue has been squarely addressed by the Supreme Court of the United States. In *National Meat Association v. Harris*, the Court considered an argument that the Federal Meat Inspection Act (“FMIA”, which incorporates the Humane Methods of Slaughter Act) preempted a California law regulating the handling of “downed” animals at slaughter.⁴⁰ The Court concluded that states may still enforce animal cruelty laws at federal slaughter establishments:

[B]ecause the FMIA's express preemption provision prevents States from imposing only “addition[al]” or “different” requirements, [] States may exact civil or *criminal penalties for animal cruelty* or other conduct that also violates the FMIA . . . Although the FMIA preempts much state law involving slaughterhouses, it thus leaves some room for the States to regulate.⁴¹

Thus, the mere fact that Leidy’s criminal act occurred during slaughter at a federally inspected slaughterhouse and was witnessed by the USDA does not preclude the Commonwealth from enforcing its own animal cruelty law.

Moreover, the fact that the USDA may have allowed Leidy’s to continue operations does not negate the criminal conduct that occurred. The Superior Court of Pennsylvania addressed an identical issue in *Animal Outlook*, criticizing the trial court for relying on training and human resource changes at an industrial dairy engaged in cruelty to decline criminal charges. There, the Superior Court stated that:

[T]he trial court, as did the PSP, made a point of noting that Martin Farms had voluntarily changed some of its practices. The fact that the farm stopped committing or allowing the arguably-criminal acts does not negate culpability for any past crimes

³⁸ *Loading and Unloading Pigs*, THE PIG SITE, <https://www.thepigsite.com/articles/loading-and-unloading-pigs> (last visited Dec. 21, 2022).

³⁹ *Animal Outlook*, 271 A.3d at 523.

⁴⁰ *Nat'l Meat Ass'n v. Harris*, 565 U.S. 452, n.10 (2012).

⁴¹ *Ibid.* (emphasis added).

perpetrated upon the animals. We are not considering enforcement of an administrative regulatory scheme seeking future compliance with better farming practices. We instead face proposed criminal actions vindicating laws that our legislature has deemed to be crimes against the people of this commonwealth. That remedial measures were taken here does not affect liability for prior criminal acts any more than the fact that a defendant stopped selling drugs would absolve him from prosecution for past drugs sold.⁴²

The Commonwealth is not barred from pursuing animal cruelty laws by federal law or any mandate of the USDA. In addition, the fact that the USDA allowed Leidy's to continue to operate does not negate the criminal act that occurred and does not absolve Leidy's of accountability for animal cruelty.

III. CONCLUSION

Animals used in agriculture are not precluded from protection by Pennsylvania's animal cruelty laws. This matter presents an obvious act of abuse against vulnerable animals on their way to slaughter. As detailed above, the District Attorney is not precluded from pursuing criminal charges. We respectfully request that criminal animal cruelty charges are filed against the truck driver and Leidy's as a corporation. If you have any questions or require further information, please contact me at wlowrey@animalpartisan.org or (804) 307-4102.



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⁴² *Animal Outlook*, 271 A.3d at 526.