

Testimony of Nancy Perry
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Before the Senate Committee on the Judiciary

“Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*”
September 15, 2010

Thank you, Chairman Leahy and Senator Kyl, for your leadership in addressing the problem of animal crush videos and for the opportunity to testify on this important topic. My name is Nancy Perry and I am Vice President for Government Affairs at The Humane Society of the United States, the nation’s largest animal protection organization, with 11 million supporters.

The HSUS has been working to address the problem of animal crush video issue since this problem came to our attention in the late 1990s. HSUS supported the legislation that Congress enacted in 1999, the Depictions of Animal Cruelty Act. In 2009, HSUS conducted an extensive undercover investigation that revealed the resurgence of the animal crush video industry in the wake of the lower court ruling striking down the 1999 law, and submitted an Amicus brief to the Supreme Court in support of that law. When the Supreme Court decision in April 2010 overturned the 1999 law as overbroad, HSUS worked closely with sponsors in Congress to develop narrowly-drawn legislation to meet the Court’s concerns but still effectively address the crush video problem. HSUS was very pleased that the House passed H.R. 5566 by an overwhelming vote of 416 to 3 in July.

Introduction

Congress has a longstanding and compelling government interest in preventing cruelty to animals. Criminal statutes designed to ensure the humane treatment of animals and to preserve public morals are older than our Nation and reflect its deepest values. All 50 states have enacted statutes that make it a crime to inflict cruelty on animals, and the Federal Government has enacted a number of laws to require the humane care and treatment of animals.

Cruelty to animals has been a core issue for The HSUS since our inception in 1954, as is reflected in our mission statement: "Celebrating Animals, Confronting Cruelty." We have worked successfully at local, state and federal levels in advocating for the adoption of stronger animal cruelty laws, and regularly offer rewards for information leading to arrests and convictions in animal cruelty and fighting cases.

We have partnered with numerous state Attorneys General in establishing some of these rewards. We have conducted thousands of workshops for law enforcement, animal control officers, and prosecutors on the proper investigation and prosecution of animal cruelty and animal fighting. Moreover, we have offered scores of workshops educating animal shelter and control officers, social service workers, law enforcement officials, mental health professionals, veterinarians and others about the connection between animal cruelty and human violence, while promoting inter-agency collaborations to reduce animal cruelty and other family and community violence.

People who kill or abuse others often do so as the culmination of a pattern of abuse which often begins with the torture and killing of animals and should society become desensitized to the suffering of animals, it may too lose the ability to empathize with the suffering of humans. Our staff psychologists have helped create treatment programs for juveniles and adults adjudicated for animal cruelty and have contributed to the extraordinary body of research demonstrating the connection between animal cruelty and human violence, most recently partnering with the Center on Children and the Law of the American Bar Association to develop a handbook, "A Common Bond: Maltreated Children and Animals in the Home."

Animal Crush Videos

Animal crush videos are one of the most abhorrent forms of extreme animal cruelty our organization has ever encountered. In a typical animal crush video, a scantily-clad, high-heeled woman or young girl is seen stomping, squishing, and impaling an animal to death for the titillation of viewers with a sexual fetish for animal crushing. The animals are often secured to the ground so they cannot escape, but free enough to move so that their writhing in agony is clear to the viewer. This sickening torment is drawn out for many minutes or even for hours, during which time the animals' cries and squeals are featured, along with the animals' excretions of blood, organs, urine, etc., as they are crushed to death.

In 1999, Congress passed 18 U.S.C. § 48 with overwhelming bipartisan support to criminalize the interstate sale of animal crush videos. § 48 was intended to supplement state cruelty laws that were ineffective in stemming the acts of cruelty and torture necessary to create animal crush videos.

Congressional testimony during hearings on §48 revealed that crush videos appeal to a specific type of sexual fetish dealing with feet. Punishing Depictions of Animal Cruelty and Federal Prisoner Health Care Co-Payment Act of 1999: Hearing Before the Subcomm. on Crime of the H. Comm. On the Judiciary, 106th Cong. 41 (1999); (http://commdocs.house.gov/committees/judiciary/hju63862.000/hju63862_0.htm, at 52-58). The testimony described how men developed this sexual fetish and how crush videos were developed so that those with this fetish could "transfer their fantasy and excitement" of being crushed. *Id.* at 53.

The testimony noted that "[m]any videos are produced wherein defenseless animals are tortured and crushed to death for the sole purpose of sexually exciting men. The animals are tortured in a slow, cruel and deliberate way. The women torturing the animals talk to them as if they are human. The women play the part of a dominatrix. The women wear different types of shoes including spike heels and stilettos." *Id.*

The torture and cruelty carried out and filmed in crush videos are some of the most vile, repugnant images imaginable. As Representative McCollum of Minnesota noted in 1999, "I do not believe in my entire time in Congress, I have ever seen anything ... as repulsive as [crush videos]. And I doubt anyone else who had to watch it would say anything [differently]." 145 Cong. Rec. H10267 (daily ed. Oct. 19, 1999) (statement of Rep. McCollum)).

U.S. v. Stevens

In *United States v. Stevens*, the Supreme Court struck down § 48 on very narrow grounds, finding that the 1999 federal law was overbroad because it could be interpreted to apply to many unintended circumstances, including hunting videos that had some redeeming social value. Slip Op. at 11-15.

The Court did not say that depictions of extreme animal cruelty are protected by the First Amendment. Instead, the Court unanimously recognized the long history of animal cruelty laws dating back to the founding of our country, Slip Op. at 6-7, and carefully left open whether Congress could draft a narrower law that would only reach depictions of extreme and illegal cruelty. *Id.* at 19 (“We therefore need not and do not decide whether a statute limited to crush videos or other depictions of extreme animal cruelty would be constitutional.”).

At oral argument, Justice Breyer stated that if Congress passed a statute aimed solely at “crush videos,” there would be “a very strong case” for upholding that law. Transcript of Oral Argument at 20. Likewise, many of the opponents of the 1999 law took the position in their *Amici Curiae* briefs in the *Stevens* case that a narrow bill focused on crush videos *would* be constitutional.

For example, the Reporters Committee for Freedom of the Press and Thirteen News Media Organizations jointly opined that, “Congress could have regulated legally obscene crush videos in a manner that did not threaten news reporting and other high-value speech,” while the Association of American Publishers, et al., stated, “Had Congress sought to proscribe only ‘crush videos,’ it could have done so, and this would be a much different case.” Likewise, the National Rifle Association of America, Inc. pointed out that, “Congress could have defined and criminalized ‘crush videos,’” and the CATO Institute referred to “the most vile kinds of animal cruelty – notably, ‘crush videos,’ which are not at issue here [in the *Stevens* case] and which (because they are ‘designed to appeal to persons with a very specific sexual fetish,’) are obscene by any standard.”

The Resurgence of Animal Crush Videos

Over 2,000 crush video titles existed at the time of §48’s passage, selling on the Internet for as much as \$300 with annual sales totaling nearly \$1 million. See 145 Cong. Rec. 31217 (1999); Thomas R. Collins, Long Odds Lead to Okeechobee ‘Crush’ Prosecution, Palm Beach Post, Oct. 24, 1999, at 7C. The enactment of §48 eliminated the financial incentive driving production of crush videos, and by 2007 sponsors of §48 declared the crush video industry dead. Press Release, Elton W. Gallegly, Beyond Cruelty, U.S. Fed. News, Dec. 16, 2007. Even overseas websites shut down in the wake of §48. Julia Reischel, Crush Me, Kill Me, Broward-Palm Beach New Times, Apr. 20, 2006, available at <http://www.browardpalmbeach.com/2006-04-20/news/crush-me-kill-me&page=29>.

In the wake of the Third Circuit and Supreme Court’s decisions striking down §48, crush videos once again began repopulating the Internet. As of today, both so-called “soft crush” videos

(involving crustaceans, insects, and fish), and “hard crush” videos showing the torture of puppies, kittens, and other warm-blooded animals are readily available for sale on the Internet.

In 2009, our organization conducted an undercover investigation and found extensive offerings that could be purchased online using PayPal or other convenient payment options.¹ The password protected part of one website had 118 videos for sale.² Videos ranged in price from \$20 to \$100.³ Each of the videos for sale contained footage of multiple animals, translating into hundreds of small animals being tortured and crushed to death for the profit-making of this one website alone.⁴ We found that purveyors also offer the opportunity for custom orders – with the customer specifying what type of animals and torture they want to see.⁵

I have included as Addendum A to my testimony a catalogue of the findings from our 2009 investigation, including for example, one 58-minute video described by the purveyor as “A cat got long time tortured then crushed to death by red platform,” and another as “Kim crush 8 rabbits with 4 pairs of sexy high heels.”⁶ A side business to the videos themselves is the sale of the shoes, panties, and other items used in the crushing.

Also, in July of this year, we received a tip from a Russian investigator, who identified through online forums numerous crush videos readily available for purchase via download links for about \$80, payable through PayPal or Western Union. His investigation found dozens of video clips showing young girls and women maiming and killing animals including dogs, goats, monkeys, rabbits and pigs.⁷ An HSUS researcher viewed preview clips that are offered to potential customers. The videos depict horrifying forms of animal cruelty, including:

- A smiling girl in stilettos pokes her sharp heel through a live dog’s eye socket. The dog’s front legs are tied behind his back and his mouth is tied shut, but he screams and screams in horrendous pain as the girl relentlessly stabs her heel through his eye socket. At one point, her heel goes all the way in and makes a cracking sound, but the dog is still alive and screaming.
- A girl wearing a very short and tight patent leather mini-skirt and stiletto heels pokes the heel of her shoe through the eye of a small monkey. In another video, a girl in stilettos crushes a small monkey while the monkey’s tiny hand keeps trying to hold on to her foot as she crushes him.
- A dog, who looks like he has been skinned and is lying in a pool of blood, is still very much alive. He flinches and raises himself up to try and escape when a girl cuts his tail off with a hammer and hatchet. The girl’s feet are covered in blood.

¹ Animal Crush Videos Research & Investigation: Descriptive Catalogue of DVD Folders Content, May 22, 2009.

² Id.

³ Id.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Supplement to Animal Crush Videos Research & Investigation, July 21, 2010.

- A girl wearing a flimsy negligee, stockings and stiletto heels crushes a rabbit, who screams as his hind legs are crushed. In another video, a live rabbit is crushed by a girl's bloody bare feet on a tile floor strewn with the guts of previously killed animals. She crushes the rabbit until its viscera are squished out of its body, then she crushes those as well with her bare feet.
- A girl with stiletto boots and a very short mini skirt is stabbing her heels through a dog's abdomen. A dead dog lies on the blood-soaked floor nearby.
- A girl with very high stilettos crushes the head of a small pig whose legs are tied. The pig screams in pain. The girl stabs her pointed heel through the pig's head.
- A live puppy is crushed by a girl wearing stilettos. As she crushes the puppy's head, blood comes out of his nostrils and the eyeball nearly comes out of his head.

These examples, along with others outlined in Addendum B to my testimony, help demonstrate the extent of this problem. We do not have an exhaustive picture of all the hard crush and soft crush videos being produced and peddled, but we know the problem is very real and cries out for action by Congress.

The Inherently Sexual Nature of Animal Crush Videos

As explained in the House Reports from both 1999 and 2010, and confirmed by HSUS's two investigations, crush videos are inherently sexual in nature. They are available through websites with names like www.xxxfetish-media.com and have prominent announcements such as: **“WARNING!!! This website contains Adult-oriented material**, which may include; without limitation, photographic, videographic, audio and textual depictions of adults engaging in consensual, sexually explicit conduct. Such depictions may adopt; without limitation, fetishistic, homosexual, bi-sexual or transexual qualities...”

The listings of available videos are replete with photographs of women with the camera trained on their bikini underwear or other sexual attire. Many are shot from below, looking up into the woman's genital area, creating the appearance of being from the perspective of the victim. For example, a website notes for one video, “By request, this clip contains more POV's and lingering up-views and shows Tynsley's unique twisting style. Seems to be driving a few guys crazy out there!”

The women carrying out the slow, deliberate torture on the videos often talk to the animals as if they are human, using a dominatrix patter or other sexual tones. For example, a website offering hundreds of different crush videos describes one as follows: “She gives you some really nice, slow crush. She really takes her time with her victims, giving them all the opportunity to feel every little bit of pressure being placed on them with the soles of her classy high heel pumps. Her voice is soft and sexy as she taunts them, teases them, and finally places all her weight onto her victims, making sure they die under her feet.”

Another boasts about Lady Oasis' "nice crushing style and lots of verbal abuse and taunting. These little guys get smushed very well by this little hottie, who shows absolutely no mercy as she steps on each one with a smile." Then there's "Midnight [who] seems to be having lots of fun with her victims. She returns in this clip ready to humiliate and torture these little guys. She even makes one of these little guys beg her to step on him. Of course, she grants him his wish." Another states: "Big bad Kellie takes on a few stronger victims. But they are still no match for her. She uses her super-strong, beautiful feet to brutally force these guys to submit to her. After a few short, stomps, they submit to her, allowing her to do anything she wishes to them. She owns them and kindly lets them know!" And yet another, "She does it with her vicious red, powerful, dominatrix boots. She stomps the hell out of these critters with absolutely no regret. Gawd, this girl is hot!!!"

Appealing to the viewers' prurient interest in watching other creatures be crushed to death and fantasy of being crushed themselves, a website says about one video: "You've been busted again! When are you going to learn that getting caught checking out the backside of a Dreamgirl without her permission is not good for you? Its a good way to get yourself stepped on! Just ask these craws [crawfish] who tried to get a glimpse of Baby's backside. She makes them PAY with their lives for not being able to control their wondering eyes! Yea, like thats gonna stop YOU!!!!" Another offers: "Here, this ruby haired seductress is wearing a skin tight black dress that hugs her voluptuous curves. She is all woman and she knows it. Venom tortures two hermit crabs for her pleasure and yours in a pair of gray feminine peep toe ankle boots. You can see her pretty toes as they peep out from them, teasing you for more. There are plenty of shots of her luscious legs as well to make your blood boil."

In its welcome message, one site proudly announces, "This clip store has been created to give you a feel of what its like to be turned into a Snail or bug and crushed by sexy young women. Many of our clips have the models talking about what they are doing and how they enjoy crushing you. All the clips are filmed in High def to get you closer to the action!" A description of Lady Precious' crushing says, "Hold on to your pants, Guys. This girl is sure to get you goin!" And Honey's "sexy taunting and laughing after each goldfish explodes under her boots is a huge turn-on. How would you like to be stuck to the bottom of this gorgeous woman's boots? Yea, thought so. I'd love it, too."

Some websites create the morbid fantasy that the animals enjoy their suffering, as presumably the viewers imagine themselves doing. For example: "Love a woman in a short dress? Hazely looks too dam good here....At least they get one last good view before being crushed." And, "Once again, Fire shows off her long legs and lovely toes. She is in a red-hot, two-piece fishnet outfit. Befitting for a goddess named 'Fire'. She takes care of a couple of 'volunteers' in this clip. Love the way she takes her sweet time, giving these volunteers plenty of time to enjoy the flavor of her sweet soles and toes." One description of popping and exploding under the crusher's feet concludes, "Lucky caterpillars!"

Offering unending variations, the promotional descriptions proclaim things like, "Gotta love her sexy grinding in this clip. Complete 180 degree twists when she grinds....Super-sexy! She has a great time smushing and smearing her victims into the ground. Enjoy!" And "Butt crush has always been a frequent request. So, we decided to play around with it. I've had this clip sitting in

my computer for several days and today came the millionth request for one. So, what the hell. Why not? Your face is only inches from Fire's gorgeous ass.” And describing one costumed crusher, “She plays the Queen of Hearts here, ready to take on any victims that may want to break hers. She shows us what she does to pathetic creatures that attempt to break her heart. Of course, this is just a warning. She uses innocent victims, just to show what she is capable of.”

The sheer volume and steady stream of new offerings in the wake of the Supreme Court’s decision is overwhelming – with more than 700 different titles offered on just one of 50 separate “top shops” specializing in crush videos on the www.xxxfetish-media.com website alone.

Clandestine and Difficult to Prosecute

Because crush videos typically reveal only the woman’s leg or otherwise lack identifying information, perpetrators often escape prosecution. See 145 Cong. Rec. 31217 (statement of Sen. Smith) (“It has been difficult for enforcement agents to determine when the practice occurred, where it occurred, and who has been involved, since feet and the crushing of the animals are the only images on the video.”); *id.* at 25898 (statement of Rep. Bachus) (“In every State it is against the law for them to do it, but we cannot identify these people. But we can identify who is selling them.”); *id.* at 25896 (statement of Rep. Gallegly) (“Federal and State prosecutors from around the country have contacted me to express the difficulty they have in prosecuting people for crush videos because the only evidence of the crime is on videotape.”); *id.* at 25898 (statement of Rep. Shays) (“We cannot prosecute these people without this law.”).

The proliferation of animal crush videos is not a problem that can be addressed effectively under state law. Though every state prohibits animal cruelty, these videos are marketed in interstate commerce and some enter the U.S. market from other countries. State authorities’ ability to prosecute the animal cruelty crimes that occur in the production of crush videos is frustrated by the clandestine nature of these crimes, which allows persons who torture animals to remain anonymous. The creation, marketing, and sale of animal crush videos foster this anonymity, are intrinsically intertwined with the underlying criminal torture of animals, and allow the persons responsible to profit financially from their crimes. Advertising and selling of such records of actual animal cruelty provide an economic motive for, and are an integral part of, the continued creation of animal crush videos.

As attested by the Association of Prosecuting Attorneys – whose letter I ask to have entered in the Record – a federal law is essential because it is so difficult to prove who is responsible for the underlying cruelty shown in the videos and when and where that cruelty occurred, in order to bring the perpetrators to justice. As the Association of Prosecuting Attorneys explains, “these videos are made secretly and anonymously. Even if identities can be determined, it is often impossible to prove where and when the videos were made in order to establish jurisdiction and that the crime occurred within the relevant statute of limitations.”⁸

Absent a federal prohibition, law enforcement agents must rely on the unlikely event of catching someone red-handed producing a crush video behind closed doors. They cannot effectively

⁸ Letter from David LaBahn, CEO, Association of Prosecuting Attorneys, September 15, 2010.

crack down on this abhorrent industry unless Congress again prohibits the interstate commerce that is fueling the underlying acts of animal cruelty by making them profitable.

Conclusion

As explained by the Association of Prosecuting Attorneys, “Those who produce and market these videos and those who carry out the animal cruelty in the videos do so in order to profit from appealing to the prurient interests of those with a sexual fetish involving specific forms of animal cruelty and suffering. The acts of animal cruelty captured on film would likely not be committed but for the production of the crush videos that can bring a profit in interstate commerce.”⁹

H.R. 5566 and legislation being developed in the Senate is urgently needed to stem the tide of criminal and obscene animal torture videos now proliferating on the Internet in the wake of the Supreme Court’s ruling in *Stevens*. The legislation has been carefully narrowed and redrafted to close the gap in the enforcement of state and Federal laws that prohibit animal cruelty which was left open by the Supreme Court’s opinion, and to do so without infringing on important First Amendment freedoms that the Humane Society of the United States and all Americans hold so dearly.

Because the lead opponents of the 1999 law have gone on record before the Supreme Court as saying that animal crush videos are “designed to appeal to persons with a very specific sexual fetish” and “obscene by any standard,” we hope that civil libertarians will join together with the law enforcement community, animal protection advocates, and the millions of Americans across the country who have been horrified and outraged by the resurgence of vile and sickening animal crush videos, to ensure swift passage of this critically needed, and narrowly targeted legislation. We know from what occurred following the 1999 law that this is one area where having a law on the books can make a real and immediate difference in preventing extreme animal cruelty, so time is of the essence. Thank you again for your leadership and consideration.

⁹ Id.