



August 30, 2017

The Honorable Stephen B. Russell
State Attorney
20th Judicial Circuit of Florida

Via e-mail: stateattorney@sao.cjis20.org

Dear Mr. Russell,

I hope this letter finds you well. I would like to request that your office (and the proper local law enforcement agency, as you deem appropriate) investigate and file suitable criminal charges against Gray's and Danny's Investment, Inc., and its worker responsible for ineffectively shooting a cow in the head twice, at its slaughterhouse located at 29513 U.S. Hwy. 27 in Moore Haven. This punched a hole in the cow's skull and left him bleeding from his forehead, as documented in the attached report by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS). According to the report, on August 14, 2017, federal officials documented the following:

Inspection Program Personnel (IPP) observed a large cow . . . moved into the stun chute. The cow . . . was not restrained in the head catch. The plant employee stunned the cow with a hand held captive bolt (HHCB) but it remained conscious and standing. The employee stunned the cow a second time but was not rendered unconscious. The HHCB was not properly placed in either of these stunning attempts. . . . The animal was bleeding from the forehead, moving his eyes, breathing heavy and making faint vocal sounds. A second employee . . . stunned the cow a third time with the proper placement On post mortem inspection . . . IPP observed where the HHCB . . . penetrated the skull three (3) times. One (1) point of impact was a single distinct hole the diameter of the rod of the HHCB. The other two (2) points of impact were closer together and created a hole twice the diameter of the rod of the HHCB.¹

This conduct may violate section 828.12(1), Florida Statutes, which states: "A person who torments . . . or unnecessarily mutilates . . . any animal, or causes the same to be done . . . commits animal cruelty." "Animal" is "held to include every living dumb creature."² "Torture" and "cruelty" are defined "to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused."³ This conduct is not exempt from the cruelty-to-animals statute, which only exempts actions "done in the interest of medical science."⁴ You may also

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¹FSIS District 85 Manager Phyllis Adams, *Notice of Intended Enforcement, Est. Est. M40244 – Gray's and Danny's Investment, Inc.* (Aug. 14, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/35f62ddf-ce7a-421a-ade5-5e4a5a2eb8a6/M40244-NOIE-081417.pdf?MOD=AJPERES>.

²FLA. STAT. § 828.02.

³*Id.*

⁴*Id.*

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consider working with the Florida Department of Agriculture and Consumer Services to investigate violations of Florida's Humane Slaughter Act, which states that "the slaughter of all livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods" and that "methods of slaughter shall conform generally . . . to those authorized by the federal Humane Slaughter Act of 1958."⁵ Florida defines "humane method" as one in which "the animal is rapidly and effectively rendered insensitive to pain by electrical or chemical means or by a penetrating captive bolt or gunshot with appropriate caliber and placement."⁶ Repeatedly shooting one animal with a captive bolt does not conform to the federal regulations, as FSIS' action demonstrates.

Importantly, Florida's Humane Slaughter Act does not "preclude[] the enforcement of s. 828.12, relating to cruelty to animals," and so criminal charges may be pursued concurrently.⁷ Likewise, FSIS action does not preempt criminal liability under state law for slaughterhouse workers who perpetrate acts of cruelty to animals.⁸

We respectfully request that your office investigate Gray's and Danny's Investment and the worker responsible for this conduct and file cruelty-to-animals charges against all appropriate parties. Thank you for your consideration and for the difficult work that you do.

Sincerely,



Melissa Mary Wilson
Attorney, Cruelty Investigations Department

⁵FLA. STAT. § 828.22(2)(b).

⁶FLA. STAT. § 828.23(6)(a).

⁷FLA. STAT. § 828.26(3).

⁸See *Nat'l Meat Assoc. v. Harris*, 132 S. Ct. 965, 974 n.10 (2012) (" . . . States may exact civil or criminal penalties for animal cruelty or other conduct that also violates the FMIA. See [21 U.S.C.] §678; cf. *Bates v. Dow Agrosciences, LLC*, 544 U. S. 431, 447 (2005) (holding that a preemption clause barring state laws 'in addition to or different' from a federal Act does not interfere with an 'equivalent' state provision). Although the FMIA [Federal Meat Inspection Act] preempts much state law involving slaughterhouses, it thus leaves some room for the States to regulate.").