

Animal rights activists try a more creative legal tactic

At a monthly meeting last year, Eric Sandgren, the director of animal resources at the University of Wisconsin-Madison, mentioned that some sheep being used to study decompression sickness, what divers call ‘the bends’, had died during an experiment.

The comment set off a flurry of action by a local animal rights group, the Alliance for Animals. And, a few months ago, the alliance partnered with People for the Ethical Treatment of Animals (PETA) to file a joint lawsuit against the scientists involved with the sheep research. As *Nature Medicine* went to press, the groups were trying to get the state to prosecute the researchers for violating a law that prohibits the use of decompression chambers for killing animals.

Many states have similar laws, but they were designed to prevent animal shelters from using decompression as a form of euthanasia. The University of Wisconsin case marks the first time the legislation has been used against researchers.

“When we got the news about the lawsuit, we were surprised—not because we were unaware of the law, but because we didn’t think it applied to this research at all,” says Sandgren.

Most state laws contain clauses that exempt the kind of decompression chambers used by researchers, but the wording in the Wisconsin law is vague.

“We’re always looking for novel ways to prosecute people who are harming animals,” says Justin Goodman, PETA’s associate director of laboratory investigations, “and in this case the law is clear.”

A decision on whether the case against the sheep researchers will go to court was pending as *Nature Medicine* went to press. In light of the case, Sandgren is trying to help other researchers at the school avoid similar lawsuits. For example, a lab that had been using decompression chambers to induce hypoxia in mice has switched to a nitrogen-based method.

Targeting trend

The Wisconsin case may seem like a bizarre anomaly, but it may actually be the start of a larger trend, says Frankie Trull, president of the National Association for Biomedical Research. Now that animal research is highly regulated at the federal level, animal rights groups are developing more creative legal strategies to target universities, says Trull.

Public universities seem to be the most vulnerable, but any researcher receiving federal funds could be at risk. In 2002, a group



Towering fears: Universities face new types of scrutiny from animal activists.

called In Defense of Animals sued the Barrow Neurological Institute, a private research center in Phoenix, Arizona, for fraud using information obtained through a Freedom of Information Act (FOIA) request. Because the research, which involved beagles, was funded by the US National Institutes of Health, the activists were able to acquire a copy of the researcher’s grant application, which they claimed falsely represented data and, therefore, misused federal funds.

That case was eventually dismissed, but not without several years of fighting in appeals courts. The researchers may have won the battle, but the animal rights groups could wind up winning the war, says Trull. “More attorneys are looking at this as a fertile area of the law,” she says. “They realize that most cases will fail, but a lot of their interest has to do with testing case law.”

Trull worries that universities are unprepared to counteract such sophisticated legal attacks. As politicians call for more transparency in federally funded research, lawsuits based on information from FOIA requests could become more common, says Trull.

Universities and legislators are still figuring out how much information should be disclosed to the public. Four years ago, an animal rights group sued Ohio State University after the school refused to disclose research data from its spinal injury program. The school argued that some of the data were unpublished and, therefore, proprietary. The case went to the

state supreme court, which ruled in Ohio State’s favor. Other schools in similar situations might not be so lucky, however.

Some animal rights groups may feel lawsuits are the only way to have their voices heard. In April, a coalition of animal rights organizations sued the US Food and Drug Administration (FDA) after the agency failed to respond to a petition the group filed more than two years ago. The petition calls for the FDA to require cosmetic and biotech laboratories to use alternatives to animal testing when available. At the least, the activists hope the suit will compel the FDA to publish the petition in the Federal Register, where it would be open for public comment, says Katherine Meyer, an attorney representing the group.

The decompression sickness research at the University of Wisconsin had been going on for more than 20 years. Sheep are considered the best animal model for this research, because their lungs most closely resemble human lungs. Before high-risk projects involving sheep were curtailed, the Wisconsin researchers had been studying preventative treatments that could help Navy and police divers transition from high to low pressure more safely.

“The big issue that this case raises is that there are different perspectives on how animals should be used in research,” says Sandgren. “Universities can’t take a hard-line approach. They have to try to find a balance between the two sides.”

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