AN INTERNATIONAL ORGANIZATION DEDICATED TO PROTECTING THE RIGHTS OF ALL ANIMALS

PETA

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS

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August 15, 2024

Rep. Cathy McMorris Rodgers
Chair, Energy and Commerce Committee
U.S. House of Representatives

Sent via email: NIHReform@mail.house.gov

Re: Comments on NIH Reform Report

Dear Representative McMorris Rodgers and fellow Committee members:

We are writing on behalf of People for the Ethical Treatment of Animals—PETA entities have more than 9 million members and supporters globally, many of them residing in the U.S.—regarding the Energy and Commerce Committee's June 2024 report, "Reforming the National Institutes of Health." PETA has long advocated for reform of the National Institutes of Health (NIH) and fully supports the sentiment expressed in the report: "Reform is long overdue. The NIH needs to regain the public's trust by demonstrating transparency, accountability, and responsiveness, proving it is worthy of public and Congressional support before it can reestablish itself as the nation's preeminent medical research institute." Correcting the agency's abuse of taxpayer funds to bankroll cruel, scientifically misleading, and inefficient experiments on animals is a chief concern to PETA, one about which our members and supporters care deeply.

PETA supports several of the Committee's recommendations and here we will expand on our reasoning for this support and suggest specific actions to help achieve the Committee's goals, which align well with our Research Modernization Deal, available at https://www.peta.org/wp-content/uploads/2023/01/peta-research-modernization-deal.pdf.

"Ensure Appropriate Oversight of Animal Research – require ethical and judicious standards of care, including appropriate transparency measures, for research involving animals both domestically and abroad."

NIH's track record on oversight of experiments on animals in its intramural laboratories and of the extramural domestic and international research it funds is appalling. The agency has failed to ensure compliance with federal animal welfare laws that codify the American public's expectation that animals in laboratories will be treated with some modicum of humane consideration. The NIH's laboratories and those it funds continue to violate minimum federal animal welfare regulations and policies with impunity.

Entities
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Switzerland
- PETA Netherlands
- PETA Foundation (U.K.)

NIH-Funded Domestic Research

The Health Research Extension Act of 1985 requires that NIH-funded institutions comply with federal policies and guidelines in their treatment of vertebrate animals in laboratories and creates the legislative mandate for the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals. The NIH's Office of Laboratory Animal Welfare (OLAW) implements and interprets the PHS Policy, as well as evaluates institutions' compliance with it.

Through Freedom of Information Act (FOIA) requests, we obtained violation reports submitted to NIH by the top 25 NIH grant–receiving educational institutions. Final reports dated January 1, 2020, to May 31, 2023, documented 632 violations of federal animal welfare guidelines—including incidents in which animals suffered pain, injury, and death because of neglect, incompetence, and disregard. Our analysis showed that, despite institutional and federal oversight, federally funded laboratories are failing to comply with basic federal animal welfare guidelines.[1] Experimenters repeatedly violate these guidelines in their treatment of animals—causing suffering and death—even at top-funded institutions in the U.S. Yet these top-funded institutions have continued to receive hundreds of millions in taxpayer funding from the NIH. It is important to note that the PHS violation reports on which we based our analysis are all self-reports and that the agency has no real mechanism for ensuring reporting. PETA has sometimes received information about PHS violations from whistleblowers and FOIA requests to public institutions that we've reported to OLAW, and OLAW did not have a corresponding self-report from the institution.

The NIH's current practices for enforcing the federal policies and guidelines on the care and use of animals in experiments allow institutions to treat PHS violations as business as usual, because the violations don't tend to have consequences (such as the suspension of animal activity or the revocation of an institution's PHS Assurance). Records indicate that the NIH consistently shows high deference to institutions' explanations and promises of change, often without imposing additional requirements on these institutions. When NIH does ask for something more, it tends to be along the lines of remedial training or clarification of the details of the incident. The number of PHS violations at each institution illustrates that the NIH's approach is not deterring institutions from becoming repeat (many times over) offenders.

NIH-Funded International Research

Between 2011 and 2021, foreign facilities received $2.2 billion in taxpayer funds from the NIH for experiments on animals to be conducted in overseas laboratories, where the U.S. has no oversight. This funding was awarded for 1,177 grants and 180 contracts to 200 foreign organizations in 45 countries. NIH has zero oversight regarding how these organizations operate or how the money is spent. Roughly 90% of the foreign organizations that received NIH funding in the last five years are exempt from its audits. Moreover, for fiscal years 2019 and 2020, NIH never received 74% of the audits it required from foreign laboratories it funded and didn't follow up on the missing audit reports with the facilities receiving these funds. The agency doesn't inspect foreign laboratories or arrange third-party inspections to ensure that the facilities meet basic animal welfare standards and issues funds without verifying that claims in grant applications and progress reports are true.

[1] Schemkes A, Chandna A, Wagaman E. Violations of Animal Welfare Guidelines by NIH-Funded Educational Institutions. Poster presented at the 12th World Congress on Alternatives and Animal Use in the Life Sciences; August 27-31, 2023; Niagara Falls, Canada. https://www.peta.org/wp-content/uploads/2023/08/WC12-poster_PHS-Violations_final2.pdf. Accessed August 8, 2024.

A recent example can be made by the NIH's two decades of funding of the Caucaseco Scientific Research Center in Colombia. A PETA exposé[2] revealed horrific animal abuse and research misconduct that resulted in the closing of the center, the rescue of nearly 300 monkeys and mice, the ineligibility of the center to receive future NIH grants, and a more than $281,000 fine by a regional environmental agency. The facility had used unsupported information on NIH grant applications regarding what their center really did and how it operated, violated animal care and use guidelines, ignored local animal welfare regulations, kept monkeys in filthy conditions, and allegedly mishandled human samples and manipulated data.

The bipartisan Cease Animal Research Grants Overseas (CARGO) Act (HR 4757), introduced by Reps. Dina Titus (D-Nev.-01) and Troy Nehls (R-Texas-22) would address the many issues resulting from the NIH's funding of experiments on animals in foreign laboratories. The landmark bill would prevent NIH from funding any experiments on animals outside the U.S., stopping the flow of taxpayer money to organizations over which the U.S. has no oversight. The CARGO Act has been cosponsored by 22 House representatives and endorsed by more than 90 national, state, and local groups concerned about animals, effective science, human health, and responsible public policy.

NIH Intramural Laboratories

At the NIH Maryland campus alone, more than 569,000 animals are imprisoned or used in experiments. Despite letters and requests for meetings from PETA, NIH officials have refused to take meaningful steps to end the neglect and incompetence that's occurring in their own facilities. Federal reports obtained by PETA have documented serious animal welfare violations in NIH laboratories, including:

- Leaving monkeys without water for days
- Allowing animal to starve to death or die of dehydration
- Conducting sloppy surgeries, which caused an animal to burst into flames after alcohol fumes had built up during an electrocauterization, and accidentally repeating surgeries
- Denying pain medication to animals who had been subjected to invasive surgeries
- Failing to ensure animals were not left in cages before being entered into a high-pressure, high-heat cage washer, resulting in death
- Baking animals to death in their cages
- Failing to properly euthanize animals and disposing of them anyway
- Asphyxiating animals though improper anesthesia
- Burning animals with inappropriate use of the heating pads used during surgery
- Improperly pairing animals resulting in injuries requiring surgical intervention
- Failing to ensure animals were properly secured in their cages, causing one animal to fall to their death.
- Denying life-saving veterinary care
- And more

Recommendations

- Committee members should co-sponsor the Cease Animal Research Grants Overseas Act (HR 4757) to stop the flow of taxpayer money to foreign labs where U.S. officials have no oversight.

[2] People for the Ethical Treatment of Animals. NIH Rains U.S. Dollars on Overseas Monkey Laboratory—Apparently Without Ever Seeing What a Mess It Is. PETA.org. Updated January 19, 2024. Accessed August 8, 2024. https://headlines.peta.org/cruel-colombian-organizations/

- Direct OLAW to ensure that IACUCs more assertively enforce the PHS Policy within their institutions. If an IACUC, along with the Institutional Official and Attending Veterinarian, demonstrates that it is unwilling to address PHS violations by suspending activity involving animals, then the individuals in those positions should not remain in them.
- Direct OLAW to increase its enforcement of the PHS Policy.
- Direct OLAW to post violation reports online so that they are easily accessible to the public. This practice would eliminate the effort and wait time that submitting a FOIA request involves, which place a burden on the public, hindering transparency and accountability.
- Direct NIH's Office of Extramural Research to ensure that the NIH Grants Policy Statement, which disallows the use of federal monies on noncompliant activities, is enforced. Through appropriate implementation of the NIH Grants Policy Statement, federal monies used on noncompliant activities must be repaid to NIH, serving as a deterrent to problematic behavior.
- Direct OLAW to more frequently exercise its power to revoke institutions' PHS Assurances more frequently to serve as a deterrent of further violations and incentivize researchers to transition to non-animal research methods.
- To be most effective, the Committee should prohibit the NIH from conducting and funding any experiments on animals, in both intramural laboratories and domestic and international federally funded research. This would provide an immediate stop to prevent animal welfare violations and improve the probability that NIH-funded research will benefit human health.

"<u>Initiate and Complete a Comprehensive Review of the NIH</u> – establish a congressionally mandated commission to lead a comprehensive, wholesale review of the NIH's performance, mission, objectives, and programs. Such a review should include regular, timely public reports and updates and conclude with clear, actionable recommendations for improvement. The commission should include a sunset to require Congress to revisit the recommendations and subsequent implementation, to avoid a similar outcome as the SMRB."

Unlike many other federal agencies, the NIH does not appear to account for its spending in any systematic or evidence-based manner. The agency provides no figures as to the return on investment, or lack thereof, that the public receives for the billions in taxpayer funds it is allocated. As the Committee has noted, the NIH's Scientific Management Review Board, which should oversee its functioning, has been seemingly obsolete for almost a decade.

Though the NIH's primary goal is to "enhance health, lengthen life, and reduce illness and disability,"[3] its actions fail to meet those marks. Statistics reveal that up to 89% of preclinical research is irreproducible,[4] 90% of basic science fails to result in meaningful advances in human health,[5] and 95% of new drugs fail in clinical trials.[6] Much of this failure is due to NIH's continued, backwards insistence

[3] National Institutes of Health. Mission and Goals. NIH.gov. Last reviewed July 27, 2017. Accessed August 8, 2024. https://www.nih.gov/about-nih/what-we-do/mission-goals
[4] Freedman LP, Cockburn IM, Simcoe TS. The economics of reproducibility in preclinical research. *PLoS Biol*. 2015;13(6):e1002165.
[5] Contopoulos-Ioannidis DG, Ntzani E, Ioannidis JP. Translation of highly promising basic science research into clinical applications. *Am J Med*. 2003;114(6):477-484.
[6] National Center for Advancing Translational Sciences. New Therapeutic Uses. NIH.gov. Accessed February 2, 2024. https://ncats.nih.gov/research/research-activities/ntu

on funding experiments on animals, which the agency estimates are included in 47% of its funded grants.[7]

Numerous scientific studies and reviews reveal that experiments on animals fail to lead to effective treatments and cures for human diseases, including the top killers in the U.S. Reliance on animal models is diverting funds away from more promising methods of research and delaying the development of effective drugs and treatments, as well as limiting our ability to protect human and environmental health.

Recommendation
We recommend a thorough audit of whether NIH's funding of experiments on animals is leading to the promised outcomes for citizens. Systematic reviews, which critically analyze multiple research studies, could be a first step in assessing the effectiveness of animal use. Such systematic reviews should include information about the return on investment received by the public from the results of experiments on animals funded and conducted by NIH.

Several U.S. funding entities, including NIH, the Department of Veterans Affairs, and the Department of Defense, are members of the Ensuring Value in Research funders' forum (EViR), a collection of the most prominent international funding bodies formed to address waste in clinical and preclinical research. EViR states as its second guiding principle, "Research should only be funded if set in the context of one or more existing systematic reviews of what is already known or an otherwise robust demonstration of a research gap."[8] It explains, "This is important because new research not set in the context of what is already known leads to unnecessary duplication, studies that cannot change decision making (e.g., will not change the meta analysis), or inappropriate design (e.g., inappropriate outcome measures, incorrect prevalence assumptions, failure to learn from past previous studies)." To apply this principle, EViR says that funders must "[r]outinely assess whether an adequate review has been done and whether the results of that review support the case for further clinical or preclinical research."[9] There is near unanimity among the largest funding bodies in the world that the recommendation to conduct scientific reviews of the efficacy of procedures is a necessary principle for guiding valuable research and reducing waste in research funding

"<u>Support Innovation</u> – ensure the NIH is committed to and focused on promoting and bolstering innovation of new treatments and cures, including by encouraging public-private partnerships and collaboration."

Compared to other sectors and funders abroad, the NIH has been disturbingly slow to embrace innovative, human-relevant research. Forward-thinking scientists have developed and are implementing methods for studying and treating diseases that do not entail the use of animals and are relevant to human health. Researchers have created human cell-derived models, "organs-on-chips," *in silico* (computer) models, and other methodologies that can replicate human physiology, diseases, and drug responses more accurately than experiments on animals do. Studies have repeatedly shown that these

[7] Institute of Medicine and National Research Council. International Animal Research Regulations. Impact on Neuroscience Research: Workshop Summary. Washington: The National Academies Press; 2012.
[8] Ensuring Value in Research. Guiding Principles. EViR.org. Copyright 2022. Accessed August 8, 2024. https://evir.org/our-principles/
[9] Ensuring Value in Research. Applying the principles. EViR.org. Copyright 2022. Accessed August 8, 2024. https://evir.org/our-principles/applying-the-principles/#principle2

new methodologies are better at modeling human diseases than crude experiments on animals. In its 2016–2020 strategic plan, the NIH announced that it would reduce and replace experiments on animals and the most simplistic forms of *in vitro* research (in favor of more advanced *in vitro* models), noting that "[p]etri dish and animal models often fail to provide good ways to mimic disease or predict how drugs will work in humans, resulting in much wasted time and money while patients wait for therapies."[10] However, the agency has not fulfilled this promise.

PETA scientists have long recommended that the NIH increase funding for and support of non-animal research methods (also called new approach methodologies, novel alternative methods, or NAMs). Additionally, we've expanded upon this recommendation by proposing several ways for the NIH to do that, including by developing specialized funding, changing and/or implementing new infrastructure, training NIH-funded scientists, and creating opportunities for collaborations between physicians and scientists. Only this year, when Director Monica Bertagnolli accepted recommendations from the ACD Working Group on Catalyzing the Development and Use of Novel Alternative Methods to Advance Biomedical Research, which mirrored many of PETA's suggestions,[11] was there a glimmer of hope that the tide might shift toward NAMs at the NIH. These recommendations represent progress, but increased investment in NAMs alone isn't enough to reform science. The NIH must also stop funding experiments on animals that are poorly translatable to human conditions, are poorly reproducible, and harm the animals used.

Recommendations

- To support innovation and accelerate new treatments and cures, decisions about grant funding must prioritize applicants who currently use non-animal methods, are making the transition from animal to non-animal methods, or who are developing and/or validating non-animal methods. Grant supplements could be offered to investigators making the switch to offer an incentive and support these scientists during the transition period.
- The NIH's support of training opportunities must prioritize non-animal research methods. These could be in the form of Institutional Training Grants, Continuing Education Training Grants, early-stage investigator awards, the NIH Director's Early Independence Award, and the NIH Graduate Partnership Program. The NIH's Bench-to-Bedside and Back Program could prioritize pairing basic science researchers using animal models with Intramural Research Program clinical researchers. The goal should be to assist those researchers interested in permanently switching from animal-based research to clinical work.
- The NIH should establish and expand animal-free biomedical research resources, such as those for microphysiological systems, animal-free antibodies, or tissue printing. This could include establishing new Core Facilities at the NIH Intramural Research Program or awarding Program Project or Center Grants for NAMs centers at extramural institutions either through individual institutes or the Common Fund (some progress is being made here currently,[12] following our suggestions). Within existing programs, the NIH could expand the current Human Tissue and

[10] National Institutes of Health. NIH-Wide Strategic Plan: Fiscal Years 2016-2020. NIH.gov. Published December 2015. Accessed August 8, 2024. https://www.nih.gov/sites/default/files/about-nih/strategic-plan-fy2016-2020-508.pdf

[11] Trunnell E. NIH follows PETA scientists' recommendations for boosting non-animal research. ScienceAdvancement.org. Published January 2024. Accessed August 8, 2024. https://www.scienceadvancement.org/reflections/nih-follows-peta-scientists-recommendations/

[12] Office of Strategic Coordination. Notice of Intent to Publish a Funding Opportunity Announcement for Complement-ARIE New Approach Methodologies (NAMs) Technology Development Centers (UM1 Clinical Trial Optional). Released August 9, 2024. Accessed August 15, 2024. https://grants.nih.gov/grants/guide/notice-files/NOT-RM-24-012.html

Organ Research Resource and require grant recipients to share their human biosamples with the "All of Us Research Program" biobank.

"<u>Address Misconduct and Expect Accountability</u> – ensure the NIH is issuing and implementing comprehensive policies and procedures that enable full and robust oversight of investigations into allegations of misconduct, including sexual harassment, in both intramural and extramural research programs, as well as ensuring NIH whistleblower protections, trainings, and processes are sound. This should include clear processes for accountability and responsibility for actions, including designating appropriate chains of command and facilitating accessible reporting mechanisms."

Research misconduct and scientific fraud waste millions of taxpayer dollars each year, mislead the scientific community, and put human lives at risk. Most research misconduct cases in the U.S. involve experimenters who conducted invasive procedures on animals and then fabricated or falsified the research data. The high number of experimenters willing to manipulate their animal data to make their findings appear significant and/or relevant to human health misleads the scientific community into believing animal experiments are still valuable. It also impedes the necessary transition away from failing animal models and toward more innovative human-relevant research methods. Fraud in animal experimentation also causes the needless suffering of thousands of animals each year and allows dangerous and ineffective treatments to be tested on humans.

Despite the costs to taxpayers, patients, animals, and science, the penalties associated with research misconduct are minimal. The career and financial benefits of engaging in research misconduct far outweigh the penalties. There are also no mechanisms or policies in place to additionally penalize investigators who engage in research misconduct involving live animals.

To safeguard taxpayer dollars, disincentivize research fraud, protect patients, and prevent unnecessary harm to animals, we recommend the following:

- Request that the U.S. Department of Justice investigate all incidents of research misconduct by investigators funded by the U.S. Department of Health and Human Services (HHS) and prosecute where appropriate.
- Require that HHS remand all taxpayer funds found to have been used in fraudulent research and require that the Office of Research Integrity (ORI) publicly release its investigations, including detailed information about the amount of taxpayer money misspent on fraudulent research.
- Require that ORI permanently bar researchers who have committed fraud or research misconduct from receiving PHS funds and remove them from any supervisory positions.
- Require the Office of Extramural Research to be notified of all ORI investigations and bar any researchers found to have committed misconduct from performing any future experimentation involving animals.
- Require OLAW to revoke the PHS Assurance of any institution at which more than three experimenters using animals have committed research misconduct.

"<u>Research Must Be Credible, Reliable, and Timely</u> – consider opportunities to continue to bolster and support early-stage investigators; encourage systematic replication studies across research portfolios and fields; and prevent research and data waste, fraud, and misconduct."

As mentioned above, there is a crisis of reproducibility and translatability in biomedical research. Yet the NIH continues to fund projects that propose the same failed methods. An example can be found in PETA's ongoing lawsuit against the NIH's continued funding of sepsis experiments on animals. As our complaint alleges:

> The NIH is authorized to fund research for the benefit of human health, and it has knowns since at least 2013 that mice do not experience human sepsis, as NIH Director Dr. Francis Collins acknowledged in February of that year, exclaiming "No wonder drugs designed for the mice failed in humans: they were, in fact, treating different conditions!" Despite both this knowledge and its statutory funding purpose of improving *human* health (*see* 42 U.S.C. § 241(a)), the agency continues to sidestep the parameters of its authority and fund animal-sepsis experiments that have proven futile for human health, spending more than $20 million for new projects in the past twenty months and at least $10 million for new projects in fiscal year 2021.[13]

The NIH's persistent support of the same research that is irreproducible up to 89% of the time and fails to translate 90-95% of the time represents a huge waste of taxpayer resources. Echoing recommendations above, Congress should conduct or commission a thorough audit of whether NIH's funding of experiments on animals is providing an adequate return on investment and leading to the promised outcomes for citizens. Systematic reviews would provide an evidence-based and unbiased component for such an audit. The agency's support of early-stage investigators must prioritize non-animal research methods to best prepare U.S. scientists for the future of biomedical research, which will use these tools. And penalties for fraud and misconduct should be strengthened, as outlined above.

Suggestions for Consultation

We would like to thank the Committee for their work on this issue. The following PETA scientists are available to discuss these issues further and consult on our recommendations:

Alka Chandna, Ph.D., Vice President, Laboratory Investigations Cases
Magnolia Martinez, Ph.D., Lead Projects Manager and Congressional Liaison
Katherine V. Roe, Ph.D., Chief Scientist, Laboratory Investigations Cases
Emily R. Trunnell, Ph.D., Director, Science Advancement and Outreach

We also recommend the following individuals for the Committee's consultation:

Elisabeth Bik, Ph.D., Science Integrity Consultant, Harbers Bik LLC
Lorna Ewart, Ph.D., Chief Scientific Officer, Emulate
Thomas Hartung, M.D., Ph.D., Director, Johns Hopkins Center for Alternatives to Animal Testing
Donald Ingber, M.D., Ph.D., Founding Director, Wyss Institute
Paul Locke, D.Ph., M.P.H., J.D., Professor, Johns Hopkins Bloomberg School of Public Health
Zaher Nahle, Ph.D., M.P.A., Founder & Scientific Advisor, The IVYCTORY Group
Lena Smirnova, Ph.D., Assistant Professor, Johns Hopkins Bloomberg School of Public Health

[13] People for the Ethical Treatment of Animals Inc. v. National Institutes of Health et al., No. 8-21-cv-02413-PWG. https://www.peta.org/wp-content/uploads/2021/09/PETA-NIH-Sepsis-Lawsuit.pdf

Sincerely,

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