

PETA

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new open records law (in South Dakota). The Legislature has finally changed the law to more of a presumption of openness. That's really at the heart of the lawsuit: to try to clarify what that new law means.

According to court papers filed Wednesday, USD was cited in 2007 by the U.S. Department of Agriculture for violations of the federal Animal Welfare Act pertaining to the use of primates in invasive stroke research experiments. PETA states that the violations found by the USDA include lack of psychological enrichment in the cages, and housing animals individually rather than in pairs or groups.

This USDA citation prompted PETA to seek more information about the use of animals, particularly monkeys, in research projects at USD. In July 2008, PETA submitted a public records act request to Laura Jenki, USD vice president for research. A request for disclosure of public records was also sent to James Shekleton, general counsel for the South Dakota Board of Regents.

The request was denied, and an appeal through the South Dakota Board of Hearing Examiners was also turned down. Action by the state Legislature during its session last year amended South Dakota law pertaining to public records, prompting PETA to once again request records from USD.

According to court papers filed Wednesday, USD responded on July 31, 2009, claiming that certain information requests were denied based upon exemptions in the new law and that USD would charge an estimated fee of \$2,000 to provide the requested information.

Court files show PETA requested 19 pieces of information in the summer of 2009, ranging from protocol revision request forms and veterinary medical records, to video and photographic footage of experiments, and copies of various reports, correspondence and minutes.

Jenki informed PETA that USD staff estimated that the time and materials needed to locate,

assemble and reproduce the requested information would cost approximately \$2,000, and would take approximately 20 business days to complete.

PETA was willing to pay up to \$50, and requested all fees associated with providing the requested information be waived because of its non-profit status.

In late October, PETA pared its list of requested documents from 19 to 11. It also asked for copies of three records pertaining to the use of rabbits in experiments at USD.

Jenki responded to this request from PETA with a specific reason for denying nearly every document. In some cases, she noted, the requested document didn't exist. Some of the materials being sought were exempt from South Dakota public records law to protect specific details of the research.

In some instances, Jenki agreed to provide information, such as meeting minutes pertaining to experiments, but personnel names were redacted in accordance to state law.

PETA states that its request for records will provide members of the public information about the operations and activities of USD, a publicly funded institution. This information, it states, will also reveal information about the experiments conducted by USD, and USD's response to non-compliance with various laws and policies that exist to address the care of animals used in research.

"The university system has greatly increased the amount of federal grants that they go after, particularly in the bio-medical field," Collier said. "Sometimes those grants, depending on which agency is involved, will require certain kinds of reports that may not end up on the federal Web site, but there still may be some information that is of interest to the general public."

Collier said certain procedures must be followed when filing and serving legal action against a governmental institution.

"A summary of the complaint has been sent to Mr. Shekleton and to the (South Dakota) attorney general," she said Wednesday. PETA's declaratory judgment request asks:

- that the court require the disclosure of all public records requested by PETA last October, which USD and the Regents have already agreed not to disclose.
- that the court require USD

and the Regents to waive the costs of production, or reduce the costs based upon an accurate estimate.

- that USD and the Regents pay all of PETA's attorneys fees, tax and costs incurred by taking this legal action, and
- for any other relief to PETA deemed just by the court.

USD and the Board of Regents have 30 days to respond to the complaint filed Wednesday.

The court action is not a direct attempt by PETA to halt animal research experiments at USD, Collier said.

PETA is not interested in obtaining information for the purpose of trying to use the research to develop, such as a saleable product, Collier said.

Court documents show that PETA is specifically interested in

obtaining National Institute of Health (NIH) grant applications and progress reports submitted by Dr. Robert Morecraft, a USD professor in the division of basic biomedical sciences at USD's Sanford School of Medicine.

Morecraft's research centers on central nervous system mechanisms that support one's ability to recover from a stroke. He also is involved in finding the nerve pathways involved in a common neurological movement disorder called dystonia.

PETA claims that Morecraft conducts what it describes as "terribly painful" experiments on monkeys in his research.

USD has squandered millions of taxpayer dollars to conduct these terribly painful experiments, and now the university wants to

waste more money to hide what happened," said PETA Vice President of Laboratory Investigations Kathy Guillermo in a press release issued Wednesday.

PETA claimed Wednesday that Morecraft "for years has drilled holes into the skulls of monkeys and caused them to suffer strokes by clamping shut a blood vessel in their brains. The injured animals are then observed as they struggle to grasp food. Morecraft's experiments also include attaching electrodes to the brains of restrained monkeys in order to provoke uncontrollable facial and body movements in the animals. The monkeys are killed at the end of these experiments, and their brains and spinal cords are

removed and dissected." "Everything that we've stated is based on information we've gleaned from his (Morecraft's) grant applications to the National Institute of Health, as well as his journal articles that he has published," said Justin Goodman, research supervisor in PETA's laboratory investigation department, based in Washington, D.C. told the *Vermillion Plain Talk* Wednesday. "These are details that are taken from his own materials."

The *Plain Talk* contacted both Phil Carter of USD's University Relations Office, and Tracy Mercer of the South Dakota Board of Regents office in Pierre Wednesday. Neither was aware of the PETA's legal action taken earlier that day.

STEM

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The original measure filed in the Legislature would have repealed a 2000 state law banning embryonic stem cell research. Volk has said research would use leftover cells in fertility clinics that otherwise would be destroyed.

The measure's main sponsor, Sen. Ben Nesselhuf, D-Vermillion, got a committee to change his bill so it only clarified that South Dakotans could get any federally approved treatments based on stem cell research. He said the treatments could include ones for cancer, blindness, Alzheimer's and other diseases.

But opponents said the bill was unnecessary because nothing in existing state law would prevent people from getting such treatments.

SHOOT

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Sinclair, Bruce Jensen and Mark Johnson; school board members: Doug Ekeren, Kathy Greeneway and Chris Specht; Benedictine Sisters Jennifer Kehrwald and Maribeth Wentzlaff; as well as Daisy Halverson, Mike Marlow, Dr. Derek Wesley, Sheila Woodward, Bill Sharma, Larry Ness, Pam Rezac and Eric Roozen.

"This is another means to get more people involved with the work of the 19 agencies associated with the United Way," said

United Way executive director Pam Kettering. "It is also a chance to raise awareness on what United Way does. We are currently at 80 percent of our yearly campaign, so hopefully this event will help us reach our goal for the year."

The "Battle of the Sexes" archery shoot-off for the local celebrities will start at 6 p.m., with local amateur professionals for the Pro Shoot-Off beginning at 7 p.m. Food will be provided as well.

Tickets are available at Dakota Archery, Wells Fargo Bank, National Field Archery Association or United Way & Volunteer Services, and will also be available at the door.

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