



August 9, 2017

The Honorable Susan H. Richmeier
Finney County Attorney

Via e-mail: SRichmeier@finneycounty.org

Dear Ms. Richmeier,

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 the Tyson Foods worker(s) responsible for failing to kill a downed and apparently ailing steer on the first four attempts at its slaughterhouse located at 3105 N. IBP Rd. in Holcomb. This caused the steer to endure at least four failed captive-bolt blows to his head during a prolonged, botched attempt to prevent his further suffering, 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 July 19, 2017, federal officials documented the following:

[The FSIS inspector] observed one steer . . . in the pen lying in ventral recumbence. [The inspector] informed the yard staff to close the gate and give it a chance to get up. [The inspector] continued to perform antemortem inspection for approximately 30 to 40 minutes at which time the affected animal was observed in lateral recumbence and at first appeared dead. [The inspector] then noticed eye movement consistent with a live animal and directed the animal to be euthanized to prevent suffering. [The inspector] then proceeded to the yard office to complete the necessary paper work [sic], z tag and condemn cards. After completing this [the inspector] left the yard office and proceeded toward the area where the affected animal was positioned. As [the inspector] rounded the corner by the scale, he heard the knocking gun go off and observed a Tyson Team Member, who was attempting to euthanize the animal, jump back. At that time, [the inspector] went to pen 24 to investigate. [The inspector] then observed a Tyson Team Member knock the . . . animal three times immediately without any affect [sic] A Tyson Team Member was observed on the radio requesting additional knocking guns. Shortly thereafter the affected animal got up. Tyson personnel retrieved several portable knocking guns from inside the facility during this action as well as fresh loads. [The inspector] observed the knocking gun make contact a total of five times with the affected animal['s] head. The animal was [killed] . . . with the fifth attempt. Many of these guns either misfired or didn't fire at all.¹

¹FSIS District 35 Manager Robert Q. Bane, *Notice of Suspension, Est. M 278 – Tyson Foods* (July 20, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/1f1dbf8b-f672-411a-b3a6-e122a165499e/M278-Suspension-07202017.pdf?MOD=AJPERES>.

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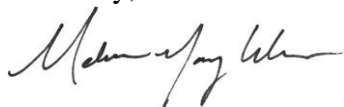
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This conduct may violate Kansas' cruelty-to-animals statute, which prohibits "having physical custody of any animal and knowingly failing to provide . . . care as is needed for the health or well-being of such kind of animal"² and "knowingly but not maliciously killing or injuring any animal."³ "Animal" is defined as "every living vertebrate except a human being."⁴ Specifically, the worker(s) apparently consciously engaged in leaving the animal downed for at least 30 minutes before taking at least four failed captive-bolt shots to the steer's head, thereby failing to safeguard the well-being of the ailing animal and causing injury and likely suffering. This conduct is not exempt from the cruelty statute, which, "with respect to farm animals," exempts only "normal or accepted practices of animal husbandry."⁵ Repeatedly shooting one animal with a captive-bolt gun is not a normal or accepted practice, as FSIS' action demonstrates. You may also consider working with the Kansas Department of Agriculture to investigate violations of the Humane Slaughter statute, which states, "No slaughterer . . . shall . . . slaughter any livestock except by a humane method."⁶ Specifically, the statute requires that this method be "rapid and effective."⁷ Importantly, 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 this Tyson Foods slaughterhouse and the worker(s) responsible for this conduct and file charges against all appropriate parties. Please let us know what we might do to assist you. Thank you for your consideration and for the difficult work that you do.

Sincerely,



Melissa Mary Wilson
Attorney, Cruelty Investigations Department

²KAN. STAT. ANN. § 21-6412(a)(3).

³KAN. STAT. ANN. § 21-6412(a)(5).

⁴KAN. STAT. ANN. § 21-6411(a).

⁵KAN. STAT. ANN. § 21-6412(c)(6).

⁶KAN. STAT. ANN. § 47-1403.

⁷KAN. STAT. ANN. § 47-1402(f).

⁸*See 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.").