



# USDA-APHIS-Animal Care



ANIMAL WELFARE COMPLAINT			
Complaint No. AC19-171	Date Entered: 15-Mar-19	Processed By: SSE	
Referred To: Frank/Garland		Reply Due: 16-Apr-19	
Facility or Person Complaint Filed Against			
Name: SALK INSTITUTE FOR BIOLOGICAL STUDIES		Customer No.: 1169	License No.: 93-R-0066
Address: 10010 N. TORREY PINES ROAD		Email Address:	
City: La Jolla	State: CA	Phone No.: 443-282-4129	
Complainant Information			
Name: (b) (6), (b) (7)(C), (b) (7)(D)		Organization: (b) (6), (b) (7)(D)	
Address: (b) (6), (b) (7)(C), (b) (7)(D)		Email Address: (b) (6), (b) (7)(C), (b) (7)(D)	
City: (b) (6), (b) (7)(C), (b) (7)(D)	State: (b) (6), (b) (7)(C), (b) (7)(D)	Phone No.: (b) (6), (b) (7)(C), (b) (7)(D)	
How was the Complaint received? Email			
Details of Complaint: SEE ATTACHED			
Results: The inspection of April 24, 2018 resulted in the facility receiving one teachable moment; that teachable moment followed all of the requirements for a teachable moment to be granted. No animals were injured or traumatized. The facility continues to be monitored.			
Application Kit Provided: Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>			
Inspector:			Date:
Reviewed By:			Date: 3-Jul-19



Animal and Plant  
Health Inspection  
Service

Animal Care  
Western Region

March 15, 2019

(b) (6), (b) (7)(C), (b) (7)(D)

Dear Complainant:

Thank you for your correspondence dated 25-Feb-19 concerning SALK INSTITUTE FOR BIOLOGICAL STUDIES. Your complaint has been issued number AC19-171. **Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly look into your concerns.** After that time, the status of our findings may be requested through the Freedom of Information Act (FOIA) office.

**FOIA Requests can be submitted three ways:**

1. Web Request Form: <https://efoia-pal.usda.gov/App/Home.aspx>
2. Fax: 301-734-5941
3. US Mail:  
USDA- APHIS- FOIA  
4700 River Road, Unit 50  
Riverdale, MD 20737

Should you have any questions regarding the APHIS FOIA process or need assistance using the Web Request Form **please contact the APHIS FOIA office at 301-851-4102.**

Animal Care is the division of the U.S. Department of Agriculture (USDA) that is responsible for the enforcement of the Animal Welfare Act. The Act provides minimum standards for the humane care and use of animals at USDA licensed or registered facilities.

Animal Care inspectors conduct routine unannounced inspections at all USDA licensed and registered facilities to ensure that they are meeting or exceeding these minimum standards. Our inspectors also conduct searches when necessary in response to valid concerns and complaints received from the public to ensure the well-being of the animals and compliance with the law. If violations are found enforcement action appropriate for the circumstances will be initiated.

Please be assured that we will look into your concern(s) and the appropriate action(s) will be taken.

Thank you for your interest into the welfare of these animals.

Sincerely,

Bernadette Juarez  
Deputy Administrator  
USDA APHIS Animal Care

**From:** (b) (6), (b) (7)(C), (b) (7)(D)  
**Sent:** Tuesday, February 26, 2019 12:58 PM  
**To:** Gibbens, Robert - APHIS  
**Cc:** AC West  
**Subject:** Official Complaint -- Salk

(b) (6), (b) (7)(C), (b) (7)(D)



Dr. Robert Gibbens

2/25/19

Director, Western Region, USDA/APHIS/AC,  
2150 Center Ave.  
Building B, Mailstop 3W11  
Fort Collins, CO 80526-8117

Dr. Gibbens,

I am writing to you today to file an Official Complaint against the Salk Institute (93-R-0066), for what appears to be both a violation of the Animal Welfare Act and improper use of the "Teachable Moment" policy by a USDA inspector. In addition to prosecuting the laboratory, you must also deal with this inspector's apparent effort to hide this infraction from public scrutiny. The result of this incident appears to have been essentially a cover-up of a potential animal injury or death.

As you will see in the attached "Teachable Moment" document which resulted from an inspection of the Salk Institute on 4-24-18. The document states:

"Novel Non-Human enrichment should minimize the potential for injury."

And this is listed as a violation of Sec. 2.38 (f)(1). As you know, this is the animal handling section of the regulations. And failure to comply with this code section means, (quoting from a USDA Enforcement action) that the laboratory in question "failed to handle an animal in a manner that did not cause trauma or physical harm to the animal."

Now, as you also know, the requirements for classifying a potential infraction as a "Teachable Moment" are (according to the USDA Inspection Guide):

"A Teachable Moment that meets all the following criteria:

- \* Is a minor NCI that is not adversely impacting animal welfare, and
- \* Is not likely to soon become a serious, Direct or other Critical, or Repeat NCI, and
- \* Is not a Direct or other Critical, and

- \* The facility/site is willing and able to correct the issue quickly, and
- \* Was not previously listed as a Teachable Moment or cited at the site within the last two years."

Now, I fail to see how an incident in which a laboratory ***failed to handle an animal in a manner that did not cause trauma or physical harm to the animal*** would not ***adversely impact animal welfare.***

Also, this "Teachable Moment" discusses non-human enrichment. That being the case, isn't it possible that this incident could/should have been cited under Sec. 3.81 Environment enhancement to promote psychological well-being. However, this would also have disqualified this incident from being a "Teachable Moment," because the Salk Institute was cited for violating this same code section in an inspection dated 8/10/17, less than two years from the date of this inspection, and as you know, if this same code section had been violated within two years, this could not have been a teachable moment.

In summary, since the Salk Institute apparently injured an animal or had an enrichment device that at least could injure an animal, likely a primate, this clearly should not have been a "Teachable Moment."

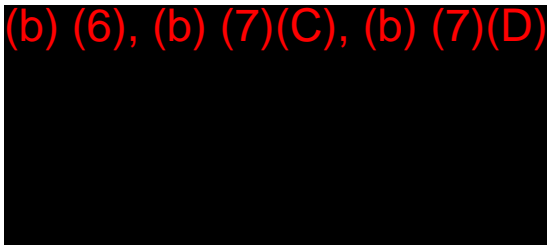
Therefore, I am calling upon you to retroactively issue a citation against the Salk Institute under either Sec. 3.81 Environment enhancement to promote psychological well-being or Sec. 2.38(f)(1) Animal Handling.

And, since the Salk Institute will now have violated the Animal Welfare Act five times within roughly two years, I am also calling upon you to institute a full investigation of this facility. And at the end of this investigation you must immediately begin the process of issuing the maximum fine allowable against the Salk Institute at the completion of your investigation -- \$10,000 per infraction/per animal.

I look forward to hearing from you in the near future about the fate of this facility.

Sincerely,

(b) (6), (b) (7)(C), (b) (7)(D)



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(b) (6), (b) (7)(C), (b) (7)(D)

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United States Department of Agriculture  
Animal and Plant Health Inspection Service  
**Teachable Moments**

Legal Name: SALK INSTITUTE FOR BIOLOGICAL STUDIES

Customer Number: 1169 Certificate Number: 93-R-0066

Inspection Date: 24-APR-18 Site Number: 001

Inspector: KATHARINE FRANK, D V M

Section: \_\_\_\_\_

**2.38(f)(1) MISCELLANEOUS.**

Novel Non-Human Primate enrichment should minimize the potential for injury.

**Additional Inspectors**

Schnell Michael, Veterinary Medical Officer