

# SYNOPSIS OF USDA'S CRIMINAL MALFEASANCE

## 1. Aiding and abetting substandard dog breeders in circumventing state and municipal laws.

Seven states, along with numerous municipalities (including New York City), have enacted laws that prohibit pet stores from purchasing puppies from any dog breeder who has a certain number of direct and indirect non-compliant items on their inspection reports. These statutes have greatly inhibited the ability of inhumane breeders to sell their dogs.

In response to complaints from the scofflaws in the industry concerning these state and local laws, USDA announced a few years ago that its inspectors would no longer cite many non-compliant items on inspection reports but would instead refer to them as “teachable moments.” Since that time, USDA has enacted additional policies that are intended to cover-up conditions at substandard breeders’ facilities and allow them to circumvent state and local laws.

USDA has defended these policies by claiming that the Agency needs to limit the number of non-compliant items on inspection reports; the argument given is that **“we need to enable breeders to sell their dogs to pet stores...[and] citing violations is an impediment to such sales.”** This raises the issue of whether the federal government should engage in the practice of aiding and abetting AWA violators in circumvention of state and local statutes.

## 2. Forcing USDA inspectors to falsify federal documents (inspection reports) and to conceal material facts both of which are violations of 18. U. S. C. § 1001.

Currently, when a USDA inspector utilizes the “teachable moment” policy, or ignores violations in accord with self-reporting or other recently changed policies, the inspector makes the following notation on the official inspection report: “No non-compliant items.” Then the inspector documents, either on a separate “teachable moment” document, or in his/her field notes, the specific non-compliant items discovered during the inspection.

Federal law (18. U. S. C § 1001) specifies that it is a crime to falsify a federal document or conceal any material fact. A criminal offense is therefore being committed every time a USDA inspector documents on a federal inspection report that there are “no non-compliant items” at a breeding facility when that inspector knows full well that there is at least one non-compliant item at the facility, and in fact, makes a written record of such non-compliance either on a separate USDA document (“teachable moment” form) or in his/her field notes.

The purpose of the “teachable moment” policy, the “self-inspection” policy, and other recently adopted USDA policies is to provide misleading and false information to state and local government officials and to the public. A government official who knowingly makes use of false documents or makes any “false representation” is also in violation of 18. U. S. C. § 1001 - a crime punishable by up to five years in prison.

### 3. **Violating provisions of the Freedom of Information Act (FOIA).**

USDA is refusing to provide copies of inspection reports of dog breeding facilities, and when they do comply with a request for such a report, USDA blackens out the entire report. These redactions completely obscure the findings of USDA inspectors and are a deliberate FOIA violation, the Department’s sole purpose being to protect inhumane puppy mills. USDA is in effect denying state officials, municipal authorities, and animal advocates the ability to ascertain whether any violations are occurring at dog breeding facilities.

This is another effort - and the most ruthlessly effective to date - to help substandard breeders circumvent state and local laws. These redactions render such state and local laws meaningless, since state officials have no way to determine the conditions at dog breeding facilities that sell dogs to pet stores within their jurisdictions. USDA justifies its redactions by arguing that Exemption 6 of FOIA permits the government to withhold “personnel and medical files and similar files” when their disclosure “would constitute a clearly unwarranted invasion of personal privacy.” **Inspection reports of conditions at dog breeding facilities are in no way similar to “personnel and medical files.”**



*USDA is violating federal law in order to protect reprehensible puppy millers.*

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