

September 16, 2002.

Mr. David Goodis, Senior Adjudicator  
Information and Privacy Commissioner/Ontario  
80 Bloor Street West, Suite 1700,  
Toronto, Ontario  
M5S 2V1

**CONFIDENTIAL**

Dear Mr. Goodis,

Re: FOI Request 01-11-29: Notice to Third Party  
Appeal PA-020028-1

Thank you for your letter, dated August 12, 2002, outlining the request for release of information pertaining to the Reports entitled "Animals Used for Research/Teaching/Testing in a Research Facility" for the years 1997 to 2000, and the inspection report dated March 9, 2000.

I have addressed the issues presented in your letter as follows:

**THIRD PARTY INFORMATION**

Issue A: Section 17(1)

***Part 1: Type of Information***

***Scientific Information***

Scientific information would be revealed by disclosure of the records requested. The information provided to the Livestock Technology Branch, OMAF, in the "Animals Used for Research/Teaching/Testing in a Research Facility" reports, as well as the inspection report dated March 9, 2000, pertain to the biomedical, biological, agricultural and veterinary scientific activities of the University of Guelph.

***Part 2: Supplied in Confidence***

***Supplied***

Information was supplied to the Livestock Licensing Co-ordinator, OMAF by the University of Guelph, in the form of reports entitled "Animals Used for Research/Teaching/Testing in a Research Facility", which are utilized for annual reporting of vertebrate animals used at the University of Guelph. The information was supplied by researchers and teachers at this

institution, and compiled by the Director, Animal Care Services. The reports were sent to the Livestock Licensing Co-ordinator, OMAF, to meet the legal requirements under the Ontario Animals for Research Act.

The information pertaining to the report dated March 9, 2000, was provided verbally during the inspection of the Central Animal Facility (CAF), University of Guelph by the Manager, CAF and assistant Director, Animal Care Services (ACS), to Veterinary Inspector, Animals for Research Act on January 31 and February 16, 2000.

These inspection and annual reports are legal requirements under the Ontario Animals for Research Act.\*

#### *In Confidence*

The information provided to the Livestock Licensing Co-ordinator, OMAF was supplied explicitly in confidence. The University has been assured by the inspectors enforcing the Animals for Research Act that the information would not be shared with the public. The annual reports and inspection reports have been the subject of several appeals to the Information and Privacy Commissioner. In each instance, the Commissioner has upheld the decision to deny records that reveal specific details of activities at individual research facilities: Order P-169 (May 25, 1990); Order P-252 (November 18, 1991); Order P-557 (October 20, 1993); and Order P-1537 (March 4, 1998).

The researchers and instructors providing information for reports on numbers of animals used annually hold the expectation of confidentiality indefinitely. Similarly, information provided to the Veterinary Inspector, Animals for Research Act by the facility manager, Director, ACS, researchers and staff is expected to be held in confidence and not discussed in a public forum.

At the University of Guelph, annual reports on animal numbers used, and facility inspection reports are treated in a confidential manner and not made available to the public. Individuals who have knowledge of the annual "Animals Used for Research/Teaching/Testing in a Research Facility" reports are the University of Guelph Animal Care Committee (ACC) members, as well as the Senate Research Board members to whom this committee reports. The ACC has the responsibility to oversee and regulate the use of animals in research and teaching at the university. Individuals who have knowledge of the inspection report of the Central Animal Facility are the University of Guelph facility Manager, CAF, the Director, ACS, Members, ACC and the Vice President, Research. The facility manager is responsible to reply to the ACC, concerning issues raised in the inspection report. The Director, ACS is responsible for the day to day oversight of the animal facility. The Vice President, Research is the Operator and responsible for the animal care and use programme at the university, which is managed on his behalf by the ACC.

\* The Animal for Research Act (Ontario) 1968-1969. An Act respecting the care and provision of Animals for Research. Revised Statutes of Ontario, 1990, chapter A.22 as amended in 1994, Chapter 27, 1997, Chapter 41, 1999, Chapter 12

### *Part 3: Harms*

#### *Section 17(1)(a): Prejudice to competitive position*

Disclosure of the record would be expected to prejudice the competitive position of the University of Guelph. It is reasonable to assume that these reports are being requested to identify individuals who currently use animals, especially pound source dogs, access to which is legislated under the Ontario Animals for Research Act.

In the past, animal activist groups in Ontario have used public exposure and controversy to prevent release of pound source dogs and cats to research facilities. They have already mounted campaigns of harassment and intimidation against universities, individual pound keepers, and Municipalities in an attempt to stop the release of pound animals.

are two examples of Municipalities that came under fire by the Animal Alliance of Canada and, as a result, now refuse to comply with the Act by not supplying animals for research and teaching. Release of these reports will accelerate this process.

Disclosure of the reports could be expected to interfere with contractual arrangements with pound keepers and Municipalities. Pound source animals are provided to the University with the implicit understanding by both pound keepers and Municipalities that this information will not be released to the general public. Disclosure of this information to animal rights advocates could significantly interfere with the contractual negotiations between the University on the one hand, and the pound keeper and the Municipalities on the other hand. This prejudice is significant as it could result in the ultimate loss of contracts with Municipalities.

#### *Section 17(1)(c): Undue loss or gain*

This interference is significant and resulting repercussions if this occurred are:

- (1) an increased number of unwanted pound dogs and cats euthanized (there are not enough homes for these animals), and subsequent replacement of those animals with dogs and cats purchased from animal supply facilities. Thus, more animals would be impacted and ultimately expended by society.
- (2) markedly increased costs to the University, from the \$8 fee, legislated in the Animals for Research Act, to commercial animal suppliers costs of \$750-1500 per animal. These costs, multiplied by the large numbers of pound source dogs used at the University (200-300 per year), represent a serious financial penalty and an undue loss for the University. There is a real potential for serious repercussions on our research and teaching programmes, especially when the University is already severely underfunded for its programmes, from both provincial and federal sources;
- (3) adverse publicity. At a time when the University is coming under scrutiny for all aspects of its operation, it is imperative for its continued existence to avoid anything that could paint a distorted and unfair picture, and cause damage to its reputation. Otherwise, enrollment, as well as funding relationships with industry and governments could be compromised, which could affect funding and cause an undue loss for the University of Guelph.

Supporting documentation is appended pertaining to Animal Alliance of Canada's use of information to target the fur industry and the use of pound animals in Canada (see Appendix 1).

## LAW ENFORCEMENT

### Issue B: Section 14(1)(e) and/or Section 14(1)(i)

Similar requests to seek access to information on research facilities and reports have been denied in the past on the basis that disclosure could reasonably be expected to endanger the life or physical safety of a person or endanger the security of a building. (See past orders referred to in your letter dated August 12, 2002).

#### Section 14(1)(i)

The University of Guelph is one of the leading Canadian universities in the areas of agricultural research and veterinary medicine. To fulfill those mandates, the University houses a large number of animals and is, therefore, particularly concerned with the disclosure of any information which might particularly identify and target those at the institution who carry on this important work. With this request, disclosure of the information must be recognized as a general public disclosure. Once in the public domain, this information will be available to all involved in the animal rights movement, including those who may utilize acts of vandalism and property damage to promote their cause.

#### Section 14(1)(e)

There is a realistic expectation that disclosure of the records could reasonably lead to threats to University employees and the security of our facilities and vehicles from extremists in the animal rights movement. These concerns are immediate but also relate to the future and, particularly, to personal safety, i.e., researchers working after hours, and, of course, building security, theft of property, violent occupation of building, and their contents. A University of Guelph researcher, utilizing dogs in his study, was harassed and experienced personal property damage from animal rights activists in 1998 (see Appendix 2).

Attached are pertinent documents outlining activism and animal rights activities in Guelph specifically (see Appendix 3), in Canada (see Appendix 4), and in North America generally (see Appendix 5).

#### Section 20 - Danger to Safety or Health

Any information released to the appellant could reasonably be expected to result in the harassment of employees and seriously threaten the safety or health of individuals at the University of Guelph.

Supporting documentation is appended, including newspaper and magazine articles on animal rights activities, including break-ins and property damage at research facilities in Canada (see Appendices 3, 4) as well as articles on tactics used by animal rights groups to identify and harass individuals (see Appendix 5).

*Applicability of Orders P-169, P-252, P-557, P-1392, and P-1537*

The issues identified and arguments presented to deny the release of comparable information in the above orders, which include Section 17 - Third Party Information, Section 20 - Danger to Safety and Health, and Section 14 - Law Enforcement, are entirely applicable to the current request.

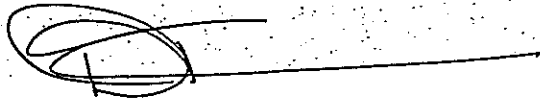
**SUMMARY**

In summary, I do not believe that a compelling public interest in the disclosure of the record outweighs the purpose of exemption, particularly in light of the reasonable expectation that disclosure could result in harm to individuals or property if this information is released to the public forum.

I trust that you will give serious consideration to this request to deny access to the annual reports for the years 1997 to 2000 and the inspection report for March 9, 2000. Such disclosure will reveal information that could jeopardize the University's research and teaching programmes, reputation, and expose university employees and property to a reasonable expectation of harm.

Should you have any queries, or require additional information, please contact me.

Sincerely



Dr. D. M. Benn  
Director, Animal Care Services

for

Dr. A. Wildeman  
Vice-President (Research)