

**Testimony of
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**Legislative Hearing on H.R. 4239
“The Animal Enterprise Terrorism Act”**

**before the
Subcommittee on Crime, Terrorism and Homeland Security
U.S. House of Representatives**

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Chairman Coble and members of the Subcommittee, thank you for giving me the opportunity to appear here today and testify before you on this important subject. I am pleased to discuss the Department’s efforts to investigate and prosecute entities and individuals who threaten violence and commit criminal acts against our fellow citizens in the name of protecting animals. These matters are an important part of the mission of the Department of Justice to protect the American people from acts of violence and threats of violence.

As you know, the safety and security of the American people is the number one priority of the Department of Justice. As such, we remain dedicated to the task of protecting them from violence and the threat of violence posed by extremists while at the same time protecting the First Amendment and other civil liberties guaranteed to all Americans in the Constitution.

Successes in the Fight Against Domestic Extremists

The Department has had some successes in prosecuting animal rights extremists who have violated federal law. In the Western District of Wisconsin, Peter Young pleaded guilty on September 2, 2005, to violations of the Animal Enterprise Protection Act arising from the 1998 release of minks from farms in Wisconsin. Most recently, on March 2, 2006, six members of an animal rights group called Stop Huntingdon Animal Cruelty (or SHAC) were convicted of terrorism and Internet stalking by a federal jury that found them guilty of using a website to incite attacks on those who did business with or worked for a British company that runs an animal testing laboratory in New Jersey.

The Threat Posed By Animal Rights Extremists

As this Subcommittee well knows, extremists have not hesitated to use violence and the threat of violence to further their social and political goals. In cases in which individuals have used improvised incendiary or explosive devices, federal prosecutors are well-equipped to prosecute and punish such individuals using the tools provided in Title 18, United States Code section 844. That statute provides for substantial penalties for those who use fire or explosives to damage property that falls within the scope of the statute. For violations of subsections (f) and (i) – the two sections most frequently at issue in such cases – defendants face a mandatory minimum sentence of 5 years in prison and a maximum sentence of 20 years. Section 924(c) of Title 18 – which proscribes, among other things, using a destructive device during the commission of a federal crime of violence – can lead to additional mandatory prison time up to life.

Violence by animal rights extremists is not limited, however, to the use of arson and explosives. Stop Huntingdon Animal Cruelty and other like-minded animal rights extremist entities are engaging in a campaign of criminal conduct that can only be described as terrorizing those whom they identify as targets. In pursuit of its goal of closing Huntingdon Life Science’s animal testing operations, SHAC’s campaign included a wide variety of harassing and terrifying techniques specifically designed to terrorize the subjects of those efforts while avoiding an effective law enforcement response. In fact, the SHAC website promoted a “Top 20 Terror Tactics” targeting places and persons. The personal and economic consequences of this campaign have been, and will continue to be, significant.

Tools for the Prosecution of Animal Rights Extremists

The Animal Enterprise Protection Act, codified at section 43 of Title 18, is an important tool for prosecutors seeking to combat animal rights extremists. This statute was passed in 1992 primarily to address the problem of those who physically intruded upon the property of entities who tested or otherwise used animals and then damaged the property belonging to the animal enterprise. Originally established as a misdemeanor, the statute’s penalties have been enhanced by amendments in 1996 and 2002.

While this statute is an important tool for prosecutors, SHAC and other animal rights extremists have recognized limits and ambiguities in the statute and have tailored their campaign to exploit them by violent acts targeting individuals and business that do not “physically disrupt” the animal enterprise itself. For example, these violent extremists have advocated such “direct actions” as:

- Spray painting abusive graffiti and vandalizing one’s home, business or car;
- Physically assaulting associated individuals, including spraying cleaning fluid into eyes;
- Smashing home windows while one’s family is present;

- Making false bomb threats and threatening telephone calls and letters, including threats to kill or injure one's partner or children;
- Internet posting of the home telephone numbers of law-abiding employees with the names of their spouses and children along with their names, ages, birth dates and schools where these children attend or license plate numbers of the employees' cars and where they attend church;

In short, these extremists are engaged in a nationwide campaign to intentionally place our fellow law-abiding citizens in reasonable fear of the death of, or serious bodily injury to, themselves or loved ones because of their association with animal enterprises. However, there are currently no federal criminal laws that directly facilitate the investigation and prosecution of such outrageous, violent acts. These extremists are traveling in interstate commerce or using the mail or facilities of such commerce to commit what are now state crimes involving threats, acts of vandalism, property damage, trespass, harassment or intimidation. However, county prosecutors and local police often do not have the investigative resources, expertise, or nationwide perspective to put these types of local offenses in the context of a multi-jurisdictional campaign of violence for the purpose of damaging or disrupting an animal enterprise.

With no federal hook, the FBI and federal prosecutors are finding it difficult to open grand jury investigations and bring the resources and expertise of the United States to bear on this problem. While the U.S. Attorney in New Jersey could skillfully prosecute some of the SHAC crimes under the existing statute, he nevertheless was limited by charging other conduct under the interstate stalking statute in 18 U.S.C. § 2261A which was designed to protect women from domestic violence. This engendered extensive motion practice in which the attorneys for the government had to defend the indictment from numerous legal attacks. Moreover, under some circumstances, other districts are finding it difficult because many cases do not fall within section 43 under the theories used in the SHAC prosecution.

The bill under consideration by the Subcommittee would fill the gaps in the current law and enable federal law enforcement to investigate and prosecute these violent felonies. The proposed amendment of the statute will make clear and unequivocal the application of the statute to recent trends in animal rights extremism and will enhance the effectiveness of the Department's response to this domestic threat.

Proposed Amendment of Section 43, Title 18, United States Code

For this reason, the Department supports H.R. 4239 to amend the Animal Enterprise Protection Act in order to address several infirmities that keep prosecutors from using it in the most effective manner possible.

First, the statute's definition of the type of "animal enterprise" that it protects is not broad enough to include some of the entities that are now targeted by animal rights extremists. These include pet stores and even animal shelters. The threat posed to individuals associated with such organizations is no less significant than the threat that gave rise to the original statute. The bill

under consideration by this Subcommittee would expand the definition of “animal enterprise” so that such entities are clearly included within the scope of the statute.

Second, the existing statute’s use of the phrase “physical disruption” to describe the conduct it proscribes unnecessarily suggests that it covers a narrow scope of conduct tantamount to trespass. In that regard, the existing statute permits the argument that it does not cover actions by SHAC or other animal rights extremists taken not against an animal enterprise, but against those persons and other entities that choose to do business with an animal enterprise. This proposal avoids the narrowness of “physical disruption” by focusing instead on economic damage and disruption resulting from threats, acts of vandalism, property damage, trespass, harassment or intimidation and the reasonable fear of death or serious bodily injury occasioned by such criminal actions. Such a law would more effectively protect animal enterprises and their employees from the criminal conduct in which animal rights extremists such as SHAC currently engage.

Finally, in its current form, the statute fails to address clearly the consequences of a campaign of vandalism and harassment directed against individuals – as opposed to the animal enterprise itself. H.R. 4239 would remedy this ambiguity by clearly stating that committing the proscribed conduct against an employee of an animal enterprise (or of an entity with a relationship with an animal enterprise) is equally illegal.

Taken together, the changes in H.R. 4239 would empower prosecutors with a more effective tool to meet the challenges now posed by these animal rights extremists. We strongly encourage the Subcommittee to endorse this proposal.

First Amendment

In seeking to meet the challenge of these changing forms of criminal conduct by animal rights extremists, the Department is acutely aware of the importance of protecting the First Amendment rights of those who protest the testing and other use of animals. Let me say this as clearly as I can: The Department does not seek to prosecute those who enter the arena of debate seeking to persuade their government or private businesses and individuals of the merit of their viewpoints.

On this issue the Department has found wide common ground with members of the Humane Society and the ACLU. We all agree that any tactic or strategy involving violence toward people or threats of violence is wholly unacceptable and inconsistent with a core ethic of promoting compassion and respect. Such violence is wrong and not to be defended or tolerated. We all agree that more must be done to crack down on this violence, no matter what cause it hides behind. Moreover, we all are working towards a bill that would have no chilling effect on legal, mainstream activities that should be part of the public discourse in this country. We do not want to prohibit or discourage the protected activities of whistleblowers, protestors, and leafleters.

Towards this end, attorneys from the Department recently met with representatives of the Humane Society and the ACLU to listen to their concerns and discuss the need for the proposed

amendment. We explained how the law could not be used against those who mistakenly trespass during a lawful protest but only against those who commit unlawful economic damage or who *intentionally* instill a reasonable fear of death or serious bodily injury by a *course of conduct* involving threats, acts of vandalism, property damage, trespass, harassment, or intimidation.¹ Moreover, this law breaks no new legal ground because such intentional crimes are proscribed in the different context of domestic violence and stalking statutes.² Also, the law protects only those who have a *reasonable* fear of death or serious bodily injury and not the rare timid or fragile employee who might subjectively be frightened by legitimate protestors.

This proposed law builds on existing concepts in the federal criminal code. It is narrowly drafted to criminalize only outrageous, violent conduct that causes economic damage or instills the reasonable fear of death or serious bodily injury in others. Nevertheless, the Department has heard the concerns of the Humane Society and the ACLU and is willing to work with this Subcommittee to leave no doubt that nothing in this section shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected by the First Amendment.

The First Amendment is not, however, a license for the use or threatened use of violence, or for the commission of other crimes. Even if these crimes are politically motivated – even if they are committed as a form of protest – Congress is empowered to prohibit the conduct it deems offensive without offending the First Amendment. Those who cross the line from free speech to criminal conduct should be prosecuted and, if convicted, should be punished appropriately. As it has done in other contexts, the Congress should give prosecutors the tools to do so effectively.

Conclusion

Prior Congressional action has provided law enforcement and prosecutors with a solid framework within which to pursue the goal of prevention and disruption of violent extremism within our borders. We, as prosecutors in the Justice Department, have more work to do to eliminate this violent threat, and we urge you in Congress to continue to build upon and enhance the legal tools needed to accomplish our mutual goals.

Mr. Chairman, thank you again for inviting us here and providing us the opportunity to discuss how the statutes are being used around the country, consistent with our Constitutional values, to fight violent extremism through reliance upon the criminal justice system. We would

¹ The Humane Society would like to amend the bill to require the prosecutor to prove that any defendant “intentionally place[d] a person in reasonable fear of the death of, or serious bodily injury to that person . . . by a course of conduct involving . . . *intentional* trespass.” To require a prosecutor to prove that a defendant intentionally did something intentional is redundant and inartful. The Department cannot envision any fact pattern where a putative defendant should be protected because he intentionally placed a person in reasonable fear of death or serious bodily injury by a course of conduct involving unintentional trespass.

² *U.S. v. Bowker*, 372 F.3d 365, 378-83 (6th Cir. 2004)

also like to thank this Committee for its continued leadership and support. Together, we will continue our efforts to secure justice and defeat those who would harm this country.