The Animal Welfare Act was intended to ensure humane treatment for animals such as this rhinoceros, one of a number of animals abandoned by a traveling zoo in Maryland during a 1988 summer heat wave. How effectively is this law helping animals in the United States?
eliminate substandard puppy-mill operations.

But the mere existence of a law does not guarantee its successful enforcement. In the case of midwestern puppy mills, some USDA personnel simply have not acted, not even against the most egregious operations, with enforcing the humane standards required by law—have acted in inexplicable—and, to human society, seemingly frustrating—ways, as the following example shows.

On July 18, 1988, the Winfield City (Kan.) Police Department, Ms. Cynthia Newton, president of the Humane Society, and Dr. John Johnson, a local veterinarian, responding to a complaint in operation for thirty-five years. The conditions.

Dr. Coco Sutton visited Dr. Baker that, on a follow-up call to the USDA, she was assured that Dr. Rissler had received the letter. As of press time, the county prosecutor still has not filed charges, which is understandable, since, from a prosecutor's point of view, a favorable federal inspection alone would probably establish the "reasonable doubt" at a trial which would throw a verdict of guilty. (Indeed, the county attorney himself has confirmed to Bob Baker that the "clean bill of health" given the kennel by the USDA has been a definite factor in not taking further steps to prosecute the case.

Postscript—On November 18, 1988, Janet Payeur, a USDA animal-care specialist for the central region, had sent a directive to all the inspectors in the region following findings by Kansas regional animal-care specialists. In it, she states, "Kansas was criticized in that some inspectors never find deficiencies. This office, the regional office, and the Animal Care Staff in Haysville cannot believe there are no deficiencies in these sections.... Station and national policy is that we will cite all deficiencies."

Apart from the controversy over the conditions at the kennels (Ms. Newton has asserted that the USDA could not meet Animal Welfare Act standards "without the total rebuilding or restructuring of the operation..."), the most puzzling question about this case is why USDA personnel went to the trouble of visiting both the assistant county attorney and Dr. Johnson. Such visits were hardly a necessary or ordinary part of licensing procedures under the Animal Welfare Act. The inspectors' actions appear to amount to an extraordinary effort on the part of federal personnel to advocate the interests of a licensee before local authorities in pending procedures under state cruelty laws.

Bob Baker, who has extensively interviewed conditions at midwestern puppy mills, including those in Kansas, has written, "Many USDA officials have adopted a stance of supporting the AW (the USDA was given the task of enforcing the AW) and even direct their hostility toward the AWA because they feel are responsible for the AW. This hostility is exacerbated when humane societies attempt to rectify inhuman conditions at... puppy mills... USDA inspectors often report that they find all standards being complied with, whereas there are no deficiencies of USDA regulations despite horrendous conditions."

Whatever Mr. Taylor's and Dr. Sutton's motives, and whether or not their actions were the sole or main reason the case has not been pursued, in this case, the excretions of USDA officials were in apparent conflict with those of a humane society, a police department and an independent state attorney. Obviously, until animal-welfare efforts unite all involved parties in a concerted effort to ensure humane care for animals, even with the existence of the Animal Welfare Act, little can be accomplished.

The Case of the Oregon Buncher

Under the Animal Welfare Act, dealers are people who buy and/or sell animals—"dealers from Bunchers,"-dealers who buy animals for pounds for resale to research laboratories—make up part of this category. Dealers must be licensed or registered and must meet the humane standards for care set by the Act for the animals under their supervision. The following case history concerns one of the largest federally licensed dealers/bunchers on the West Coast, James W. Hickey of S & S Farms.

At first glance, the case appears to illustrate one of the most common complaints about the USDA's enforcement of the AWA—that it is too slow. But a closer analysis suggests that the USDA may not be entirely to blame for delays in obtaining judgments on AW violators.

In January 1986, the USDA filed a formal complaint against Mr. Hickey. The OGC charged him with "number of violations of the Animal Welfare Act. (The actual number was seventeen.)"

In August 1986, Mr. Hickey missed his hearing date due to illness. No new date was immediately set. The HSUS then asked the USDA to write to the OGC office in Washington, D.C., to ask for action on this case.

In January 1987, Mr. Hickey was fined $40,000 and had USDA animal dealer's license suspended for twenty-five years. Mr. Hickey appealed the decision.

In May 1988, the June 1987 decision was upheld on appeal. Mr. Hickey subsequently filed suit with the U.S. court of appeals and received a stay allowing him to continue to operate. As of this writing, the appeal is pending.

In this case, there were no complaints about the performance of the USDA regional personnel in Oregon, who, according to the HSUS West Coast Regional Office, did an excellent job. This time, frustration arose from what appeared to be lengthy delays on the part of the OGC in Washington, D.C., the legal arm of the USDA responsible for prosecuting the cases of AWA violations. It took six months—"from June 1985 to January 1986 before the OGC filed a formal complaint against the regional office filed its information with APHIS. A hearing date was then set for August 1986—seven months away. When the hearing date had to be postponed due to Mr. Hickey's illness, it was put back until March 1987—another large block of time. Finally, in June 1987—two years after the original complaints were filed—Mr. Hickey's case was decided, and he appealed the decision.

Was this excessive? If it was, was the OGC to blame? Tom Walsh, assistant general counsel at the USDA, says no to both questions. The process by which a case moves from complaint to hearing to decision is governed by carefully set procedural rules and statutes, many of them grounded in constitutional guarantees. Mr. Walsh says, "Mr. Hickey is perfectly within his rights to hire a lawyer, contest the suit, and appeal any decisions handed down—all of which take time."

"Once a case gets into the hearing process it's any [court of time involved] really out of our hands," says Mr. Walsh. According to Walsh, the agency that could speed up a case at all is
APHIS, which can prioritize its cases for the OGC and see that a complaint is sent to the OGC as soon as possible after APHIS receives it from a regional office.

"We did receive a lot of mail on the Hicky case," recalls Mr. Walsh. "It really should have gone to APHIS, the agency responsible [for enforcement of the AWA]. The OGC simply provides legal services for APHIS to do its job." HSUS West Coast Regional Director Char Drennon points out, however, that The HSUS had contacted APHIS regarding the progress of this case, only to be referred to the OGC.

The AWA is a law. But, in protecting animals, it cannot abrogate the protections that other laws give citizens in this country, including the right to a hearing, the right to due process, and the right to appeal.

The Case of The Wonder Zoo

Exhibitors—who have animals on display to the public or conduct performances involving animals—are also covered by the Animal Welfare Act and must comply with the standards of the Act and its regulations pertaining to animal care.

Small traveling circuses and menageries are, more often than not, pins of indescribable cruelty to animals. The Animal Welfare Act provides a good beginning to achieving humane and ethical care for captive animals, but it must be backed up by rigorous enforcement. To The HSUS, the thought of allowing inadequate traveling animal exhibitors to continue roaming the country is intolerable, and hardly any action that stops them comes quickly enough. In the following case history of a traveling zoo that left a trail of complaints wherever it went, relief for the animals seemed to come with agonizing slowness.

In the following case history of a traveling zoo that left a trail of complaints wherever it went, relief for the animals seemed to come with agonizing slowness.

In June 1986, a local newspaper in Easton, Maryland, reported that Mr. Garden's traveling Wonder Zoo had abandoned a donkey and three mules at a local shopping center.

On April 22, 1988, the Alachua County Humane Society in Florida reported to the HSUS Southeast Regional Office in Tallahassee, Florida, that The Wonder Zoo had a sick elephant. A veterinarian at the University of Florida told the regional office that the elephant was extremely ill.

The Sarasota Herald Tribune in Sarasota, Florida, reported that thin and sick animals were found at The Wonder Zoo at a Gainesville, Florida, mall and that complaints had been ploined to local animal-control and USDA officials. The Tribune reported an ill baby elephant, a thin adult Asian elephant, and a rhinoceros in a very small cage.

Andrea Mitchell, from the Southeast Regional Office, contacted Dr. Edward Basemov, the USDA area veterinarian located in Gainesville, concerning The Wonder Zoo. He told her call was the first he had heard of the situation.

On April 23, 1988, the Gainesville Sun reported, in addition to the above, that complaints about animals being beaten and open wounds on animals had been made when The Wonder Zoo opened in Venice (Florida) a few weeks earlier.

On April 27, 1988, a citizen reported to the Southeast Regional Office that The Wonder Zoo had an elephant with its front legs chained together and that a zoo employee had told her the elephant had been broken, swollen leg. The citizen reported that the animals at the zoo were covered with feces.

Miss Mitchell again talked with Dr. Basemov. He told her he had sent someone out to inspect the zoo but that he hadn't yet read the report.

On May 19, 1988, the Southeast Regional Office reported to HSUS headquarters that the sick baby elephant had been euthanized due to salmonellosis poisoning and the zoo waited too long to get proper care and treatment for it.

The News and Courier/The Evening Sun reported on May 20, 1988, that Dr. Basemov had reported the death of an elephant to the USDA inspector that the elephants were mountain elephants from India, which normally are quite thin. Dr. Stewart told Dr. Lieberman that the zoo would be re-inspected in Fayetteville, North Carolina, by a more qualified inspector.

On June 22, 1988, nearly fifty animals of The Wonder Zoo were found packed into two truck trailers parked in a shopping center parking lot in Fairfax County, Virginia, during a heat wave in which temperatures reached 102 degrees. The temperature in the trailers was more than 110 degrees. Fairfax County firefighters were called in to hose down a baby elephant, a zebra, ponies, goats, ostriches, and other animals. Fairfax County officials impounded the animals, stating they were not receiving adequate food, water, or fresh air. The animals were taken to a animal-farm park located in the county.

On June 23, 1988, a third truckload of animals, including an elephant, a rhinoceros, a hyena, and a tiger, was found abandoned in Prince George's County, Maryland. The animals were taken into protective custody by county officials.

On June 30, 1988, the USDA suspended Richard Garden's license for twenty-one days, the maximum allowed by the AWA pending an inquiry into whether he should be charged with violation of the Animal Welfare Act.

On July 8, 1988, Richard Garden donated the animals that had been seized in Fairfax County to the Animal Protection Association of America, without admitting any negligence in their care. Fairfax County dropped charges pending against him.

In February 1988, Mr. Garden agreed to sign over ownership of the animals that had been seized by Prince George's County officials to the county in exchange for the county's dropping the charges it had pending against him.

Mr. Garden's USDA license was reinstated after twenty-one-day period. He may be back in business. Although his animals were seized in Maryland and Virginia and his Florida license has been revoked so he cannot show animals in that state, there is nothing to stop him from buying back animals and exhibiting them anywhere else. Dr. Dale Schwindaman of USDA/APHIS in Haysville, Maryland, spoke with Dr. Lieberman concerning this case on March 1, 1989, and told her the USDA did not know if Mr. Garden still had any animals. Although declining to comment officially in the case, Dr. Schwindaman told Dr. Lieberman that the USDA would continue to investigate Mr. Garden and proceed to follow it through.

Dr. Lieberman comments on this case, in which the ultimate seizure of the animals came through the action of Virginia and Maryland counties, not by any action of the USDA: "This is probably the worst traveling circus that was ever brought to the attention of The HSUS. Yet, I think the USDA was doing the best it thought it could as far as the law [the AWA] allowed." She points out that, under the AWA, individual inspectors may exercise their own discretion in deciding what to do with a case, and one problem with traveling exhibitions is that different inspectors see it in different places. "Inspections are not action," she cautions.

What could be done to improve the situation? Dr. Lieberman suggests some changes in the Act itself: "Regulations under the Act need to give some teeth to enforcement. We can't rely so much on the discretion of inspectors. Also, a twenty-one-day maximum suspension of a license is absurd. No wonder exhibitors don't care [about compliance with AWA regulations]."

Dog dealers who sell dogs to research laboratories are required by the AWA to be licensed. The dealer who operated this Tennessee facility was unlicensed, although it is known he supplied at least one laboratory with animals. Most of the fifty dogs on the premises when this photo was taken were suffering from malnutrition. For them, the AWA was not much protection.