

August 8, 2018

Sheriff William D. Gore  
 San Diego County Sheriff's Department  
 John F. Duffy Administrative Center  
 P.O. Box 939062  
 San Diego, CA 92193-9062  
*Via certified mail, return receipt requested*  
*Sent via facsimile (858-748-7954)*

Dear Sheriff Gore:

I am writing on behalf of People for the Ethical Treatment of Animals, Inc. (PETA) to notify your agency of apparent violations of California's prohibitions against cruelty to animals. Animals at Poway-based corporation ProSci have been documented with serious veterinary concerns and confined with a lack of adequate shelter, contaminated feed, and other apparently unlawful conditions. PETA respectfully requests that your agency initiate an investigation and file appropriate charges against any culpable parties for any violations of California law.

ProSci is a California<sup>1</sup> corporation that confines numerous animals—including rabbits, goats, llamas, sheep, cows, guinea pigs, hamsters, and mice—in order to draw blood from them repeatedly and extract and sell antibodies. The facility has a long history of failing to provide animals with adequate care. According to a June 20, 2017, federal inspection report that PETA has received,<sup>2</sup> a rabbit appeared to have an ear mite infestation that the facility had not identified or treated. Another rabbit had an ongoing malocclusion and overgrown teeth, with no record of when the animal's teeth were last trimmed. A rabbit who was euthanized on April 28, 2017, had hemiparesis of the hind legs, was "unable to reach food," and had "lost a great deal of weight," with a body condition score of about 1.<sup>3</sup> ProSci had withdrawn blood from the rabbit on April 18, 2017, but the animal was not weighed and nothing about the animal's weight loss was communicated to a veterinarian. Further, during the inspection, goats were observed with overgrown hooves that were misshapen and cracked, rabbits had overgrown nails, and animals' feed was contaminated with mold and rat feces. Similarly, a September 22, 2016, inspection found that feed at ProSci contained feces; forty sheep were confined in a pen where the only shelter was a shade cloth that was inadequate to cover all sheep; and llamas, goats, and rabbits had

<sup>1</sup> ProSci's headquarters are located at 12170 Flint Place, Poway, CA 92064; but the facility that holds rabbits, cows, llamas, and other animals is located at 655 Ash Street, Ramona, CA 92065.

<sup>2</sup> Ex. 1, June 20, 2017, U.S. Dep't of Agriculture (USDA) Inspection Report. The USDA inspects laboratories typically no more than once or twice a year and cites only for violations of the negligible standards of the Animal Welfare Act (AWA). The agency's minimal regulatory enforcement does not preempt state law or obviate the need for strict enforcement of state law, as discussed *infra*.

<sup>3</sup> The body condition score for rabbits runs from 1 (very thin) to obese (5).

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excessively long hooves or nails, respectively.<sup>4</sup> Through a records request, PETA obtained copies, which are enclosed, of photographs that were taken during the September 22 inspection.

Photographs taken during a July 29, 2015, inspection were also obtained by PETA and are enclosed. The photographs and inspection report reveal concerns with the veterinary health of numerous rabbits, including several animals with head tilts, eye discharge, or overgrown nails and a rabbit who was underweight, depressed, and soiled. Further, areas confining animals reached temperatures of 86-93 degrees and lacked ventilation, guinea pigs lacked potable water, and there were multiple sanitation concerns in enclosures holding animals, including areas of standing liquid containing excreta.<sup>5</sup> Federal inspections have revealed other problems at ProSci, including inadequate shade for cows, lack of adequate space, and lack of documentation of any veterinary care in the twenty days preceding the euthanasia of a rabbit.<sup>6</sup>

Veterinarian Dr. ██████████ reviewed the photographs, and her expert assessment is enclosed and is excerpted herein. Regarding the husbandry of the rabbits depicted in the photographs, Dr. ██████████ stated, just in part, that “the ceilings of the cages do not permit the rabbits to stretch to their full height on their hind legs. There is no visible bedding present, and the cages are devoid of enrichment items such as toys, sticks, and balls . . . The cages are kept in a shed that is open to wind, rain, snow, heat, and dust. There are no nest or hide boxes in the cages. Proper sanitation and maintenance of the rabbit facility is not provided, which creates a situation conducive to the spread of infectious disease and risks injury to the animals.” Dr. ██████████ noted that rabbits are highly social animals requiring at least four hours of daily exercise for optimal well-being, but the rabbits pictured at ProSci are confined to small cages that restrict movement and their only contact with other rabbits is through the cages’ wire walls. “Rabbits that are kept in small spaces lacking any enrichment are more prone to behavioral disorders and stereotypic behaviors, such as chewing at the bars of the cage. The cage wires are covered in rust, which not only makes them difficult to sanitize properly, but also creates abrasive, sharp edges that can lacerate and damage the skin, fur, and mouth, teeth, and oral cavity of the rabbits. The cages are open and exposed to the elements of wind, rain, and heat. While fairly cold resistant, rabbits that are kept outside must have secure shelter and plenty of clean bedding to aid in thermoregulation. Rabbits tolerate heat poorly, and in hot climates must have access to cool areas free of wind and dust, or climate controlled housing.”

Dr. ██████████ continued,

Rabbits are natural burrowers, and depriving them of bedding and nest boxes heightens their stress by preventing natural activities such as resting, creating a nest, and hiding. Housing rabbits on wire floors without any bedding causes painful damage to feet, pressure sores, and trauma and fractures when nails and toes get caught in the wire. Overgrown toenails are a sign of inadequate activity levels and poor monitoring and care. Toenails should be trimmed regularly, and exercise opportunities provided on a

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<sup>4</sup> Ex. 2, Sept. 22, 2016, USDA Inspection Report.

<sup>5</sup> Ex. 3, July 29, 2015, USDA Inspection Report.

<sup>6</sup> Ex. 4.

daily basis, to decrease the risk of trauma. Additionally, immobility due to confinement housing has been linked to serious medical conditions . . . .

Regarding the rabbits' health conditions, Dr. ██████ stated, in part, "There is at least one rabbit pictured that is suffering from a prominent head tilt. Infectious diseases, abscesses, or trauma can cause head tilt in rabbits . . . Depending on the cause, head tilt can be painful and at a minimum, an uncomfortable condition that significantly impacts welfare." In addition,

Two other rabbits are shown with clear and yellow discharge from the eyes, blepharospasm, redness of the skin and periocular alopecia, and matting and staining of the fur around the eye. Blepharospasm (holding or squinting the eye closed) indicates pain. Upper respiratory infections, trauma, foreign bodies, dental infections and/or abscesses, and bacterial infections can cause ocular discharge. Viral infections such as myxomatosis, which is highly infectious and fatal to rabbits, can also cause ocular signs. If left untreated, these conditions can cause corneal ulceration, permanent eye damage, weight loss, dehydration, lethargy, and possible death. Infectious diseases can spread rapidly among a population.

Dr. ██████ also remarked on the hazards of contaminated feed and inadequate shelter, of confining animals in unventilated spaces with high temperatures, and of failing to provide adequate hoof care to animals kept outdoors.<sup>7</sup>

Considering the foregoing, it appears that ProSci<sup>8</sup> has routinely violated California's laws against cruelty to animals by depriving animals of necessary sustenance or shelter and by neglecting to provide them with veterinary care, thereby subjecting them to unnecessary suffering.<sup>9</sup> In Dr. ██████'s expert opinion, the husbandry conditions are injurious to the animals' welfare and the rabbits' health conditions are indicative of serious infection or disease.

The egregious conditions found at ProSci do not qualify for an exemption to the state's cruelty laws. California exempts only "properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state."<sup>10</sup> The facility is not a medical college or university; it is a for-profit company that sells antibodies. Moreover, the conditions observed were not part or the result of any experiment; instead, they resulted from an abject failure to provide animals with basic care during the course of confining animals as antibody factories for profit—repeatedly drawing blood from them to filter out and sell antibodies. For all of these reasons, the conditions

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<sup>7</sup> ProSci continues to display disregard for the welfare of animals at its facility; a USDA inspection report from February of this year noted, among other issues, that several pens confining sheep and llamas were in disrepair and potentially hazardous to the animals and that guinea pig enclosures were inadequately and infrequently cleaned. Ex. 5, Feb. 13, 2018, USDA Inspection Report 2-3.

<sup>8</sup> "[T]he words 'owner' and 'person' include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee." Cal. Penal Code § 599b.

<sup>9</sup> *Id.* §§ 597(b), 599b.

<sup>10</sup> *Id.* § 599c.

described did not occur within the course of “properly conducted experiments or investigations” at a “medical college or university.”

Federal law also does not insulate ProSci from prosecution. The AWA, which provides minimal standards for the use of some species in certain industries, does not preempt the field. Rather, it expressly provides that states remain free to promulgate additional standards.<sup>11</sup> In addition, the Office of the Inspector General (OIG) of the USDA has stated, “The AWA does not supersede State and local authorities or restrict them in any way when their laws are more stringent than the AWA.”<sup>12</sup> Nor is enforcement of state law unnecessary or superfluous. The USDA’s enforcement of even the minimal standards of the AWA has been found lax by the OIG; for example, a December 2014 audit by the OIG determined that the agency closed cases involving animal deaths and reduced penalties by significant percentages.<sup>13</sup> The audit report stated that penalty reductions to such a degree “are too lenient and may not serve as an adequate deterrent for violators, especially in cases involving egregious violations”<sup>14</sup> and found that enforcement was “inconsistent.”<sup>15</sup> Further, even the issuance of an official warning of violations of federal regulations, issued by the USDA almost three years ago,<sup>16</sup> did not bring ProSci into compliance with the AWA. Thus, enforcement of state law for the protection of animals is crucial.

ProSci’s conduct appears to fall squarely within the prohibitions of California law, and PETA urges your agency to undertake a full investigation. California has a strong public policy favoring humane treatment of animals, and it does not provide an exemption for the conduct described herein nor is the conduct preempted by federal law. Because of the limitations of the AWA and the infrequent, often cursory nature of USDA inspections and inspection reports, there is likely additional conduct at ProSci that is prohibited under California law beyond the conditions documented in the attached/enclosed reports and depicted in the attached/enclosed photographs, which may very well be only representative of even more extensive problems and not exhaustive.

Thank you for your attention to this matter. I am happy to answer any questions you may have and can be reached at [REDACTED] or [REDACTED]. PETA would appreciate the opportunity to discuss this matter in person, and I will follow up with you in the coming weeks.

Sincerely,

[REDACTED]

[REDACTED]

Manager of Regulatory Affairs

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<sup>11</sup> 7 U.S.C. § 2143(a)(8); *id.* § 2145(b); *DeHart v. Town of Austin, Ind.*, 39 F.3d 718, 722 (11th Cir. 1994).

<sup>12</sup> USDA OIG, Controls Over APHIS Licensing of Animal Exhibitors 4, Audit Report 33601 - 10 - Ch (June 2010), <https://www.usda.gov/oig/webdocs/33601-10-CH.pdf>.

<sup>13</sup> OIG Audit Report, Dec. 2014, at 13-20.

<sup>14</sup> *Id.* at 18.

<sup>15</sup> *Id.* at 14.

<sup>16</sup> Ex. 6, USDA Official Warning, Aug. 25, 2015.

Enclosures