



September 15, 2016

VIA EMAIL to: cruelty@ospca.on.ca
Ontario SPCA
Toronto and Greater Toronto Area
16586 Woodbine Avenue, RR 3
Newmarket, Ontario
L3Y 4W1

CC:
Niagara Falls Humane Society
6025 Chippawa Parkway
Niagara Falls, Ontario
L2G 0E4
humane@nfhs.ca

To Whom It May Concern:

RE: Complaint of Illegal Animal Abuse by Veterinarian Dr. Mahavir Singh Rekhi

Animal Justice is a national animal law non-profit focused on securing legal protections for animals. We write to you to report illegal animal abuse by Dr. Mahavir Singh Rekhi, a veterinarian who practiced at the Skyway Animal Hospital in St. Catharines Ontario. Animal Justice asks you to investigate and lay charges against Dr. Rekhi.

Four former employees of the animal hospital secretly recorded Dr. Rekhi's abusive behaviours. The shocking video footage depicts Dr. Rekhi hitting, choking, and improperly restraining the vulnerable animals in his care. The videos were aired on CTV News on September 14, 2016 as part of a TV news story.¹

Dr. Rekhi was found guilty of professional misconduct last July by the College of Veterinarians of Ontario, and sentenced to a mere 10 month suspension. The suspension may be reduced to only four months if Dr. Rekhi undertakes two and a half days of remedial training.²

This letter sets out the incidents and Animal Justice's position with respect to the law as it pertains to the video footage.

¹ <http://toronto.ctvnews.ca/employees-speak-out-after-vet-handed-10-month-suspension-for-choking-punching-animals-1.3072293>

² <https://cvo.org/For-the-Public/Find-a-Veterinarian.aspx?showdetails=8b7e4f9d-ca01-490e-8204-56cc7eaf55d3>

I. Incidents of Illegal Abuse

The secret video footage shows Dr. Rekhi abusing multiple animals in different ways:

- Dr. Rekhi hits a dog across the snout with metal nail clippers;
- Dr. Rekhi picks up an anaesthetized, unconscious cat by the tail and swing the cat against a table;
- Dr. Rekhi chokes a Chihuahua so hard that the dog defecated. According to a former employee who witnessed the incident and asked him why he did so, Dr. Rekhi stated that the dog “deserved it.”

According to CTV reports, Dr. Rekhi told clinic staff that if animals were handled roughly enough, they would not act up the next time and would learn their lesson. Former clinic employees stated that animals did remember Dr. Rekhi when they came to the clinic, because they would urinate when they saw him.

Urinating and defecating can be a sign of fear and distress in animals.

II. The Law

The Criminal Code

Section 446.1 of the *Criminal Code of Canada* (“the Code”) prohibits causing unnecessary pain, suffering, or injury to an animal.³

There are two elements to the *actus reus* of the s. 446.1 offence: 1) the person must cause, or permit to be caused pain, suffering or injury to an animal; and 2) the pain, suffering, or injury must be unnecessary in the circumstances. The pain, suffering, or injury need only be minimal, and it can be psychological as well as physical.

In this case, it is clear from the undercover video that both elements are present. Dr. Rekhi is repeatedly shown handling animals in ways that clearly cause pain and suffering to the animals.

The pain and suffering experienced by the animals was also unnecessary in the circumstances.

The term “unnecessary” implies a proportionality test, in that the pain and suffering experienced by the animal will be unnecessary if it is not outweighed by legitimate human interests in inflicting the pain.⁴ In cases where pain is inflicted for sadistic purposes, as in this case, it will always be deemed unnecessary because no valid human

³ *Criminal Code*, RSC 1985, c C-46, sections 445-446.

⁴ *R. v. Menard* (1978) 43 C.C.C. (2d) 458 (Que. C.A.).

interests exist. This is particularly so given that veterinarians are subject to legislation imposing standards on their care of animals. The College of Veterinarians of Ontario has already found Dr. Rekhi guilty of professional misconduct for treating animals in a manner that does not comply with veterinary standards. This indicates that Dr. Rekhi's actions were unnecessary.

The *mens rea* of the s. 446.1 offence is that the pain, suffering, or injury must be caused wilfully.

It is clear that Dr. Rekhi intended to inflict pain, suffering, and fear on the animals in his care. According to witnesses, he stated that he caused them to suffer as a form of punishment, to deter undesirable behaviours.

This statement is evidence of a subjective belief on the part of Dr. Rekhi that he is aware that his actions will cause animals to experience pain and suffer, and that he intends for that to be the consequence of his actions.

Dr. Rekhi's comments are evidence of firm awareness that he deliberately induces animals to illegally suffer and experience fear.

The OSPCA Act

Animals in the care of veterinarians are also protected by the *Ontario Society for the Prevention of Cruelty to Animals Act* ("the OSPCA Act"). Section 11.2(1) of the OSPCA Act prohibits causing or permitting an animal to be in distress. This is a strict liability offence; the only defence is due diligence.

As a veterinarian, Dr. Rekhi's abusive actions are not exempt from the prohibition on causing distress to an animal. Although section 11.2(7) does exempt a veterinarian engaged in veterinary care, this exemption only applies if the veterinarian is acting in accordance with the standards of practice established under the *Veterinarians Act*, R.S.O. 1990, c. V.3. Dr. Rekhi's actions, depicted in video footage, departed substantially from the standards applicable to veterinarians, as evidenced by the College of Veterinarians of Ontario finding that he committed professional misconduct.

In this case, video evidence is clear Dr. Rekhi inflicted distress upon the animals in his care. The animals would have experienced both physical distress (i.e., pain) as well as psychological distress (i.e., fear, anxiety, terror) as a result of the abusive behaviour.

The video footage of Dr. Rekhi's conduct towards animals coupled with his subsequent comments are clear evidence that he has illegally contravened both s. 445.1 of the Code, as well as s. 11.2(1) of the OSPCA Act.

III. Your Jurisdiction and Powers to Enforce Animal Cruelty Laws

Ontario Society for the Prevention of Cruelty to Animals (OSPCA) inspectors are vested with broad powers to enforce the OSPCA Act. An inspector or agent may lay charges if a veterinarian fails to comply with the Criminal Code or the OSPCA Act.

IV. Conclusion

The video footage shows Dr. Rekhi harming animals, contrary to the Criminal Code and the OSPCA Act.

Worryingly, the College of Veterinarians of Ontario sentenced Dr. Rekhi to a mere 10-month suspension, which can be reduced if he completed brief remedial training. This means that Dr. Rekhi could be in a position to harm more animals as soon as December.

As the gatekeeper of animal protection prosecutions in Ontario, the OSPCA has not only the authority but also the obligation to bring animal abuse cases before the courts for adjudication. We urge you to lay charges against Dr. Rekhi both to seek justice for the animals he harmed, but also to prevent him from being in a position to harm animals whom he may treat in the future and who risk being abused.

Please do not hesitate to contact me by email if Animal Justice can be of assistance to you in your investigation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "C. Labchuk". The signature is written in a cursive, flowing style.

Camille Labchuk, BA, JD
Executive Director