



December 8, 2021

The Honorable Marilyn J. Mosby
State's Attorney for Baltimore City
Office of the State's Attorney for Baltimore City
120 E. Baltimore St., Ninth Floor
Baltimore, MD 21202

Via e-mail: mmosby@stattorney.org; mail@stattorney.org

Dear District Attorney Mosby:

Thank you in advance for your time. I'm writing on behalf of People for the Ethical Treatment of Animals—PETA entities have more than 9 million members and supporters globally, 91,917 of whom live in Maryland and 14,152 of whom live in Baltimore. **Based on the information presented below, we request that you investigate apparent serious violations of Maryland Code, Crim. Law § 10-606, regarding invasive brain experiments conducted on captive barn owls at Johns Hopkins University (JHU) and, if corroborated, seek prosecution of all appropriate charges.**

Shreesh Mysore, an assistant professor at JHU, keeps approximately 30 barn owls in a laboratory at the university, where he subjects them to multiple invasive cranial surgeries, inserts electrodes into their brains, and bombards them with noises and bright moving dots while they're held in a head-fixation device. When the owls' brains become too damaged for him to use for further experimentation, he kills them.¹

The only circumstance that would exempt such mutilation and killing of these owls from Maryland's cruelty-to-animals prohibitions is its approval by a university animal care and use committee (ACUC).² This exemption gives license to activities—and the authorization³ of such activities, including by the ACUC—that would, but for that approval, fall squarely within the scope of criminal prohibitions. It cannot be extended to allow ACUCs to authorize the mutilation and killing of animals regardless of their legality otherwise, thereby evading cruelty-to-animals liability through a beneficial exemption while in defiance of the requirements of other state laws. In this instance, the ACUC

¹Mysore, SP. R01 Grant Application. Multisensory competition and spatial selection: Neural circuit and computational mechanisms. <https://www.peta.org/wp-content/uploads/2021/01/Mysore-grant-application.pdf>. Accessed December 3, 2021.

²Maryland Criminal Law Section 10-603. Justia. Accessed December 3, 2021. <https://law.justia.com/codes/maryland/2005/gcr/10-603.html>

³2013 Maryland Code Criminal Law § 10-603—application of §§ 10-601 through 10-608. Justia Law. § 10-603(2). Accessed December 3, 2021. <https://law.justia.com/codes/maryland/2013/article-gcr/section-10-603>

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authorized Mysore's experiments on owls, despite his noncompliance with other applicable state laws, which, in addition to its independent necessity, is also a requirement for federally funded experimentation such as Mysore's.⁴ Such a result contravenes the principle of fairness and sound policy.

From 2015 to 2018, neither Mysore nor anyone else at JHU obtained legally required scientific collecting permits from the Maryland Department of Natural Resources (MD DNR) for Mysore's experiments, which the MD DNR confirmed to PETA.^{5,6} Despite this, Mysore's scientific publication history shows that his experiments on barn owls continued through this timeframe,⁷ during which he may have killed some of the barn owls he used in his experiments.^{8,9}

⁴U.S. Department of Health and Human Services. NIH Grants Policy Statement. 2.3.6 Legal Implications of Applications. National Institutes of Health. Accessed December 3, 2021.

<https://grants.nih.gov/grants/policy/nihgps/nihgps.pdf>

("The applicant also is expected to be in compliance with applicable State and local laws and ordinances.")

⁵Maryland Department of Natural Resources. Letter confirming Mysore was in violation of state captive-wildlife requirements. May 5, 2021. Accessed December 3, 2021.

<https://www.peta.org/wp-content/uploads/2021/10/2021-05-05-MD-DNR-response-Mysore-was-in-violation.pdf>

⁶Blair W, Jiang J. PETA claims Hopkins barn owl lab violated state law by operating without a permit. *The Johns Hopkins News-Letter*. May 11, 2021. Accessed December 3, 2021.

<https://www.jhunewsletter.com/article/2021/05/peta-claims-hopkins-barn-owl-lab-violated-state-law-by-operating-without-a-permit>

⁷Mahajan NR, Mysore SP. Combinatorial neural inhibition for stimulus selection across space. *Cell Rep*. 2018;25(5):1158-1170.e9. doi: 10.1016/j.celrep.2018.10.022 (Page 15. Methods: "We performed experimental recordings in 15 head-fixed, non-anesthetized adult barn owls [who] were viewing a visual screen passively (*Tyto alba*). Both male and female birds were used; the birds were shared across several studies.")

⁸The permits that Mysore has obtained explicitly state that he is killing the owls. See Exhibits 1 and 2 (enclosed).

Exhibit 1: DNR Permit No. 55025, effective from December 10, 2013, to December 31, 2014 ("Permittee and subpermittee are authorized to possess 15 Barn Owls *Tyto alba* for scientific purposes. ... Housing, care and euthanization protocols should follow Guidelines to the Use of Wild Birds in Research (2010) and other established protocols. At the end of the study, birds may be euthanized, anatomical data may be collected, and specimens may be retained.")

Exhibit 2: DNR Permit No. 55025, effective from January 1, 2019, to December 31, 2019 ("Permittee and subpermittee are authorized to possess 27 Barn Owls *Tyto alba* for scientific purposes. ...Housing, care and euthanization protocols should follow Guidelines to the Use of Wild Birds in Research (2010) and other established protocols. At the end of the study, birds may be euthanized, anatomical data may be collected, and specimens may be retained.")

It's unclear how this is permitted when Maryland law states that proof that the permittee has killed wildlife (defined as "every living creature, not human, wild by nature, endowed with sensation and power of voluntary motion," Md. Code Ann., Nat. Res. § 10-101(dd)(1)) voids a scientific collecting permit, a provision that is also stamped on the face of the permit. See Md. Code Ann., Nat. Res. § 10-909(e)(1); Exhibits 1 and 2.

⁹Exhibit 3: NEI Grant #R01EY027718. Multisensory competition and spatial selection: Neural circuit and computational mechanisms. To this end, Mysore holds barn owls captive in a JHU laboratory, where they are restrained for hours at a time, subjected to multiple invasive surgical procedures, bombarded with visual and auditory stimuli while being held in a head-fixation device, and ultimately killed. He performs craniotomies on the owls in order to insert brain-recording equipment and/or tubes to deliver drugs into the brain. His methods cause the owls permanent brain damage.

The following is stated on page 50 in Mysore's NEI grant application, dated February 3, 2016: "Euthanasia. Animals will be euthanized with beuthanasia D (under 4% isofluorane), and perfused with saline followed by a fixative solution (paraformaldehyde) to recover brains for histology and tract tracing. Deaths will be documented in animal inventory records."

JHU's ACUC should not have approved the experimental protocol without ensuring compliance with state law, thus invalidating the applicability of the exemption that otherwise would immunize the ACUC's authorization of Mysore's painful, deadly experiments on barn owls from penalties pursuant to Maryland's cruelty-to-animals laws. In addition, prosecution under state law is neither preempted nor rendered superfluous by federal law but rather is imperative for the protection of animals. The federal Animal Welfare Act (AWA), which imposes minimal requirements for the use of some animals in experimentation, does not preempt state law,¹⁰ and the U.S. Department of Agriculture's (USDA) lax enforcement of the AWA has weakened in recent years.^{11,12,13} Moreover, the AWA does not apply to birds bred for use in research,¹⁴ and for other birds, the USDA has yet to promulgate standards for enforcement and fails to apply general AWA standards. The National Institutes of Health (NIH), which funds Mysore's experimentation, likewise does not robustly enforce its own policies and, in this instance, appears to have wrongly placed the blame of Mysore's noncompliance with state law on the MD DNR.¹⁵

Furthermore, according to public records sent in response to PETA's request for information related to NIH's Office of Laboratory Animal Welfare's (OLAW) and/or Office of Policy for Extramural Research Administration's (OPERA) investigation into PETA's complaint concerning Mysore's noncompliance with state regulations by lacking valid permits,¹⁶ JHU's vice dean for research, Dr. Denis Wirtz, admits to the university's "temporary administrative lapse in the DNR possession permit,"¹⁷ which resulted in Mysore's failure to obtain timely

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

¹¹Brulliard K. USDA's enforcement of animal welfare laws plummeted in 2018, agency figures show. *The Washington Post*. October 23, 2018. Accessed December 3, 2021.

<https://www.washingtonpost.com/science/2018/10/18/usdas-enforcement-animal-welfare-laws-plummeted-agency-figures-show>

¹²Brulliard K. The USDA saw no problems at this zoo. Local authorities found 'a monkey dungeon.' *The Washington Post*. December 19, 2019. Accessed December 3, 2021.

<https://www.washingtonpost.com/science/2019/12/19/usda-saw-no-problems-this-zoo-local-authorities-found-monkey-dungeon>

¹³Brulliard K, Wan W. Caged raccoons drooled in 100-degree heat. But federal enforcement has faded. *The Washington Post*. August 22, 2019. Accessed December 3, 2021.

https://www.washingtonpost.com/science/caged-raccoons-drooled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html

¹⁴U.S.C. Title 7—Agriculture, Chapter 54—Transportation, Sale, and Handling of Certain Animals. Accessed December 3, 2021. <https://www.govinfo.gov/content/pkg/USCODE-2013-title7/html/USCODE-2013-title7-chap54.htm>

¹⁵Office of Policy for Extramural Research and Office of Laboratory Animal Welfare. Letter from OPERA/OLAW to PETA. September 29, 2021. Accessed December 3, 2021.

<https://www.peta.org/wp-content/uploads/2021/10/Roe-PETA-JHU-Allegations-3272-2L.pdf> (Page 1: "No annual renewal reminders had been sent by DNR for this activity although reminders had been sent to another JHU investigator who had a wildlife permit.")

¹⁶People for the Ethical Treatment of Animals. Records request to OLAW/OPERA. September 27, 2021. Accessed on December 3, 2021. https://www.peta.org/wp-content/uploads/2021/11/2021-09-27_NIH-OLAW_OPERA_FOIA.pdf

¹⁷Johns Hopkins University. RE: Animal Welfare Assurance #A3272-01 (OLAW Case 2L). June 15, 2021. Accessed December 2, 2021. https://www.peta.org/wp-content/uploads/2021/11/responsive_records_A3272-2L_Redacted-ocrd.pdf (Page 5: "Following careful investigation and review of the facts, the ACUC unanimously determined that the temporary administrative lapse in the DNR possession permit *did not constitute a significant deficiency* from the standards of the Guide for the Care and Use of Laboratory Animals (the "Guide"), PHS Policy, or the Animal Welfare Act or its regulations. JHU has concluded that this administrative lapse was not a violation of the NIH

permits to possess barn owls for his crude experiments. He also appears to undermine the significance of this oversight—stating that the ACUC concluded that it “*did not constitute a significant deficiency* from the standards of the Guide for the Care and Use of Laboratory Animals (the ‘Guide’), PHS Policy, or the Animal Welfare Act or its regulations.”¹⁷ (p5) [*Emphasis added.*]

Facilities conducting experiments on animals are afforded substantial leeway to engage in conduct that would otherwise be routinely considered egregiously and unlawfully cruel. However, an ACUC cannot disregard the few legal restrictions imposed on these activities while simultaneously seeking cover under the law from criminal prosecution, sweeping any desired experimentation under the protections of a cruelty exemption through ACUC approval while flouting other law. In this case, the JHU ACUC, Mysore, and others at the university ignored state permitting requirements—even though MD DNR reminded Mysore to renew his permit, which he didn’t¹⁸—and JHU ACUC’s approval of his experiments is delegitimized by that noncompliance. In apparent violation of Maryland Code, Crim. Law § 10-606, the JHU ACUC authorized Mysore’s experiments to mutilate and kill barn owls, even though neither Mysore nor JHU obtained the legally required MD DNR permits to allow this activity. Accordingly, we urge your office to investigate this serious matter and take all appropriate actions to ensure that Maryland’s cruelty-to-animals laws are stringently enforced.

If you have any questions, please contact me at ShalinG@peta.org. We look forward to your reply regarding this important issue. Thank you.

Sincerely yours,



Shalin G. Gala
Vice President, International Laboratory Methods
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Grants Guide, as the research was conducted at all times under an ACUC approved protocol, in species appropriate housing under an appropriate program of animal care, and in material compliance with all grant terms.”)

¹⁸Maryland Department of Natural Resources. Letter to Mysore from the MD DNR. March 4, 2021. Accessed December 3, 2021. <https://www.peta.org/wp-content/uploads/2021/10/2021-05-12-MD-DNR-letter-to-Mysore.pdf> (“Your original permit expired on 12/31/2014. You did not respond to the request to renew so we presumed there was no longer a need for the continued use of the permit for the original research project.”)