

July 10, 2019

Dear USDA Animal Care VMO/ACI & Supervisory Personnel,

It is our opinion that certain USDA Animal Care rules, policies, and procedures regarding the documentation of non-compliant items may be a violation of federal criminal law specifically 18. U.S.C. § 1001. [see attached](#)

Currently, when a VMO or ACI utilizes “teachable moments” or disregards documenting non-compliant items on the Inspection Report in accord with “self-reporting” (see Tech Note May 2018) or fails to document non-compliant items due to other recently changed policies, procedures, and instructions the VMO/ACI typically makes the following notation on the official Inspection Report: “No non-compliant items identified during this inspection.” The inspector then documents in a separate entry, or on a separate “Teachable Moments” document, or in his/her field notes, or enters it into the “Teachable Moments” screen in ACIS, the specific non-compliant items discovered during the inspection (Animal Welfare Inspection Guide 2.4.3.3).

Please be advised that Federal law 18. U.S.C § 1001 specifies that it is a criminal offense to **falsify a federal document or conceal any material fact – a crime punishable by up to five years in prison.** It could therefore be deemed a criminal offense every time a VMO/ACI documents on a federal inspection report that there are “no non-compliant items” at a dog breeding facility or other animal facilities when that inspector knows full well that there are non-compliant items at the facility, and in fact, documents such non-compliance separate from the Inspection Report. In fact, documenting such non-compliant items separately from the Inspection Report could be deemed as an admission that the inspector falsified the Inspection Report when he/she asserts on such Report that there are “no non-compliant items”.

The purpose of “teachable moments” and “self-inspection” and several other recently adopted USDA rules, policies and procedures is to provide false and misleading information to state and local government officials and to the public concerning enforcement of the federal Animal Welfare Act (7 U.S.C. § 2131 et seq) at federally licensed animal facilities. A federal official, such as supervisory personnel, who knowingly “makes or uses false writings or documents” or “conceals, or covers up by any trick, scheme, or device a material fact” or makes “false representation” that conceals facts from state and local officials, or from the public, in an effort to prevent public knowledge of non-compliant items could also be deemed to be in violation of 18. U.S.C. § 1001.

While it may not be your intent, certainly on its face, such current reporting practices appear to be a misrepresentation of facts and thus a violation of federal law. The legislative intent of the Animal Welfare Act was clearly to protect the animals and the consumers and never intended to conceal misdeeds on the part of dog breeders and animal operations.

Accordingly, we respectfully request that all USDA Animal Care personnel come into compliance with federal criminal law and immediately begin to document all non-compliant items on official USDA Inspection Reports.

Sincerely,

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