

April 25, 2023

VIA EMAIL

Michael Angelo Torres, Chairperson
Commission of Animal Control and Welfare
1 Dr. Carlton B. Goodlett Place, Room 362
San Francisco, CA 94102
michaelangelo.torres@sfdph.org

Re: Cruelty at San Francisco's Live Animal Markets

Dear Mr. Torres and Commissioners,

Thank you for all your work to ensure the welfare of animals in San Francisco.

I am writing on behalf of Animal Outlook, a non-profit animal protection organization, and 156 residents of the San Francisco area,¹ to raise concerns about recurring animal cruelty at San Francisco's live animal markets ("LAMs") that violates both California and San Francisco law. Pursuant to its enacting legislation, the Commission of Animal Control and Welfare (the "**Commission**") has the power and duty to issue formal recommendations to the City Administrator to ensure that animals do not continue to suffer in these markets. For the reasons below, the Commission should advise the City Administrator: (1) that San Francisco's department of Animal Care and Control ("**SFACC**") must enforce cruelty laws in LAMs for all legal violations, and (2) that SFACC must regularly police LAMs to ensure compliance with cruelty laws. In addition, the Commission should recommend policies and procedures that will better enable SFACC to protect all animals in San Francisco's markets.

1. Animal Outlook has Extensively Documented Cruelty at LAMs.

Over the past year, Animal Outlook has documented video evidence of animal cruelty in San Francisco's LAMs and shared our footage with SFACC.

Examples of this footage include, without limitation:

1. Turtles being cut open while still alive;
2. A dismembered sturgeon, still alive and conscious;
3. Fish floating upside-down in shallow tanks, struggling to breathe;
4. Fish sinking to the bottom of tanks, barely alive;
5. Fish, still conscious, left on ice displays or flopping on concrete floors;
6. Turtles stuffed into sealed plastic bags;
7. Frogs stuffed into sealed plastic bags; and
8. Turtles, frogs, chickens, crabs, and fish crowded into plastic tubs, crates, and wire cages.

¹ A list of individuals who signed on to support this letter is attached as Appendix 1.

All recorded incidents of animal cruelty violate California and San Francisco law, as discussed below.

2. Documented Cruelty in San Francisco's LAMs Violates Multiple Laws.

At least three relevant statutes protect the animals kept in San Francisco's LAMs: (1) California's Cruelty Law, (2) California's Live Markets Law, and (3) San Francisco's Municipal Code.

The primary law protecting animals in California is Cal. Pen. Code 597(b). This general cruelty law penalizes anyone who:

tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal . . . subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter.

The law is intentionally broad as it applies to "all animals except human beings" and, unlike many other state cruelty laws, does not contain an exception for the "customary or routine animal practices" of animal agriculture.² All of the recordings that Animal Outlook made and sent to SFACC, such as those described above, depict violations of multiple provisions of the general cruelty law. For example, cutting open live animals and dismembering them amounts to: torture, torment, cruel mutilation, cruel killing, causing needless suffering, and inflicting unnecessary cruelty.

In addition to enacting the general cruelty law, the Legislature enacted statutory provisions to expressly protect some of the most common and vulnerable animals in California's LAMs—frogs, turtles, and birds—from specific cruel practices. Under these provisions, every person who operates a live market shall: (1) "[p]rovide that no animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive;" and (2) "[p]rovide that no live animals will be confined, held, or displayed in a manner that results, or is likely to result, in injury, starvation, dehydration, or suffocation."³ Animal Outlook has documented, and submitted to SFACC, express violations of this provision including: (1) turtles being cut open while still alive; turtles stuffed into sealed plastic bags (suffocation); (3) frogs stuffed into sealed plastic bags (suffocation); and (4) turtles and frogs crammed into plastic tubs and crates (improper confinement).

Finally, San Francisco's Municipal Code includes its own protections for animals. The law states that "[t]he owner or guardian of any animal shall provide proper and adequate food, water, shelter, care, exercise, and attention for such animals."⁴ Since cutting open live animals, stuffing them in bags, and cramming them into tubs and crates constitutes inadequate care, these practices violate San Francisco law in addition to state laws.

² *People v. Baniqued*, 101 Cal. Rptr. 2d 835, 840 (3rd Dist. 2000).

³ Cal. Pen. Code § 597.3(a)(1),(2).

⁴ See S.F. Health Code Art. 1, Sec 41.12(c).

3. SFACC is Not Enforcing Cruelty Laws to Protect Animals in LAMs.

SFACC is responsible for enforcing all ordinances and laws that pertain to the care and control of animals in San Francisco.⁵ Over the past year, Animal Outlook has documented cruelty at LAMs, reported it to SFACC, and submitted corroborating video evidence.

First, on July 22, 2022, Animal Outlook submitted a letter to Ms. Virginia Donohue, the Director of SFACC, and Ms. Amy Corso, the Field Services Supervisor, documenting dozens of legal violations that occurred at the LAMs in February and March 2022. Because of our footage and complaint, SFACC agreed to send an officer to the LAMs, where the officer observed an act of cruelty and issued a citation. However, SFACC did not take action on any of the dozens of recorded violations. Rather, SFACC’s position was that officers must witness cruel acts firsthand, while they are in progress, in order to take enforcement action; therefore, SFACC advised that Animal Outlook should call from the LAMs if investigators witness legal violations.

Based on SFACC’s advisement, on October 22, 2022 an investigator for Animal Outlook again visited San Francisco’s LAMs and called SFACC to report cruelty—a worker suffocating a frog in a plastic bag. While SFACC expressed concern, the agency explained that no officers would be available to inspect the LAMs for at least several weeks.

In short, SFACC officers appear conscientious, concerned, and willing to issue citations when they witness legal violations at LAMs. However, SFACC has been unwilling to either (1) enforce cruelty laws based on clear, documented evidence of cruelty (as opposed to cruelty that an SFACC officer witnesses firsthand), or (2) send officers to regularly police the markets where they can witness and prevent ongoing cruelty. As a result, all documented legal violations have gone unenforced, and the markets have continued cruel practices.

4. The Commission Should Make Several Formal Recommendations to Protect Animals in San Francisco’s LAMs.

Pursuant to its enacting legislation, “the Commission shall have the power and duty to . . . submit recommendations regarding animal control and welfare to the Board of Supervisors and the City Administrator.”⁶ Therefore, to ensure that SFACC will enforce cruelty laws and protect animals in LAMs, the Commission should make the following, formal recommendations to the City Administrator:

1. SFACC must enforce cruelty laws in LAMs for all legal violations—regardless of whether an SFACC employee personally witnesses the violation or the evidence comes from another source; and
2. SFACC must make frequent, unannounced inspections of LAMs to ensure compliance with cruelty laws.

⁵ S.F. Mun. Code SEC. 41.4(b)(3).

⁶ See S.F. Health Code Art. 1, Sec 41.2(a).

In addition, we encourage the Commission to recommend policies and procedures to the Board of Supervisors, the Mayor, and the Chief Administrative Officer that will better enable SFACC to prevent cruelty and enforce cruelty laws at LAMs. For example, SFACC could provide its officers with inspection schedules and protocols for LAMs. Further, SFACC should post signage, or deliver pamphlets to proprietors of the LAMs, with cruelty standards translated into Cantonese, Mandarin, and other applicable languages. Translation will afford proprietors better notice of the laws and encourage *ex ante* compliance.

By making such recommendations, the Commission will facilitate a change in practices at LAMs.

CONCLUSION

Setting aside public health concerns with LAMs, and even the spread of pathogens from LAMs to local ecosystems, cruelty to animals at these markets is pervasive and violates California and San Francisco laws. The cruelty at these markets resembles cruelty throughout the animal agriculture industry. And as with puppy mills, slaughterhouses, and CAFOs, when LAMs are openly violating strong cruelty laws, there is no excuse for non-enforcement—especially when an organization like Animal Outlook provides video evidence.

We trust that, with proper guidance from the Commission, SFACC will act to protect animals in San Francisco’s LAMs. As noted, individual officers seem conscientious and concerned about this cruelty. And SFACC takes other laudable steps to help animals throughout the city. SFACC should not stop short of helping the animals, who suffer daily, in San Francisco’s markets.

Respectfully,



Jareb A. Gleckel
Counsel, Animal Outlook



Piper Hoffman
Senior Director of Legal Advocacy
Animal Outlook



APPENDIX 1

PETITION TO END CRUELTY AT SAN FRANCISCO LIVE ANIMAL MARKETS

THE PETITION

To the Commission of Animal Control and Welfare,

As a San Francisco resident, I join Animal Outlook, a non-profit animal protection organization, to raise concerns about recurring animal cruelty at San Francisco's live animal markets ("LAMs") that violates both California and San Francisco law. I am asking you to use your authority to request that the City Administrator take action, including enforcing cruelty violations at LAMs, policing LAMs to ensure compliance and recommending policies and procedures that will better enable San Francisco Animal Care & Control to protect all animals in San Francisco's markets. Please take action to end the cruelty animals face at live animal markets across the city.

SIGNED BY:

Harry [REDACTED] 94005
Ginger Della [REDACTED] 94015
Sherry [REDACTED] 94037
Sherrie [REDACTED] 94044
Kim [REDACTED] 94065
Tony [REDACTED] 94066
Karla [REDACTED] 94080
Vicky [REDACTED] 94102
Annie [REDACTED] 94102
Cheree [REDACTED] 94102
Guler [REDACTED] 94102
Jessica [REDACTED] 94102
Richard [REDACTED] 94102
Marlon [REDACTED] 94103
Amira [REDACTED] 94103
Rachelle [REDACTED] 94103
Meggan [REDACTED] 94104
Benjie [REDACTED] 94104
Negi [REDACTED] 94105
Benjamin [REDACTED] 94105
Kristin [REDACTED] 94105
Robin [REDACTED] 94107
Van [REDACTED] 94107
Luis [REDACTED] 94107
Gary [REDACTED] 94107
Pamela [REDACTED] 94108
Jaqueline [REDACTED] 94109
Elizabeth [REDACTED] 94109
Kirsten [REDACTED] 94109
Heather [REDACTED] 94109
Robyn [REDACTED] 94109
Natalie [REDACTED] 94109
Aimie [REDACTED] 94109
Antonio [REDACTED] 94109
Beverly [REDACTED] 94109
Ray [REDACTED] 94109
Rick [REDACTED] 94109
Verna [REDACTED] 94109
Jennifer [REDACTED] 94110
Laura [REDACTED] 94110
Alexandra [REDACTED] 94110
Susie [REDACTED] 94110
Zorana [REDACTED] 94110

Debra [REDACTED] 94110
Leila [REDACTED] 94110
Shane [REDACTED] 94110
Marloes [REDACTED] 94110
Allison [REDACTED] 94112
Anne-Marie [REDACTED] 94112
Monica [REDACTED] 94112
Ricardo [REDACTED] 94112
Jorge [REDACTED] 94112
Maria [REDACTED] 94112
Ian [REDACTED] 94112
Lisbeth [REDACTED] 94112
Elizabeth [REDACTED] 94114
Katrina [REDACTED] 94114
Ute [REDACTED] 94114
Rashad [REDACTED] 94114
Elva [REDACTED] 94114
Jack [REDACTED] 94114
Beret [REDACTED] 94114
Rell [REDACTED] 94114
Susan [REDACTED] 94114
Michelle [REDACTED] 94114
Michael [REDACTED] 94114
Tami [REDACTED] 94115
Marie [REDACTED] 94115
Lynette [REDACTED] 94115
Marilyn [REDACTED] 94115
Stephen [REDACTED] 94115
Judi [REDACTED] 94116
Marco [REDACTED] 94116
Jack [REDACTED] 94116
Kulnipa [REDACTED] 94116
Sarine [REDACTED] 94116
Sharon [REDACTED] 94117
Jess [REDACTED] 94117
Rachele [REDACTED] 94117
Erica [REDACTED] 94118
Beverly [REDACTED] 94118
Beth [REDACTED] 94118
Malcolm [REDACTED] 94118
Gabriela [REDACTED] 94118
Karen [REDACTED] 94118

David [REDACTED] 94118
Sarah [REDACTED] 94121
Carina [REDACTED] 94121
Natalie [REDACTED] 94121
Sheila [REDACTED] 94121
Christine [REDACTED] 94121
Elizabeth [REDACTED] 94122
Casey [REDACTED] 94122
Elina [REDACTED] 94122
Susan [REDACTED] 94122
Jenna [REDACTED] 94122
Sharia [REDACTED] 94122
Lauren [REDACTED] 94122
Kristin [REDACTED] 94122
Susan [REDACTED] 94122
Georgette [REDACTED] 94122
Theresa [REDACTED] 94122
Emily [REDACTED] 94122
Zina [REDACTED] 94122
Lily (Susan) [REDACTED] 94123
Michele [REDACTED] 94123
Sylvana [REDACTED] 94124
Debbie [REDACTED] 94127
Karen [REDACTED] 94127
Maureen [REDACTED] 94127
Deborah [REDACTED] 94127
Sid [REDACTED] 94129
Lori [REDACTED] 94131
Katie [REDACTED] 94131
Bonnie [REDACTED] 94131
Tami [REDACTED] 94132
Cassia [REDACTED] 94132
Michelle [REDACTED] 94132
Maureen [REDACTED] 94132
Casey [REDACTED] 94133
Linda [REDACTED] 94134
Jan [REDACTED] 94134
Gail [REDACTED] 94134
Chelsea [REDACTED] 94158
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John [REDACTED] 94597
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Tamara [REDACTED] 94901
Susanne [REDACTED] 94941
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Kirsten [REDACTED] 95060
Leslie [REDACTED] 95076
Doreen [REDACTED] 95118
Jacqueline [REDACTED] 95125
Rhea [REDACTED] 95448
Johanna [REDACTED] 95458
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