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Submitted online at <https://usdaoig.oversight.gov/hotline>

Sent electronically to Phyllis.fong@oig.usda.gov

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Phyllis K. Fong
Inspector General
United States Department of Agriculture
Office of Inspector General
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Post Office Box 23399
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Dear Ms. Fong,

On behalf of Animal Partisan (“AP”), I write to report mismanagement and the gross waste of funds by the Food Safety and Inspection Service (“FSIS”) at a JBS-owned pig slaughterhouse in Ottumwa, Iowa. We respectfully urge the Office of Inspector General (“OIG”) to initiate an investigation into FSIS’ conduct and report its findings to Congress.¹

As described in detail below, FSIS has abdicated its responsibility to enforce federal laws that regulate the welfare of animals at slaughter by ignoring, and even condoning, an appalling and prolonged pattern of abuse. The slaughterhouse at issue, owned by JBS and operating under the name Swift Pork, is located at 600 South Iowa Avenue, Ottumwa, Iowa 52501 and is designated as FSIS Establishment Number M850.² Notably, FSIS previously invited this slaughterhouse to apply for a waiver that would allow it to operate slaughter lines at accelerated speeds.³

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.⁴

¹ 7 CFR § 2610.1 (c)(5).

² *Swift Pork Company*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/inspection/fsis-inspected-establishments/swift-pork-company-0> (last visited Oct. 19, 2022).

³ *USDA to invite Ottumwa JBS pork plant to speed up processing lines in “limited trial”*, Des Moines Register, <https://www.desmoinesregister.com/story/money/agriculture/2021/11/10/usda-safety-trial-ottumwa-jbs-pork-processing-meatpacking-plants-line-speeds-worker-safety/6376900001/> (last visited Oct. 19, 2022).

⁴ *Home*, ANIMAL PARTISAN, <https://www.animalpartisan.org/> (last visited Oct. 19, 2022).

I. Congress charged the USDA with enforcing federal laws regulating the welfare of animals at slaughter.

The United States Department of Agriculture (“USDA”) was tasked by Congress through the Federal Meat Inspection Act (“FMIA”) with preventing the inhumane treatment of animals at slaughter, including enforcement of the Humane Methods of Slaughter Act (“HMSA”), 7 U.S.C. §1901 *et seq.* Specifically, the FMIA provides that FSIS inspectors “shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which amenable species are slaughtered and handled in connection with slaughter.”⁵ FSIS is the division of USDA responsible for enforcing the FMIA.⁶

The HMSA, incorporated into the FMIA,⁷ mandates that slaughter facilities inspected by FSIS comply with a wide range of requirements intended to protect the welfare of animals at slaughter. Relevant here, HMSA requirements state that:

- “Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Livestock shall not be forced to move faster than a normal walking speed.”⁸
- “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. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited.”⁹
- “Pipes, sharp or pointed objects, and other items which, in the opinion of the inspector, would cause injury or unnecessary pain to the animal shall not be used to drive livestock.”¹⁰

FSIS is authorized and expected to take action to stop inhumane handling,¹¹ up to and including the suspension of inspection services at a slaughterhouse without prior notification.¹² When animals are slaughtered in violation of the HMSA, FSIS “may cause inspection to be temporarily suspended at a slaughtering establishment.”¹³

FSIS’ internal guidelines emphasize that *repetitive or recurring* actions are among those that warrant the most meaningful enforcement actions, including suspension of inspection. For example, FSIS guidelines states that:

⁵ 21 USCS § 603 (b).

⁶ *Food Safety Acts*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/policy/food-safety-acts#:~:text=Under%20the%20Federal%20Meat%20Inspection,meet%20U.S.%20food%20safety%20standards>. (last visited Oct. 20, 2022).

⁷ 21 USCS § 610(b).

⁸ 9 CFR § 313.2(a).

⁹ 9 CFR § 313.2(b).

¹⁰ 9 CFR § 313.2(c).

¹¹ 9 CFR § 500.2 (a)(4).

¹² 9 CFR § 500.3 (b); 9 CFR § 500.6 (a)(7).

¹³ *Ibid.*

- *When deficiencies occur repeatedly* or when the plant fails to prevent adulterated product from being shipped, FSIS takes action to control products and may take an action to withhold or suspend inspection.¹⁴
- “Should IPP document *repetitive* or egregious food safety or other noncompliance, FSIS may take actions to control products and/or may take administrative enforcement action under the FSIS Rules of Practice (9 CFR Part 500).”¹⁵

FSIS guidelines further state that FSIS should consider a broad range of factors when determining whether to suspend inspection, the vast majority of which relate directly to recurring incidents of noncompliance:

These factors include, but are not limited to, the type (or nature) of the violation (e.g., does the case involve food safety violations, insanitary conditions, Hazard Analysis and Critical Control Point (HACCP) plan design or execution); the seriousness (or gravity) of the violation (e.g., does the case involve adulterated product, consumer illness outbreak); *the number and/or repetitiveness of violations* (e.g., *does the case involve multiple and/or recurring noncompliance issues, such as HACCP, sanitation, and humane slaughter, and/or repeated violations*); the degree of culpability (e.g., is there evidence showing the violations were negligent, reckless, knowing, or intentional); *the establishment’s compliance history* (e.g., *does the case involve repetitive violations, previous suspension actions*); and *the establishment’s compliance efforts* (e.g., *prior or current actions taken by the establishment to correct, restore, or maintain compliance*).¹⁶

Congress charged the USDA with enforcing federal laws intended to protect animals from abuse at slaughter. As the division tasked by USDA with upholding these laws, FSIS is empowered to take enforcement actions when violations of these laws occur, including suspension of inspection services, particularly in instances where “recurring” or “repetitive” violations exist. FSIS has abandoned these responsibilities at the Swift Pork plant in Ottumwa, Iowa and the OIG should act to mitigate this ongoing mismanagement and waste of federal funds.

II. FSIS has relinquished its responsibility to enforce federal animal welfare laws at the Swift Pork plant in Ottumwa, Iowa.

Between April 2, 2021 and September 25, 2021—a period of less than 6 months—FSIS inspectors wrote 37 individual reports detailing inhumane handling at the Swift Pork plant in Ottumwa, Iowa but did nothing to stop the pattern of abuse. These incidents, taken directly from

¹⁴ *What is a noncompliance report?* Ask FSIS, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://ask.usda.gov/s/article/What-is-a-Noncompliance-Report> (last visited Oct. 19, 2022).

¹⁵ *FSIS Administrative Withdrawal of Inspection: Overview of Case Referral and Disposition Process*, UNITED STATES DEPARTMENT OF AGRICULTURE, p.2, https://www.fsis.usda.gov/sites/default/files/media_file/2021-05/8010.5-Attachment.pdf (last visited Oct. 19, 2022) (emphasis added).

¹⁶ *FSIS Administrative Withdrawal of Inspection: Overview of Case Referral and Disposition Process*, UNITED STATES DEPARTMENT OF AGRICULTURE, p.5, https://www.fsis.usda.gov/sites/default/files/media_file/2021-05/8010.5-Attachment.pdf (last visited Oct. 19, 2022).

FSIS’ own Memorandum of Interview (“MOI”) reports, are captured individually on Appendix A¹⁷ and summarized in the table below.

Most of these FSIS reports catalog evidence that Swift Pork employees were physically abusing pigs with paddles, prods, and sometimes even unidentified objects. FSIS inspectors consistently reported pig carcasses showing signs of beatings, often commenting on visible hemorrhaging, the number of injuries to individual pigs, and the distribution of marks across the pigs’ bodies (“Some of the carcasses had multiple marks and were located along both sides of the back, tail head, sides, flank, and hams.”)¹⁸ In several instances, FSIS inspectors even witnessed workers beating pigs with plastic bats and electric prods.¹⁹

In total, FSIS inspectors documented 3,357 pig carcasses showing evidence of abuse in a period of 177 days, an average of 195 pigs abused every single day. But beyond documenting the ongoing cruelty, FSIS did nothing to stop it.

Table 1: Summary of FSIS MOI Reports from the Swift Pork plant in Ottumwa, Iowa from April 2, 2021 to September 25, 2021.

| Date of MOI Report | Number of pig carcasses showing signs of abuse for reporting period | Notes |
|---------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| April 2, 2021 | 21 | |
| April 16, 2021 | 38 | |
| April 23, 2021 | NA | Inspector witnessed two employees abusing pigs with plastic bats and electric prods. |
| April 23, 2021 | 19 | |
| April 30, 2021 | 29 | |
| May 7, 2021 | 30 | |
| May 15, 2021 | 62 | Inspector noted that “The use of hand held electric prods as a means to hit the animal with enough force to leave a permanent mark . . . continues a trend of similar observations documented on previous MOIs.” |
| May 22, 2021 | 11 | |
| May 28, 2021 | 63 | |
| June 7, 2021 | 55 | |
| June 9, 2021 | 57 | |
| June 12, 2021 | 43 | |
| June 21, 2021 | 29 | |

¹⁷ For the full dataset, see “Datasets/Livestock Humane Handling Inspection Task (Archive),” *Inspection Task Data*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/science-data/data-sets-visualizations/inspection-task-data> (last visited Oct. 20, 2022).

¹⁸ Appendix A – MOI dated Aug. 14, 2021.

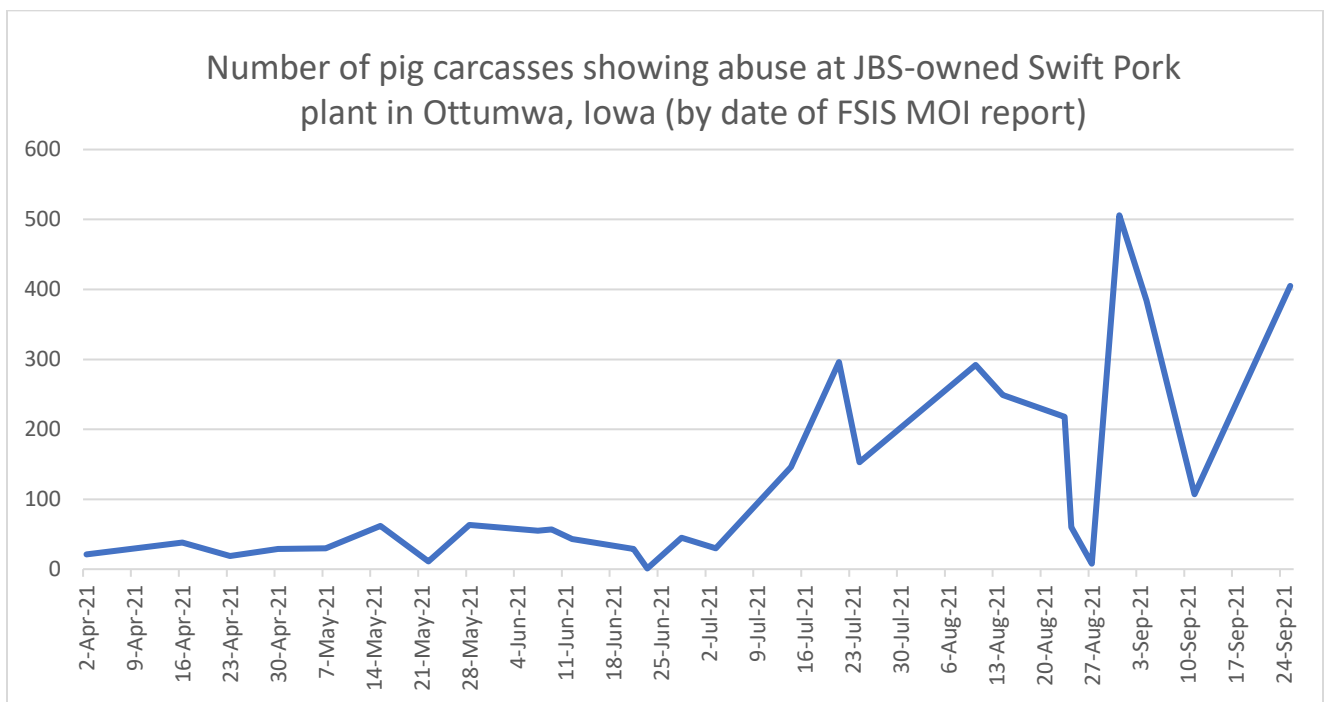
¹⁹ Appendix A – MOI dated Apr. 23, 2021, June 23, 2021, July 21, 2021, and Sep. 3, 2021.

| | | |
|--------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| June 23, 2021 | 1 | Inspector observed one carcass with over 20 marks. Inspector also witnessed a trainer beating a pig with a plastic bat. |
| June 28, 2021 | 45 | |
| July 2, 2021 | NA | Inspector reported that they “observed animals, post stunning, unshackled lying either on the shackle table or on the floor adjacent to the shackle table without a captive bolt security knock” and “also observed offline stickers hoist animals to be re-shackled without a security knock.” Inspector also noted concerns with pigs with rectal prolapses in holding pens. |
| July 3, 2021 | 30 | |
| July 14, 2021 | 146 | |
| July 21, 2021 | 296 | Inspector also witnessed a truck driver beating a downed pig and then herding other animals over top of the downed animal. |
| July 24, 2021 | 153 | |
| August 10, 2021 | 292 | |
| August 14, 2021 | 249 | |
| August 23, 2021 | 218 | |
| August 24, 2021 | 60 | |
| August 27, 2021 | 8 | |
| August 31, 2021 | 506 | One report included 319 carcasses showing marks and one included 197 showing marks |
| September 3, 2021 | NA | Inspector observed employee beating pigs with a paddle. When the employee noticed the inspector looking, he stopped beating the pig but looked back 3 more times to see if he was being watched. Inspector witnessed an employee strike a pig 8 times. When the employee noticed the inspector looking, he stopped. |
| September 4, 2021 | 384 | |
| September 11, 2021 | 107 | |
| September 25, 2021 | 405 | |

Incredibly, records reflect that FSIS conducted a broad evaluation of Swift Pork’s humane handling practices in the middle of this period of abuse and found them completely acceptable. On July 2, 2021 (as documented in the August 2, 2021 MOI report), an FSIS inspector reported that they had reviewed practices, conducted observations, and assessed plant audit materials. Following this evaluation, the FSIS inspector reported the following:

I, [NAME REDACTED], have **determined that the program meets the agency’s expectations for a robust systematic approach to humane handling and slaughter of livestock.** It is my conclusion that the establishment is both operating under and properly implementing their written program in alignment with FSIS Directive 6900.2 Rev.3 – Humane Handling and Slaughter of Livestock.²⁰

FSIS’ conclusion is unsupported by its own data which shows a horrific pattern of abuse that increased after the agency’s conclusion that everything was just fine. The chart below depicts the rate of abuse occurring at the Swift Pork slaughterhouse as documented in FSIS records. While the rate of abuse prior to the July 2, 2021 evaluation was high, it appears to have increased significantly following the meeting.



Despite this rate of abuse, FSIS never took any meaningful enforcement action, seemingly content to document the ongoing abuse. FSIS only documented the abuse in MOI reports instead of suspending inspection or even issuing a more severe Noncompliance Report (“NR”), which “is to be completed whenever inspection program personnel determine that an establishment has failed to meet one or more regulatory requirements”²¹ such as those dealing with humane handling.

The FMIA and HMSA plainly prohibit the type of conduct documented at the Swift Pork plant. These laws require that animals are driven without discomfort and with minimal excitement.²²

²⁰ Appendix A – MOI dated July 2, 2021 (emphasis added).

²¹ *What is a noncompliance report?* Ask FSIS, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://ask.usda.gov/s/article/What-is-a-Noncompliance-Report> (last visited Oct. 19, 2022).

²² 9 CFR § 313.2(a).

They prohibits excessive use of “electric prods . . . and other implements to drive animals,”²³ including “sharp or pointed objects, and other items which, in the opinion of the inspector, would cause injury or unnecessary pain to the animal.”²⁴ Yet despite these laws and its duty to enforce them, FSIS allowed Swift Pork employees to repeatedly beat, prod, and abuse thousands of pigs over a three month period, never once invoking any meaningful enforcement action but instead endorsing these practices.

FSIS’ failure to act in the face of recurring violations of federal law indicates a dereliction of duty, mismanagement, and the gross waste of funds allocated to pay federal inspectors who failed to perform their legally required duties.

III. FSIS has demonstrated that it will not enforce federal animal welfare laws at the Swift Pork plant so OIG must intervene.

OIG must act to remedy FSIS’ failure to ensure compliance with federal animal welfare laws. OIG is charged with “conduct[ing], supervis[ing], and coordinat[ing] audits and investigations relating to USDA programs and operations.”²⁵ FSIS’ own records indicate that the agency is failing to fulfill its statutory obligations and engaging in “mismanagement” and a “gross waste of funds,” conduct that OIG is tasked to investigate.²⁶

We respectfully request that OIG open an investigation into the conduct of federal inspectors at the JBS-owned Swift Pork slaughterhouse in Ottumwa, Iowa to remedy FSIS’ failure to perform its duties. We also request that, in keeping with its statutory duties, OIG “[k]eep . . . Congress fully and currently informed about problems, abuses, and deficiencies, and the necessity for and progress of corrective actions in the administration of USDA programs and operations”²⁷ and publicly report the results of its investigation to ensure effective congressional oversight of FSIS going forward.

We appreciate your attention to this important matter and look forward to your response. Please contact me at wlowrey@animalpartisan.org or (804) 307-4102.

Sincerely,



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²³ 9 CFR § 313.2(b).

²⁴ 9 CFR § 313.2(c).

²⁵ 7 CFR § 2610.1 (c)(1).

²⁶ 7 CFR § 2610.1 (c)(16).

²⁷ 7 CFR § 2610.1 (c)(5).