

January 25, 2023

VIA EMAIL

Dear Officer [REDACTED]

On behalf of my client, Animal Outlook, a non-profit animal protection organization, I am writing to report (1) pervasive animal cruelty, violating VA CODE ANN. § 3.2-6570, and (2) violations of biosecurity regulations under 2 VA. ADMIN. CODE 5-170-80, which took place at [REDACTED] (“Jannat Farm” or the “Farm”) between September and November 2022. At all relevant times, the Farm was under contract to raise broiler chickens for, and owned by, Tyson Foods, Inc. (“Tyson Foods”). For the reasons in the enclosed legal memorandum, Animal Outlook has respectfully requested that [REDACTED] file charges against: (1) Tyson Foods; (2) Jannat Farm; (3) [REDACTED] the owner of Jannat Farm; (4) [REDACTED] the manager of Jannat Farm; (5) [REDACTED], an employee of Tyson Foods, (6) [REDACTED], a Tyson employee; (7) [REDACTED] an employee of Jannat Farm; and (8) certain other individuals as noted in these materials. We hope that [REDACTED] will encourage and support these prosecutions.

Enclosed is evidence that is sufficient to sustain convictions under Virginia Law, including: (1) unedited videos documenting cruelty, (2) unedited videos documenting plain, incriminating statements of the actors, and (3) quantitative data showing an atypically high mortality rate on Jannat Farm. Many of the documented violations, such as cruel and improper killings, have formed the basis of prior, criminal convictions in Virginia.¹

In full, please find:

- Unedited videos (including audio) of Jannat Farm, which an undercover investigator captured while performing regular job duties as an employee of the Farm. We have made these videos available to you on [REDACTED]

¹ Justin Wm. Moyer, Seven sentenced after animal rights activists film abuse at chicken farms, The Washington Post (Aug. 31, 2017), available at https://www.washingtonpost.com/local/public-safety/seven-sentenced-after-animal-rights-activists-film-abuse-at-chicken-farms/2017/08/31/9c3656f4-8e6a-11e7-8111-e841db675815_story.html (reporting that “[s]even people were sentenced in animal cruelty cases in Virginia after an undercover animal rights activist filmed them abusing chickens at Tyson factory facilities”).

² https://drive.google.com/drive/folders/1dW_xDoIoyJ4Ytl_XGZVxy1OJ0Dw2YB7B?usp=sharing. For your convenience, we have provided only clips that contain relevant footage of legal violations. If you wish to view the footage in full sequential order, please let us know and we will be happy to provide it.

- An Incident Statement, relating the factual details of Animal Outlook's investigation including individual incidents with timestamps traceable to the videos.
- A comprehensive legal memorandum detailing violations of Virginia law.

Thank you for your time reviewing these materials, and for all the work your department carries out. Please contact me at (516) 232-5167 or jgleckel@animaloutlook.org to confirm receipt and advise how we may be of further assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Gleckel", written in a cursive style.

Jareb Gleckel, Esq.

MEMORANDUM

TO: [REDACTED]
CC: [REDACTED]
FROM: Jareb Gleckel, Counsel, Animal Outlook
DATE: January 24, 2022
RE: Jannat Farm – Report of Animal Cruelty and Legal Analysis¹

TABLE OF CONTENTS

TABLE OF CONTENTS..... 1
SUMMARY 3
STATEMENT OF FACTS 6
 A. The Enumerated Parties Have Violated Virginia Law..... 6
 B. The Proposed Defendants Committed Criminal Acts on Jannat Farm. 7
 C. The Tyson Foods Employee Assigned to Jannat Farm Knew About Ongoing Cruelty
 and Failed to Prevent It..... 10
 D. Significantly More Birds Died on Jannat Farm than Should Have Died, According to
 Government Data..... 14
LEGAL ANALYSIS..... 18
 I. VIRGINIA’S ANIMAL CRUELTY LAW CRIMINALIZES A WIDE RANGE OF
 CONDUCT TO FARMED ANIMALS. 18
 A. Virginia Law Prohibits Cruelty to “Any Animal,” Which Includes the Chickens on
 Jannat Farm..... 19
 B. Virginia’s Animal Cruelty Law Criminalizes a Wide Range of Conduct..... 20
 C. Most Proscribed Acts in Virginia’s Animal Cruelty Law are Strict Liability Crimes,
 While Two Provisions Require a *Mens Rea* of “Willfulness.”..... 23
 D. Multiple Parties may be Criminally Liable as Principals for the Same Violations of
 Virginia’s Animal Cruelty Law..... 27
 II. ALL PROPOSED DEFENDANTS VIOLATED VIRGINIA’S CRUELTY LAW..... 28
 A. Mr. W. and the Catchers Violated Virginia’s Cruelty Laws when They Violently Killed
 Animals (Incident Nos. 1–5). 30

¹ This memorandum was emailed [REDACTED]
[REDACTED]

B. Catchers Committed Criminal Acts when They Threw, Kicked, and Roughly Handled Birds While Collecting Them to Bring to Slaughter.	35
C. Mr. W. and Ms. W. Violated Virginia’s Animal Cruelty Law by Leaving Injured, Sick, and Deformed Birds to Suffer and Die.	37
D. ██████████, Mr. W., and Ms. W. Violated Virginia’s Cruelty Law by Subjecting the Birds to Harmful and Inadequate Living Conditions.	40
E. Mr. W. and Ms. W. Deprived Animals of Water in Violation of Virginia’s Cruelty Law.	45
F. Mr. W., Ms. W., and ██████████ (Tyson’s Broiler Technician) Deprived Birds on Jannat Farm of Food in Violation of Virginia’s Cruelty Law.	48
G. ██████████ Tyson’s Broiler Technician Advisor, Violated Virginia Law by Willfully Setting on Foot and Furthering the Cruelty on Jannat Farm.	50
III. TYSON AND JANNAT FARM ARE GUILTY OF ANIMAL CRUELTY UNDER VIRGINIA LAW.....	53
A. Virginia’s Animal Cruelty Law Applies to “Any Person,” Which Includes Corporations.	53
B. Both Tyson and Jannat Farm are Criminally Liable for their Employees’ Cruelty to Animals.....	55
C. Tyson is Liable for Permitting Cruelty to the Animals it Owns.	57
D. Tyson is Liable for Willfully Setting on Foot and Furthering Acts of Cruelty to the Chickens on Jannat Farm.....	59
E. Tyson is Liable Because its Conduct was a But-For and Proximate Cause of the Cruelty on Jannat Farm.....	60
IV. TYSON, JANNAT FARM, AND THEIR AGENTS VIOLATED VIRGINIA’S BIOSECURITY LAWS.	61
RESOURCES	64

SUMMARY

Between September and November 2022, several persons engaged in (1) recurring animal cruelty, violating VA CODE ANN. § 3.2-6570, and (2) violations of biosecurity regulations under 2 VA. ADMIN. CODE 5-170-80, at [REDACTED] (“Jannat Farm” or the “Farm”). At all relevant times, the Farm was under contract to raise broiler chickens for, and owned by, Tyson Foods, Inc. (“Tyson Foods” or “Tyson”). Animal Outlook, a non-profit animal protection organization, respectfully requests that [REDACTED] file charges against: (1) Tyson Foods; (2) Jannat Farm; (3) [REDACTED], the owner of Jannat Farm (“[REDACTED]” or the “Owner”); (4) [REDACTED] the manager of Jannat Farm (“Mr. W.” or the “Manager”); (5) [REDACTED], the Tyson Broiler Technician Advisor assigned to Jannat Farm (“[REDACTED]” or the “Advisor”); (6) [REDACTED], the Tyson Broiler Technician Advisor who replaced [REDACTED] in November 2022 (“[REDACTED]”); (7) [REDACTED], an employee of Jannat Farm (“Ms. W.”); and (8) certain catch crew workers who retrieved the chickens, for Tyson Foods, to bring from Jannat Farm to the slaughterhouse (“Catchers”).

To aid your prosecution, we have enclosed, along with this memorandum:

- Unedited videos of Jannat Farm, which an undercover investigator captured while performing regular job duties as an employee of the Farm. We have made these videos available to you on a [REDACTED]
- An Incident Statement relating the factual details of Animal Outlook’s investigation, including individual incidents with timestamps traceable to the videos.

By way of example, and not limitation, videos show criminal acts such as:

- The Farm Manager (Mr. W.) killing chicks and chickens by repetitively snapping their necks. Mr. W performed these killings—as depicted in several videos spanning the

² https://drive.google.com/drive/folders/1dW_xDoIoyJ4Ytl_XGZVxy1OJ0Dw2YB7B?usp=sharing. For your convenience, we have provided only clips that contain relevant footage of legal violations. If you wish to view the footage in full sequential order, please let us know and we will be happy to provide it.

investigation—in a cruel manner that (1) does not comport with Virginia’s definition of “euthanasia” and (2) is expressly condemned by the industry.

- Tyson Food’s “catch crew” workers throwing and kicking birds.
- The Farm Manager (Mr. W.) and employee (Ms. W.) depriving birds of access to water.
- The Farm Manager (Mr. W.) and employee (Ms. W.) openly refusing to euthanize birds, and instead leaving them to suffer, sometimes for days, from broken limbs, disease, and wounds. In multiple clips, birds can be seen: struggling to stand or walk, with their legs positioned unnaturally on either side of their bodies; suffering from severe injuries to their heads, wings, necks, and eyes—in some instances, to the extent that the birds’ skulls and tendons were exposed; and lying on the ground, near piles of dead birds, struggling to breathe.
- ██████████, Mr. W., and Ms. W. failing to follow Virginia’s biosecurity laws, despite the well-known, heightened risk of avian flu outbreaks.

The videos also show the animals suffering from unlawfully cruel conditions. These conditions included: persistent bug and rat infestations; lack of access to both water and food; water-logged litter; toxically high ammonia levels; and dead birds left throughout the houses and in food trays. As a result of these conditions, the birds are visibly injured, sick, and disfigured in videos.

The effects of the mistreatment on the birds is not only palpable in videos, but it is evidenced, quantitatively, by the birds’ atypically high mortality rate. The mortality rate on Jannat Farm was, according to the most conservative estimate, **28% higher** than would be expected based on the government’s U.S. Poultry Industry Manual.³

The thousands of chickens at Jannat Farm are not deprived of the protection of law simply because they are used in industrial agriculture.⁴ Virginia’s animal cruelty law covers chickens and

³ See *infra*, note 34 and accompanying text.

⁴ See *infra* Section I.

punishes a sweeping breadth of conduct that harms animals.⁵ Moreover, as evidenced by comparison to industry practice guidelines,⁶ the incidents documented at Jannat Farm bear no resemblance to standard poultry industry practices and are therefore not exempt from the state’s animal cruelty law. In fact, the kinds of violations recorded on Jannat Farm have formed the basis of prior, criminal convictions in Virginia. In 2017, the Washington Post reported that “[s]even people were sentenced in animal cruelty cases in Virginia after [Animal Outlook’s] undercover animal rights activist filmed them abusing chickens at Tyson factory facilities.”⁷

Finally, in Virginia as in many other states, the prosecutors can charge corporations, like Tyson, for committing crimes.⁸ The word “person,” as used in the state’s animal cruelty law, applies to corporations with the same force that it applies to individual people.⁹ In this case, the recorded admissions by ██████████—the Tyson employee who, for 7 years, was responsible for “documenting animal comfort” on Jannat Farm for Tyson and ensuring the Farm’s compliance with laws—prove Tyson’s culpability for the cruelty to these animals. For example, even before Tyson delivered the chicks, ██████████ learned on Tyson’s behalf that the Farm was infested by bugs and rats. She learned that Mr. W. and Ms. W. regularly leave injured birds to die rather than euthanizing them. She learned that litter was water-logged, from leaks in the water lines, and knew that it would damage the birds’ feet. Yet Tyson still delivered over 150,000 chicks to be raised on

⁵ VA CODE ANN. § 3.2-6570.

⁶ National Chicken Council Animal Welfare Guidelines and Audit Checklist for Broilers, NAT’L CHICKEN COUNCIL (Sept. 2020), available at https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf (hereinafter “NCC Guidelines”). The NCC published updated guidelines in December 2022. This memorandum references the 2020 NCC Guidelines because they represented the relevant industry standards at the time of the investigation. Referencing the updated guidelines would not materially alter the analysis herein.

⁷ Justin Wm. Moyer, Seven Sentenced After Animal Rights Activists Film Abuse at Chicken Farms, THE WASHINGTON POST (Aug. 31, 2017), available at https://www.washingtonpost.com/local/public-safety/seven-sentenced-after-animal-rights-activists-film-abuse-at-chicken-farms/2017/08/31/9c3656f4-8e6a-11e7-8111-e841db675815_story.html

⁸ See *infra*, Section III.

⁹ VA CODE ANN. §§ 1-230; 18.2-506.

Jannat Farm. As ██████████ explained, Tyson (contrary to its lofty claims to be the “world leader in animal welfare,” and to “establish expectation and demand accountability”¹⁰) was unconcerned with improving conditions and practices on Jannat Farm because Tyson does not have competition in the area.

Between (1) videos documenting cruelty, (2) the plain, incriminating statements of the actors made on tape, and (3) quantitative data, the evidence is wholly sufficient to sustain convictions under Virginia Law. As presented in this memorandum, the documented instances of cruelty at Jannat Farm meet, and in many cases far exceed, the requisite legal standards. ██████████ ██████████ should file criminal charges promptly.

STATEMENT OF FACTS

A. The Enumerated Parties Have Violated Virginia Law.

██████████ should prosecute the following parties (“Proposed Defendants”) for animal cruelty and/or biosecurity violations under Virginia law:

1. **Tyson Foods, Inc.** At all relevant times, Tyson Foods, Inc. (“Tyson Foods”), was the owner of the chickens raised at Jannat Farm.¹¹ Tyson Foods is a multi-national company “producing approximately 20% of the beef, pork and chicken in the United States in addition to a portfolio of foods under the *Tyson*®, *Jimmy Dean*®, *Hillshire Farm*®, *BallPark*®, *Wright*®, *Aidell’s*® and *State Fair*® brands.”¹² It is incorporated in the state of Delaware and has its headquarters in Springdale Arkansas.¹³

¹⁰ Agriculture – Animal Welfare Approach, TYSON (last visited Nov. 16, 2022), available at [Agriculture: Animal Welfare Approach | Tyson ESG Hub \(tysonsustainability.com\)](#) (hereinafter “Tyson, Animal Welfare Approach”).

¹¹ Farmers, TYSON (last visited Nov. 19, 2022), available at <https://www.tysonfoods.com/who-we-are/our-partners/farmers> (explaining “[w]e supply the birds and feed, and provide technical advice, while the poultry farmer provides the labor, housing and utilities).

¹² What We Do, TYSON (last visited Nov. 19, 2022), available at <https://www.tysonfoods.com/who-we-are/our-story/what-we-do#:~:text=Tyson%20Foods%20is%20a%20modern,and%20State%20Fair%20AE%20brands.>

¹³ See Tyson Foods Inc., SEC CIK #0000100493, SEC Report (last visited Nov. 19, 2022), <https://ir.tyson.com/sec-filings/default.aspx>.

2. **Jannat Farm.** Jannat Farm (alternatively, the “Farm”) is located at 23350 St. James Road in Jetersville, VA 23083. All reported instances of animal cruelty occurred on the Farm, and as part of the Farm’s day-to-day operations.¹⁴
3. [REDACTED] or the “Advisor”) worked for Tyson as a Broiler Technician Advisor for over 15 years,¹⁵ and in that capacity, she oversaw Jannat Farm for over seven years.¹⁶ As discussed in detail below, [REDACTED] role as a Tyson employee included documenting animal comfort for Tyson and ensuring the Farm’s compliance with laws. On or around November 1, 2022, Tyson transferred [REDACTED] to a different position in the company.
4. [REDACTED] is the Tyson Broiler Technician Advisor who replaced Ms. [REDACTED] in overseeing Jannat Farm on or around November 1, 2022.
5. [REDACTED] or the “Owner”) was, at all relevant times, the Owner of Jannat Farm.
6. [REDACTED] (“Mr. W” or the “Manager”) was, at all relevant times, the Manager of Jannat Farm. At the time of the investigation, Mr. W. had worked and lived on Jannat Farm for approximately eight years.
7. [REDACTED]. (“Ms. W.”), the Manager’s wife, was at all relevant times an employee of Jannat Farm. At the time of the investigation, Ms. W. had worked and lived on Jannat Farm for approximately eight years.
8. **Catchers.** On November 3 & 4, 2022, “Catchers” came to Jannat Farm to collect the birds for Tyson and bring them to slaughter. The identities of the individual workers are unknown to Animal Outlook at this time.

B. The Proposed Defendants Committed Criminal Acts on Jannat Farm.

Jannat Farm employed Animal Outlook’s investigator (the “Investigator”) from August 28, 2022 until November 4, 2022 at Jannat Farm. On September 22 and 23, Tyson Foods delivered

¹⁴ Animal Outlook was unable to determine whether Jannat Farm is a registered corporation.

¹⁵ [REDACTED]

¹⁶ Incident No. W-3.

approximately 152,000 chicks to the Farm and divided them among six chicken houses.¹⁷ The corporation's catch crew picked up the chickens on November 3 and 4 for slaughter. In total, the "grow-out"¹⁸ period was 6 weeks.

While performing job duties, the Investigator thoroughly documented the treatment of animals and the conditions at the Farm by: recording video and audio; taking photographs; recording ambient ammonia levels; and taking daily written notes. The evidence, as referenced throughout this document, exposes clear violations of Virginia's cruelty and biosecurity laws and establishes the culpability of each above-named party.

The criminal activity documented and witnessed can be divided into categories, as fully set out in the attached Incident Statement. By way of example, and not limitation, criminal acts included:

1. Affirmative acts of violence towards animals ([REDACTED] Catchers):
 - a. Killing chicks and chickens by holding them upright and repeatedly yanking down on their necks;
 - b. Throwing birds;
 - c. Kicking birds; and
 - d. Roughly handling birds;
2. Refusal to treat or euthanize birds that were suffering ([REDACTED])
 - a. Refusing to treat or euthanize birds who could not stand or walk, and were struggling to breathe; and
 - b. Leaving birds to die from broken limbs, illness, and wounds;
3. Maintaining harmful shelter conditions, which left animals visibly injured and disfigured ([REDACTED])
 - a. Keeping chickens in houses with water-logged litter, from leaking water lines, which damaged their legs and feet;

¹⁷ Houses 1 and 2 are the smallest, and housed approximately 17,000 birds each. Houses 3 and 4 housed approximately 19,500 birds each. Houses 5 and 6 are the largest, and housed approximately 39,500 birds each.

¹⁸ The "grow-out" period refers to the period during which the chickens were raised on the Farm.

- b. Keeping chickens in houses with toxic levels of ambient ammonia;
 - c. Keeping chickens in houses with black bug and rat infestations; and
 - d. Leaving dead birds throughout the houses and in food trays;
4. Persistent deprivation of water and food ([REDACTED])
- a. Forgetting to set up water lines;
 - b. Making water sources inaccessible to smaller birds;
 - c. Providing bug-infested feed;
 - d. Failing to make food deliveries (Tyson); and
 - e. Abandoning animals in empty houses, after pickup, without food or water;
5. Failure to follow basic, mandatory biosecurity protocols, despite a well-known heightened risk of avian flu outbreaks ([REDACTED])
- a. Failing to set up bleach trays at entrances to chicken houses (for sanitizing boots); and
 - b. Failing to use bleach trays once in place.

Not only does the evidence show illegal conduct, but it documents the resulting harm to animals. Photographs and videos depict animals suffering from severe, untreated injuries, struggling to walk and breathe, and struggling to access water. In addition, the videos document admissions from Mr. W. (in his role as the Manager of the Farm), Ms. W. (in her role as an employee of the Farm), and [REDACTED] (in her role as a Tyson Foods employee, whose job—for 7 years—was to monitor conditions on Jannat Farm, including “bird comfort,” for Tyson). These admissions detail how Mr. W., Ms. W., [REDACTED] all knew about the cruel conditions on Jannat Farm and the suffering of animals.¹⁹ Finally, the high mortality rate on Jannat Farm provides additional, quantitative evidence that the cruelty on the Farm had a measurable effect on the birds.

In sum, the video evidence of cruelty, quantitative data, and recording of party admissions makes clear that the Proposed Defendants repeatedly violated Virginia’s animal cruelty laws on Jannat Farm.

¹⁹ Many of these conversations are transcribed, in relevant part, *infra* Statement of Facts Section C.

C. The Tyson Foods Employee Assigned to Jannat Farm Knew About Ongoing Cruelty and Failed to Prevent It.

At all relevant times, Tyson Foods owned the chickens raised at Jannat Farm and depicted in the videos.²⁰ Therefore, Tyson employed ██████████ as a Broiler Technician Advisor to oversee Jannat Farm, which she did for over 7 years.²¹ Per Tyson’s job advertisements, the job requirements of Broiler Technician Advisors include “farm visits” to monitor producers and their farms, such as by: “documenting bird comfort” and “management of the flock;” “advising producers regarding building and equipment specification[,] litter manipulation and farm sanitation;” “monitoring bird health;” “monitoring feed consumption;” and “ensuring all USDA and other government regulations are followed when handling poultry.”²² In other words, **part of ██████████ job as a Tyson employee was to acquire knowledge, for Tyson, about conditions on Jannat Farm impacting animal welfare and biosecurity, and to keep Jannat Farm from violating laws.**

According to the claims on Tyson’s website and in its Animal Welfare Mission Statement (“Mission Statement”), the company “establishes expectations and demands accountability” from workers like ██████████, and provides “training” and “comprehensive instruction” to “support welfare culture and performance throughout [its] business.”²³ However, the video and audio evidence makes clear that ██████████, in her role as a Tyson Broiler Technician, knew of many

²⁰ See Farmers, *supra* note 11.

²¹ Incident No. W-3.

²² Broiler Tech Advisor I Career at Tyson Foods in Corydon, JOB OPENINGS IN INDIANA (last visited Nov. 9, 2022), available at https://indianajobopening.blogspot.com/2013/07/broiler-tech-advisor-i-career-at-tyson.html?m=0&utm_campaign=google_jobs_apply&utm_source=go (emphasis added). These same elements of the Broiler Technician Advisor job description are highlighted across various platforms and states. See, e.g., Broiler Technician Advisor I, Tyson Foods Incorporated, CHEGG CAREERMATCH, (Sept. 2022, last visited Nov. 10, 2022) (same); Broiler Tech Advisor I job in Forest at Tyson Foods, LENZA (last visited Nov. 10, 2022) (same); Broiler Tech Advisor I, Pine Bluff AR, ZIPRECRUITER (last visited Nov. 10, 2022) (same).

²³ Tyson, Animal Welfare Approach *supra* note 10; Donnie King (President and CEO) & John R. Tyson (Chief Sustainability Officer), ANIMAL WELFARE, TYSON FOODS INC. (Sept. 07, 2021), available at https://www.tysonustainability.com/downloads/Tyson_Foods_Animal_Welfare_Statement_September_2021_final.pdf (hereinafter the “Mission Statement”).

circumstances and practices on Jannat Farm that violated Virginia Law, which Tyson did not end or prevent. By way of example, and not limitation:

- On September 22, 2022, before Tyson delivered chickens to Jannat Farm, ██████████ and Mr. W. discussed the bug and rat infestation on the Farm. Several portions of that conversation are transcribed below:²⁴

- (1) Discussion of Bugs in Food, and Expected Impact on Chicks

██████████ (00:08): The little baby chicks are just gonna peck at those bugs and then they're gonna eat them and then they're gonna die. All you gotta do is open them up and that's all that's gonna be in that crop is black bugs. There's no nutritional value in there for them.

- (2) Discussion of Bug Infestation Generally

Ms. W.: We have a black bug problem

██████████: Yes you do. Are y'all not spraying between flocks?

Mr. W.: Nope.

██████████: Why?

Mr. W.: Ask the boss.

██████████: We pay for it (laughs).

- (3) Discussion of bug and rat infestation

██████████ I'm gonna tell you something. You've got fresh rat activity in all your houses.

Mr. W.: I know.

██████████ So between your rats and these black bugs, you probably have no insulation in these houses at all. Nothing.

██████████: Oh, I can feel that.

██████████ And the black bugs are gonna keep the birds . . . you'll notice, they won't go to the walls, because the bugs are all along the walls, those things bite them. They don't like em. They hurt. Have they ever bitten you? You ever gotten bitten by em? They hurt. I've gotten bitten by em.

²⁴ Incident No. 121.

- On September 22, 2022, Ms. [REDACTED] and Mr. W. discussed the poor ventilation in the houses, and the number of holes in houses that need to be patched.²⁵

[REDACTED] Do what you gotta do to get them [vents] to open the way you need em to open. . . .

Investigator: So we just gotta patch all the holes up?

[REDACTED] There's a lot of holes.

Mr. W.: There's a lot of holes.

- On September 22, 2022, Ms. [REDACTED] explained that Tyson limits its efforts in the Farm's area because there is no competition from other corporations like Perdue.²⁶

Ms. [REDACTED] We don't have any competition here. So we don't . . . they don't have to do extra stuff here. They do extra stuff at other complexes where they got other producers.

- On October 10, 2022, Mr. W. told the investigator that he is open with Ms. [REDACTED] (and Mr. [REDACTED] about tasks being neglected.²⁷

Investigator: Every time [REDACTED] comes out here she complains.

Mr. W.: Yup. Well, she probably [unintelligible] I'm sure she ain't tell you nothing she ain't told me. I mean, we talk. She tells me shit. And I agree with her and she agrees with me. Told her why I don't do some of that shit and why it gets neglected. Fucking even told [REDACTED] at some point about that. Evidently he's stupid or he just don't listen very well.

- On October 10, 2022, the Investigator expressed concerns that Ms. [REDACTED] would shut down the Farm because of how much she complained about the conditions—and especially how the birds' feet will blister and swell from the water-logged litter. Mr. W. responded, "she always does that," referencing the fact that, over 7 years, Ms. [REDACTED] has always complained and never taken action.²⁸

Investigator: The way [REDACTED] was talking the other day, I'm worried she's gonna shut us down. Because she was talkin . . . she went on and on.

Mr. W.: She always does that . . .

²⁵ Incident No. 122.

²⁶ *Id.*

²⁷ Incident No. 163.

²⁸ Incident No. 161.

Investigator: She seemed pretty mad.

Mr. W.: Oh well.

Investigator: She said something about the birds' feet will get pretty messed up.

Mr. W.: Wet floors.

- On October 10, 2022, more than two weeks into the grow-out period, Mr. W. and the investigator discussed Ms. [REDACTED] concerns that the requisite bleach trays still had not been used on the Farm, which can lead to the spread of disease—specifically avian flu, which spread dangerously throughout 2022.²⁹

Investigator: One of the main things she was mad about was the code yellow with the avian flu with there not being bleach in the houses. She went on about that for a while. She was like, 'oh I bought the bleach a while back ago . . . it should've been put out by now' . . . She said she was gonna leave a letter or a note or um . . . something for you.

Mr. W.: Well she always puts . . . leaves me a [unintelligible] on a piece of yellow paper. She'll leave one up here and one back there. Yeah, I got 'em. But I talked to her that day too so she told me about that.

- On October 21, 2022, Mr. W. explained that Ms. [REDACTED] knew he and Ms. W. do not euthanize the birds as required.³⁰ (Also during this conversation, as discussed in detail *infra* Section II.C, Mr. W. pointed to birds that needed to be euthanized, laughed, walked away, and left them to suffer.)

Investigator: Why is it some of these birds don't move?

Mr. W.: That's part of what needs to be culled. Some do, some don't, I mean . . . some of them like that don't move very well, some don't move at all.

Investigator: Why?

Mr. W.: They're just fucked up *laughs* Yeah, that's one that should be culled *pointing*.

Investigator: A few of 'em like that in the houses, quite a few of them.

²⁹ Incident No. 163; see 2022 Confirmations of Highly Pathogenic Avian Influenza in Commercial and Backyard Flocks, USDA APHIS (Jul. 20, 2022), available at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/avian-influenza/hpai-2022/2022-hpai-commercial-backyard-flocks> (tracking avian flu outbreaks).

³⁰ Incident No. 6.

Mr. W.: When I come through I try to get a couple here and there . . .

Investigator: Would [REDACTED] say anything . . .

Mr. W.: She bitches at me a lot about that because I don't cull that much. Oh well. *laughs* I don't like to cull a ton of 'em. 'Cause I'll be in here all day, if I just cull.

From conversations like those transcribed above, it is clear that Ms. [REDACTED] Tyson's Broiler Technician Advisor, knew of legal violations on Jannat Farm that would harm animals and create biosecurity risks. As discussed in detail *infra* Sections II and III, [REDACTED] should rely, in part, on these admissions to prosecute both [REDACTED] and Tyson for animal cruelty.

D. Significantly More Birds Died on Jannat Farm than Should Have Died, According to Government Data.

The mortality rate on Jannat Farm was significantly higher than it should have been according to the U.S. Poultry Industry Manual (which the United States Department of Agriculture's Animal and Plant Health Inspection Service ("USDA APHIS") publishes with Iowa State University);³¹ the statistically significant difference between observed and expected mortality provides quantitative evidence that the cruel conditions and practices on Jannat Farm had a measurable impact on the animals. As discussed below, the number of dead animals reported at Jannat Farm substantially underrepresents the actual mortality. Nevertheless, by a conservative estimate — using the Farm's own reported data and *excluding* dead birds left over after pick-up

³¹ USDA APHIS & Iowa State University, US Poultry Industry Manual - Broilers: Grow Out, The Poultry Site (Sept. 8, 2022), available at <https://www.thepoultrysite.com/articles/broilers-grow-out#:~:text=Through%20weeks%203%20and%204,the%20life%20of%20the%20flock> (hereinafter the "U.S. Poultry Manual"). Animal Outlook relies on USDA's data because to our knowledge, it is the most recent, official U.S. data on mortality rates, is specific to 6-week flocks, and breaks down expected mortality by each week of the grow-out period. Some studies have suggested lower average mortality rates during grow-out, but many of these studies included European farms, which may not be perfectly analogous to U.S. farms. Data from the National Chicken Council, by contrast, suggests a higher expected mortality rate, but (1) it is based on a longer time frame (47 days), and (2) the NCC does not provide sources for its data, leading to uncertainty about how "mortality" is measured (*i.e.*, whether it includes deaths from transportation and processing, or deaths from recent surges in avian flu, which wipes out entire flocks). Accordingly, the official data from the USDA is the most neutral and reliable source.

— the mortality rate on Jannat Farm was **28% higher** than the expected rate. A more accurate (but still conservative) estimation — including the dead birds left over after pick up — suggests that the mortality rate on Jannat Farm was **55% higher** than the expected rate.

i. Mr. W. and Ms. W. Undercounted the Number of Birds that Died at Jannat Farm.

The mortality count in the log on Jannat Farm underrepresents the actual mortality rate. Over the six weeks that the chickens were raised on Jannat Farm for Tyson, Mr. W., Ms. W., and the Investigator walked the houses to collect dead birds; each time they walked the houses, they filled out a log to record the number of dead birds per house. However, because Mr. W. and Ms. W. did not like walking the houses, they would walk through too quickly to gather all the carcasses, and they would skip days altogether.³² Over time, bugs and rats consumed these bodies, other birds walked over them, and they turned brown and were covered by litter, making them blend in with surroundings. In several clips, the dead bodies are nearly impossible to detect underneath the live birds.³³ Therefore, Mr. W. and Ms. W. left many dead birds behind and never counted them.

Strikingly, even using Mr. W. and Ms. W.’s undercounted numbers, the mortality rate on Jannat Farm was significantly higher than government data would predict.

ii. A Statistical Analysis Demonstrates that the Mortality Rate on Jannat Farm was Unexpectedly High.

Significantly more birds died on Jannat Farm than should have died, per the most recent U.S. Government data.

According to the USDA-APHIS U.S. Poultry Industry Manual, broiler chickens face a 2–4% mortality rate over their six-week lifespan.³⁴ In 2011, average mortality was on the high end

³² See Incident Nos. 164, 166.

³³ See, e.g., Incident No. 109.

³⁴ USDA APHIS & Iowa State University, US Poultry Industry Manual - Broilers: Grow Out, The Poultry Site (Sept. 8, 2022), available at <https://www.thepoultrysite.com/articles/broilers-grow-out#:~:text=Through%20weeks%203%20and%204,the%20life%20of%20the%20flock.>

of this range, and was estimated at 3.6%.³⁵ Mortality is highest in the first week, and “may be around 1%.”³⁶ For weeks 2–6, mortality should “decrease to 0.5% or less” per week.³⁷ Notably, studies suggest that pre-slaughter mortality should be **lowest** in autumn, which is the season when the Investigator was employed at Jannat Farm.³⁸

Based on an expected mortality rate of 3.6% over a six-week period, 5,472 chickens were expected to die on Jannat Farm during the grow-out period. Instead, the mortality was much higher. According to the log at the Farm, 6,936 birds had died by the end of the grow-out period—28% more deaths than the expected number. Notably, these numbers did not include the dead birds who were left over after the houses were emptied. Including these left over carcasses, the Investigator estimated a total of 8,536 deaths—55% above the expected number.³⁹

Table 1: Observed vs. Expected Mortality on Jannat Farm

	EXPECTED (U.S. Poultry Manual)	OBSERVED (Omitting Dead Birds Left After Pick-Up)	OBSERVED (Including Dead Birds Left After Pick-Up)
NUMBER OF DEAD ANIMALS	5472	6936	8536

³⁵ *Id.*

³⁶ *Id.*

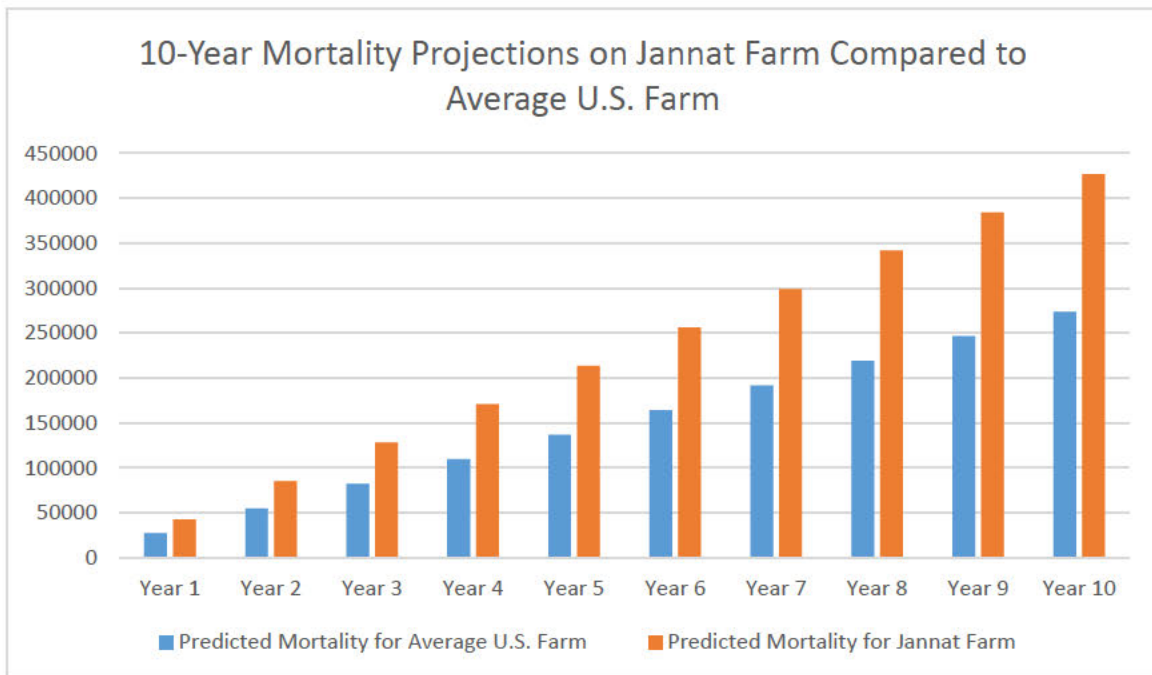
³⁷ *Id.*; see also G.T. Tabler, I.L. Berry and A.M. Mendenhall, Mortality Patterns Associated with Commercial Broiler Production, The Poultry Site (Dec. 13, 2004), available at <https://www.thepoultrysite.com/articles/mortality-patterns-associated-with-commercial-broiler-production>.

³⁸ See Grilli, C., Stocchi, R., Loschi, A. R., Conti, F., & Rea, S., Survey on broiler pre-slaughter mortality in a commercial abattoir of central Italy, 7(3) ITALIAN JOURNAL OF FOOD SAFETY 5878 (2018).

³⁹ This conservative estimate is based on the Investigator’s count of the leftover, dead birds in House 2, which he approximated at 200 birds. The Investigator believes that House 2 had the fewest dead birds left over based on (1) his observations, and (2) the fact that House 2 was cleaned just prior to the pick-up. To be conservative, we estimated that Houses 1, 3, and 4 had the same number of dead birds left as House 2 (even though Houses 3 & 4 are bigger than House 2), and that Houses 5 & 6 had twice as many dead birds left (even though Houses 5 & 6 are more than twice the size of House 2).

A Chi-Square analysis reveals that the difference between (1) the actual number of birds that died on Jannat Farm and (2) the number of birds that were expected to die (according to the USDA and Iowa State University U.S. Poultry Manual) was statistically significant.⁴⁰

Based on the difference between observed and expected mortality, tens of thousands of birds will die, unnecessarily, on Jannat Farm in the coming years. Assuming an average of 5 flocks per year, over a 10-year period of operation, **between 73,200 and 150,320** more birds will die on Jannat Farm than on an average Farm of the same size. The chart below compares the predicted mortality on Jannat Farm over a 10-year period (based on the observed mortality rate) with the predicted mortality for an average U.S. Farm that is the same size as Jannat Farm (based on USDA-APHIS data).



Overall, the mortality rate on Jannat Farm provides additional, quantitative evidence that

⁴⁰ The difference was statistically significant regardless of whether the “observed” value included the number of dead birds left on the Farm after the Catchers emptied the houses. $\chi^2(1, N = 304,000) = 180.09, p < .001$ (omitting birds left after pick up); $\chi^2(1, N = 304,000) = 702.57, p < .001$ (including birds left after pick up).

the cruel conditions on the Farm have severe and measurable repercussions on the animals. [REDACTED] [REDACTED] should bring charges so that tens of thousands of birds do not suffer and die unnecessarily in coming years.

LEGAL ANALYSIS

We respectfully request that [REDACTED] bring criminal proceedings against Tyson, Jannat Farm, and each individual identified herein. Animal Outlook’s video, photographic, audio, and empirical evidence demonstrates that they have committed numerous violations of the state’s animal cruelty and biosecurity laws.

This Legal Analysis portion of the memo is divided into four sections for your convenience. **Section I** provides an overview of Virginia’s animal cruelty law and the relevant provisions. **Section II** explains how each individual actor violated the cruelty law. **Section III** explains why Tyson and Jannat Farm are criminally liable. Finally, **Section IV** explains how Tyson, Jannat Farm, and each individual actor are criminally liable for violating Virginia’s biosecurity laws.

I. VIRGINIA’S ANIMAL CRUELTY LAW CRIMINALIZES A WIDE RANGE OF CONDUCT TO FARMED ANIMALS.

Virginia’s animal cruelty law prohibits cruelty to “any animal” including chickens, and it does not exempt conduct simply because the conduct occurs on a farm. Indeed, just a few years ago, Virginia prosecuted cruelty to chickens on a farm that, like Jannat Farm, was raising them for Tyson.⁴¹ Below, we discuss the scope of Virginia’s animal cruelty law and the relevant provisions that are enforceable here.

⁴¹ Justin Wm. Moyer, Seven sentenced after animal rights activists film abuse at chicken farms, THE WASHINGTON POST (Aug. 31, 2017), available at https://www.washingtonpost.com/local/public-safety/seven-sentenced-after-animal-rights-activists-film-abuse-at-chicken-farms/2017/08/31/9c3656f4-8e6a-11e7-8111-e841db675815_story.html (“[s]even people were sentenced in animal cruelty cases in Virginia after an undercover animal rights activist filmed them abusing chickens at Tyson factory facilities”).

A. Virginia Law Prohibits Cruelty to “Any Animal,” Which Includes the Chickens on Jannat Farm.

Virginia’s animal cruelty law criminalizes cruelty to “any animal,” which includes the chickens on Jannat Farm.⁴² Virginia’s cruelty statute defines “animal” as “any nonhuman vertebrate species except fish.”⁴³ Chickens are nonhuman vertebrate species and, therefore, are protected. Moreover, because Virginia law criminalizes cruelty to “any animal,” cruel acts taken against multiple animals trigger distinct statutory violations for each impacted animal.⁴⁴

Importantly, cruelty to animals is not exempt from prosecution simply because it occurs in an agricultural context. This is why, in 2017, “[s]even people were sentenced in animal cruelty cases in Virginia after an undercover animal rights activist filmed them abusing chickens at Tyson factory facilities.”⁴⁵ Proscribed acts are exempt from prosecution **only** if they are “farming activities,”⁴⁶ and “‘farming activity’ means, **consistent with standard animal husbandry practices**, the raising, management, and use of agricultural animals to provide food, . . . and slaughter of agricultural animals pursuant to such purposes.”⁴⁷ Therefore, to be exempt from Virginia’s animal cruelty law, conduct that is otherwise proscribed must be “consistent with standard animal husbandry practices.”⁴⁸

⁴² VA CODE ANN. § 3.2-6570 (penalizing, for example, any person who “ill-treats . . . any animal,” “deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment,” or “furthers any act of cruelty to any animal”).

⁴³ VA. CODE ANN. § 3.2-6500.

⁴⁴ See *Haefele v. Commonwealth*, 75 Va. App. 591, 592 (2022) (affirming conviction for two counts of maliciously maiming the livestock of another based on cruelty to two goats); see also *State v. Hess*, 273 Or. App. 26, 35 (2015) (holding each instant of animal cruelty is separately punishable offense because each individual animal is a victim).

⁴⁵ See Moyer, THE WASHINGTON POST *supra* note 41.

⁴⁶ VA. CODE ANN. § 3.2-6570(D) (emphasis added).

⁴⁷ VA. CODE ANN. § 3.2-6500.

⁴⁸ *Id.* Section 3.2-6570(C) of Virginia’s Code also provides clarity that the animal cruelty statute, by default, protects animals from non-standard farming activities. Subsection (c), an explicit exemption in the cruelty statute, allows “the dehorning of cattle in a reasonable and customary manner.” VA. Code Ann. § 3.2-6570(C). If all agricultural activities were exempt, there would be no need to add a provision specific to cattle and the practice of dehorning. Additionally, the inclusion of the words “reasonable and customary” indicates

Construed most liberally, “standard animal husbandry practices” may be defined by reference to the industry’s own, self-created standards for chickens raised for food, which are incorporated in the National Chicken Council’s Animal Welfare Guidelines and Audit Checklist for Broilers (“NCC Guidelines”).⁴⁹ Various NCC Guidelines are described throughout this memorandum to demonstrate that the practices at Jannat Farm are not “consistent with standard animal husbandry practices.”⁵⁰ These Guidelines include, by way of example: standard industry practice for euthanizing chickens; standard shelter conditions, including standards for litter conditions and ammonia concentration; and standards for nutrition, feeding, and access to water.

The criminal acts described herein violate the NCC Guidelines and are not exempt from Virginia’s cruelty law as “farming activities.”

B. Virginia’s Animal Cruelty Law Criminalizes a Wide Range of Conduct

Virginia’s Animal Cruelty laws are expansive and include numerous provisions that are enforceable against the proposed defendants. VA Code Ann. § 3.2-6570 (“Animal Cruelty”) states that “any person” is guilty of a Class 1 misdemeanor if the person, *inter alia*:

- ill-treats, or abandons any animal, whether belonging to himself or another;
- tortures any animal;
- willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation on any animal;
- cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another;

that even an explicitly exempted agricultural practice must be performed consistent with industry standards to be insulated from the cruelty law.

⁴⁹ NCC Guidelines, *supra* note 6. The National Chicken Council (NCC) is “the national, non-profit trade association whose primary purpose is to serve as the advocate and voice for the U.S. broiler chicken industry in Washington, D.C.,” and it is the oldest and largest national association representing the U.S. broiler chicken industry. About NCC, NATIONAL CHICKEN COUNCIL (last visited Nov. 29, 2022), <https://www.nationalchickencouncil.org/about/>.

⁵⁰ VA. CODE ANN. § 3.2-6500.

- deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment;
- willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;
- causes any of the above things; or
- being the owner of such animal permits such acts to be done by another.

At first blush, there appears to be redundancy among several provisions, namely: (1) willful infliction of inhumane injury or pain; (2) ill-treatment; (3) torture; and (4) cruel or unnecessary beating, maiming, mutilating or killing. However, “[w]ords in a statute should be interpreted, if possible, to avoid rendering words superfluous,”⁵¹ and closer exposition shows that each provision in the cruelty law does slightly different work. The table below summarizes the differences among the provisions:

⁵¹ *Cook v. Commonwealth*, 268 Va. 111, 114 (2004).

	Willfully Inflicting Inhumane Injury or Pain⁵²	Ill-treatment⁵³	Torture⁵⁴	Cruelly or Unnecessarily Beating . . . Maiming, Mutilating or Killing⁵⁵
Prohibited Conduct	Act or omission adverse to well-being and causing any amount of injury or pain, if done “willfully”	Act or omission outside societal/industry norms causing any amount of injury or pain	Act or omission causing intense/ unreasonable pain or suffering	Specific violent acts causing any amount of injury or pain
Differentiating Aspect of Provision	<i>mens rea</i> element (see discussion in Section C below)	Act or omission outside the norm	Resulting degree of pain/suffering	Specific acts

Section IV lays out how the individuals on Jannat Farm violated these various provisions.

⁵² Although “inhumane” is not itself defined by statute, Virginia law defines “humane” as “any action taken in consideration of and with the intent to provide for the animal’s health and well-being.” VA. CODE ANN. § 3.2-6500. Accordingly, “inhumane” necessarily refers to any action performed contrary to the animal’s health and well-being.

⁵³ The dictionary definition of “ill-treat” is “to treat cruelly or improperly.” MERRIAM-WEBSTER (last visited Nov. 12, 2022), available at <https://www.merriam-webster.com/dictionary/ill-treat>; see *State v. Leff*, 1979 Wisc. App. LEXIS 3445, *6–7 (Aug. 24, 1979) (citing the same). Based on this broad definition, Virginia courts have found “ill-treatment” based on a variety of cruel acts and omissions, including dragging an animal across a street and subjecting animals to poor living conditions. See *Hillmon v. Commonwealth*, 2022 WL 1215519, at *6 (Va. Ct. App. Apr. 26, 2022) (upholding finding that dragging dog across street was ill-treatment); *Ingram v. Commonwealth*, 74 Va. App. 59, 78 (2021) (finding violation of cruelty law based on “deplorable living conditions”). Because the definition includes “improper” treatment, “ill-treatment” is evident when the treatment of animals does not conform to standard practices. See *Improper*, MERRIAM-WEBSTER (last visited Nov. 12, 2022) (defining improper as “not suited to the circumstances, design, or end” and “not in accord with . . . right procedure”); see also VA. CODE ANN. § 3.2-6500 (stating that farming activities, to be exempt from the animal cruelty law, must be consistent with standard animal husbandry practices).

⁵⁴ In a survey of states, a Michigan appellate court derived the following, consensus meaning of the term “torture” in animal cruelty statutes: “the term ‘torture’ is commonly defined to include every act or omission that causes or permits an animal to suffer unjustifiable or unreasonable pain, suffering, or death.” *People v. Henderson*, 765 N.W.2d 619, 629 (Mich. App. 2009). Likewise, the dictionary definition of “torture” is “to cause intense suffering to.” Torture, MERRIAM-WEBSTER (last visited Nov. 12, 2022), available at <https://www.merriam-webster.com/dictionary/torture>.

⁵⁵ Virginia Courts have not considered the term “cruelly” to refer to a mental state but rather to describe an *actus reus*.⁵⁵ See *Barnes v. Commonwealth*, 47 Va. App. 105, 110–11 (2005) (interpreting Va. Code Ann. § 40.1-103(A)). The plain meaning of “cruel” is “causing or conducive to injury, grief, or pain.” Cruel, MERRIAM-WEBSTER (last visited Nov. 12, 2022), available at <https://www.merriam-webster.com/dictionary/cruel>.

C. Most Proscribed Acts in Virginia’s Animal Cruelty Law are Strict Liability Crimes, While Two Provisions Require a *Mens Rea* of “Willfulness.”

Virginia’s legislature only qualified two of the proscribed acts in the animal cruelty law with a *mens rea* element—in both cases, the relevant *mens rea* is “willfulness.”⁵⁶ Virginia precedent aligns with general grammatical practice in recognizing that when a statute contains a list of proscribed acts, and a *mens rea* element appears before a single act that is not the first in the list, that *mens rea* applies only to the particular act that it modifies.⁵⁷ Therefore, [REDACTED] need only show that a person acted “willfully” to sustain a conviction for those two proscribed acts: (1) “willfully inflict[ing] inhumane injury or pain” and (2) “willfully set[ting] on foot . . . or in any way further[ing] any act of cruelty.”⁵⁸ All other offenses that do not include a *mens rea* element (e.g., ill-treating, torturing, or depriving animals of food or water) are strict liability offenses, as discussed below.⁵⁹ In the alternative, if a Virginia court were to (wrongly) decide that animal cruelty cannot be a strict liability crime, the court must infer that all proscribed acts without a *mens rea* element require a showing of criminal negligence.

i. Defendants Must Act Willfully to be Guilty Under Two Provisions of Virginia’s Cruelty Law.

To convict defendants of animal cruelty for (1) inflicting inhumane injury or pain on animals, or (2) setting on foot or in any way furthering an act of cruelty, the prosecution must demonstrate that defendants acted willfully.

⁵⁶ VA. CODE ANN. § 3.2-6570(A)(ii) (person commits misdemeanor who “willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation on any animal”) and § 3.2-6570(A)(vi) (person commits misdemeanor who “willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal”).

⁵⁷ See, e.g., *Tisdale v. Commonwealth*, 65 Va. App. 478, 482–83 (2015) (analyzing murder statute and holding that the *mens rea* required for one type of murder does not implicitly apply to other listed categories of murder).

⁵⁸ *Id.*

⁵⁹ *Esteban v. Commonwealth*, 266 Va. 605, 609 (2003).

Drawing on the definition in Black’s Law Dictionary, the Court of Appeals of Virginia explained that a “willful” act or omission is “voluntary and intentional but not necessarily malicious,” and that a “voluntary” act becomes “willful” “when it involves conscious wrong . . . or at least inexcusable carelessness, whether the act is right or wrong.”⁶⁰ Courts may find that an act or omission was willful if it “created a situation reasonably calculated to produce injury, or which made it not improbable that injury would be occasioned, and [the Defendant] knew, or was charged with the knowledge of, the probable results of her acts.”⁶¹

Based on this definition, the prosecution can show that defendants “willfully inflict[ed] inhumane injury or pain” if they acted (or failed to act) voluntarily and with a consciousness that inhumane injury or pain would result.⁶² In addition, the prosecution can show that defendants “willfully set[] on foot” or “further[ed]” an act of cruelty if they acted (or failed to act) voluntarily and with a consciousness that such act or omission would set on foot or further cruelty. Because a willful act need not be malicious, defendants’ motive (*e.g.*, whether the defendants acted from a desire to see the animal suffer, out of frustration, or even from being too lazy to comply with industry standards while performing a job) is immaterial.⁶³

⁶⁰ See *Pelloni v. Commonwealth*, 65 Va. App. 733, 739 (2016); see also *Blankenship v. Commonwealth*, 71 Va. App. 608, 624 (2020) (holding the “Commonwealth can establish that defendant willfully inflicted inhumane injury on animal, for purposes of animal cruelty statute, if it can present evidence that the defendant voluntarily acted with a consciousness that inhumane injury or pain would result”).

⁶¹ *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004) (ruling that appellant’s acts and omissions, which resulted in the death of her ten-month-old son, were “willful” because appellant knew of her daughter’s propensity to injure her son, knew she was the only adult present, yet still became intoxicated and fell asleep); see also *Sutter v. Commonwealth*, 2018 WL 4567680, at *7 (Va. Ct. App. Sept. 25, 2018) and see *Pelloni*, 65 Va. App. at 741, for two animal cruelty cases quoting this language in *Barrett* when discussing the “willfulness” standard under Code § 3.2-6570.

⁶² See *Pelloni*, 65 Va. App. at 743.

⁶³ *Id.*

ii. All Other Provisions in Virginia’s Cruelty Law are Strict Liability Offenses.

Under clear precedent from Virginia’s Supreme Court, the provisions in Virginia’s animal cruelty laws that do not have a *mens rea* element are strict liability offenses.

In *Esteban*, the Virginia Supreme Court wrote:

[T]he law is clear that the legislature may create strict liability offenses as it sees fit, and there is no constitutional requirement that an offense contain a *mens rea* or *scienter* element. Thus, courts construe statutes and regulations that make no mention of intent as dispensing with it and hold that the guilty act alone makes out the crime.⁶⁴

Relying on *Esteban*, Virginia’s appellate courts—as recently as 2022—have refused to read *mens rea* requirements into statutes, noting that they are bound by the holding of *Esteban*.⁶⁵

Arguably, *Esteban* left a narrow window for courts to read *mens rea* into statutes in two instances: (1) if, in rare cases, failing to do so would be unconstitutional and the legislature implicitly intended to have a *mens rea* requirement;⁶⁶ and (2) if the legislature intended to codify a crime analogous to a common-law offense, including the common-law *mens rea* requirement.⁶⁷ Misdemeanor animal cruelty does not fall into either category, and therefore a presumption of strict liability is appropriate. First, strict liability crimes raise constitutional concerns only in rare cases if a statute fails to provide “adequate notice that otherwise innocent conduct has been criminalized.”⁶⁸ Here, however, conduct such as ill-treating, torturing, or depriving animals

⁶⁴ *Esteban v. Commonwealth*, 266 Va. 605, 609 (2003).

⁶⁵ See, e.g., *Clayton v. Commonwealth*, 75 Va. App. 416, 421-22 (2022) (finding that possession of controlled substance in a correctional facility was a strict liability offense and explaining “we are [] bound by the Supreme Court’s holding in *Esteban*”).

⁶⁶ See, e.g., *Maye v. Commonwealth*, 213 Va. 48, 189 S.E.2d 350 (1972) (per curiam) (reading *mens rea* into otherwise unconstitutional larceny-after-bailment statute); *c.f. Makarov v. Commonwealth*, 217 Va. 381, 385-86, (1976) (finding statute unconstitutional because court could not read *mens rea* into criminal statute absent evidence of legislative intent to have *mens rea* requirement).

⁶⁷ *Clayton v. Commonwealth*, 75 Va. App. 416, 435 (2022) (Raphael, J. concurring).

⁶⁸ See *Clayton v. Commonwealth*, 75 Va. App. 416, 421, 877 S.E.2d 504, 507 (2022) (Raphael J., concurring) (citing *Lambert v. California*, 355 U.S. 225, 228-29 (1957) which held defendant could not constitutionally be convicted under failure-to-register law when defendant lacked notice that registration was required).

of food or water is not “otherwise innocent conduct,” like a registration requirement, that defendants would not know to be criminal. Second, animal cruelty was not a common-law crime.⁶⁹ Finally, the Legislature did not intend to include *mens rea* elements for all conduct constituting misdemeanor animal cruelty. If the Legislature had so intended, it knew how; indeed, the Legislature specified a required *mens rea* of “willfulness” for specific conduct in the statute.⁷⁰

Here, because many provisions in Virginia’s animal cruelty statute “make no mention” of *mens rea*, “the guilty act[s] alone make[] out the crime.”⁷¹ Accordingly, to convict defendants of animal cruelty, [REDACTED] must only show that they: ill-treated, tortured, or cruelly killed animals; deprived them of food, water, or shelter; caused any of the above things; or being the owner of the animal permitted such acts to be done by another.

iii. If a Virginia Court (Wrongly) Decides that Animal Cruelty Cannot be a Strict Liability Crime, the Court Must Read a *Mens Rea* of Criminal Negligence into the Statute.

When Virginia’s courts have inferred a *mens rea* requirement in a silent statute, they have read in “criminal negligence”⁷² and refused to apply any heightened *mens rea* such as malice.⁷³

⁶⁹ See David Favre & Vivien Tsang, 1993 Det. C.L. Rev. 1 (1993) (discussing that in the 1800s, at common law, while “courts could fashion a cause of action” to punish individuals for mistreating animals, “[t]o make cruelty to animals a crime [] require[d] legislation”).

⁷⁰ Unlike courts in many American jurisdictions, Virginia’s courts presume strict liability for minor and serious offenses alike. *C.f. Clayton* at 435 (Raphael, J. concurring) (“In an appropriate case, the parties should ask the Supreme Court to determine whether Virginia should recognize a *mens rea* presumption for serious offenses.”). Regardless, misdemeanor animal cruelty is a Class 1 misdemeanor punishable by “confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” VA CODE ANN. § 18.2-11. Even the U.S. Supreme Court has found similar misdemeanors to be strict liability crimes. See *United States v. Dotterweich*, 320 U.S. 277, 280-81 (1943) (upholding misdemeanor conviction even though statute “dispense[d] with the conventional requirement for criminal conduct—awareness of some wrongdoing”).

⁷¹ *Estaban*, 266 Va. at 587.

⁷² See *Mosby v. Commonwealth*, 23 Va. App. 53, 59 (1996) (citing *Maye v. Commonwealth*, 213 Va. 48, 49 (1972) and holding that *mens rea* of criminal negligence must be read into criminal statute); *Bryant v. Commonwealth*, 67 Va. App. 569, 577 (2017), *aff’d*, 295 Va. 302, 811 S.E.2d 250 (2018) (holding the legislature intended criminal negligence to be read into statute prohibiting “unlawful” discharge of a firearm because “unlawful” implied criminal negligence at common law).

⁷³ *Saunders v. Commonwealth*, 31 Va. App. 321, 324 (2000) (reading *mens rea* into criminal statute, but refusing to read in heightened *mens rea* of malice).

Accordingly, if a court were to (wrongly) decide that animal cruelty cannot constitutionally be a strict liability offense, it must determine whether each defendant was criminally negligent.

A defendant demonstrates criminal negligence when he remains indifferent, even though he knows or should know that his conduct will probably result in injury or illegality.⁷⁴ Courts may also find criminal negligence based on a defendant's "failure to act under circumstances that indicate a passive and indifferent attitude toward the welfare of others."⁷⁵ Therefore, if a court required a showing of criminal negligence, the prosecution would need only show that defendants were indifferent to animals' pain, injury, or suffering when they ill-treated animals, tortured animals, cruelly killed animals, or deprived animals of necessary food, drink, or shelter. In addition, the prosecution could prove criminal negligence by demonstrating that the defendants showed indifference to animals' pain, injury, or suffering and failed to act, thereby causing animals to be ill-treated, tortured, cruelly killed, or deprived of necessary food, drink, or shelter.

As discussed below, each proposed defendant acted with a *mens rea* of (at least) criminal negligence in violating Virginia's cruelty laws.

D. Multiple Parties may be Criminally Liable as Principals for the Same Violations of Virginia's Animal Cruelty Law.

In Virginia, "[m]any substantive sections of the [Criminal] Code internally make all involved persons liable as principals," thereby codifying accomplice liability.⁷⁶ Virginia's animal cruelty law is no exception. Accordingly, it penalizes any person who: "willfully sets on foot . . . or in any way furthers any act of cruelty to any animal;" "causes any of the above things;" or

⁷⁴ *Ellis v. Commonwealth*, 29 Va. App. 548, 557 (1999).

⁷⁵ *Id.*

⁷⁶ Ronald J. Bacigal, *Principal and Accessory*, VA. PRAC. CRIMINAL OFFENSES & DEFENSES 31.

“being the owner of such animal permits such acts to be done by another.” [REDACTED] and Tyson Foods are criminally liable under these provisions as discussed herein.

II. ALL PROPOSED DEFENDANTS VIOLATED VIRGINIA’S CRUELTY LAW.

The table below summarizes the criminal conduct for which [REDACTED] should prosecute each individual actor under VA Code Ann. § 3.2-6570. It excludes Tyson and Jannat Farm’s criminal acts, which Section III discusses, and it also excludes all violations of Virginia’s biosecurity laws, which are addressed in Section IV.

Cruelly Killing	<ul style="list-style-type: none"> • Tugging/snapping necks 				<ul style="list-style-type: none"> • Tugging/snapping necks 	
Willfully inflicting inhumane injury or pain	<ul style="list-style-type: none"> • Tugging/snapping necks • Leaving birds to suffer and die of injury/sickness • Refusing to perform work → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations. 	<ul style="list-style-type: none"> • Leaving birds to suffer and die of injury/sickness • Refusing to perform work → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations. 			<ul style="list-style-type: none"> • Tugging/snapping necks • Throwing • Kicking • Rough Handling 	<ul style="list-style-type: none"> • Refusing to order repairs or spray for bugs → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations.
III-Treatment	<ul style="list-style-type: none"> • Tugging/snapping necks • Leaving birds to suffer and die of injury/sickness • Refusing to perform work → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations. 	<ul style="list-style-type: none"> • Leaving birds to suffer and die of injury/sickness • Refusing to perform work → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations). 			<ul style="list-style-type: none"> • Tugging/snapping necks • Throwing • Kicking • Rough Handling 	<ul style="list-style-type: none"> • Refusing to order repairs or spray for bugs → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations.

Torture	<ul style="list-style-type: none"> • Snapping necks • Leaving birds to suffer and die of injury/sickness (Refusing to euthanize) 	<ul style="list-style-type: none"> • Leaving birds to suffer and die of injury/sickness (Refusing to euthanize) 			<ul style="list-style-type: none"> • Tugging/snapping necks 	
Food Deprivation	<ul style="list-style-type: none"> • Giving chicks bug-infested feed • Forgetting to put out food • Nov. 3-4, leaving bird alone without food 	<ul style="list-style-type: none"> • Giving chicks bug-infested feed • Forgetting to put out food • Nov. 3-4, leaving bird alone without food 		Failing to arrange feed delivery Nov. 2-3, 2022		
Water Deprivation	<ul style="list-style-type: none"> • Sept. 27-28, failure to provide water in House 4 • Nov. 3-4, leaving bird alone without water • Raising water lines where small birds could not reach 	<ul style="list-style-type: none"> • Nov. 3-4, leaving bird in house without water • Raising water lines where small birds could not reach 				
Shelter Deprivation	<ul style="list-style-type: none"> • Would not fix holes/ ventilation → toxic ammonia levels, rat infestation • Did not repair water lines → birds soaked/ water-logged litter • Did not clean litter • Did not change out feed → bug infestation 	<ul style="list-style-type: none"> • Would not fix holes/ ventilation → toxic ammonia levels, rat infestation • Did not repair water lines → birds soaked/ water-logged litter • Did not clean litter • Did not change out feed → bug infestation 				<ul style="list-style-type: none"> • Refusing to order repairs or spray for bugs → water leaks, water-logged litter, toxic ammonia levels, bug/rat infestations.
Willfully Setting On Foot & Furthering Criminal Acts			Allowing flock delivery/raising of birds despite knowledge of: <ul style="list-style-type: none"> • Leaking water lines • Bug infestation 			

			<ul style="list-style-type: none"> • Inadequate ventilation • Improper euthanasia practices 			
--	--	--	---	--	--	--

Below, we explain why each actor’s conduct on Jannat Farm amounted to animal cruelty.

In many cases, the conduct violated more than one provision of Virginia’s cruelty law.

A. Mr. W. and the Catchers Violated Virginia’s Cruelty Laws when They Violently Killed Animals (Incident Nos. 1–5).

On three occasions, the Investigator documented the Farm Manager cruelly killing animals on Jannat Farm; on two additional occasions, he documented Catchers doing the same.⁷⁷ Each incident is a distinct violation of Virginia’s animal cruelty law and a Class 1 misdemeanor,⁷⁸ and Virginia prosecutors have used similar footage in successful prosecutions for animal cruelty.⁷⁹

i. Each Killing Violates the Law Because it was “Cruel.”

VA Code Ann. § 3.2-6570 provides that any person is guilty of a crime if the person “cruelly or unnecessarily . . . kills any animal.” Killings are performed “cruelly” if they cause injury, grief, or pain.⁸⁰ Here, the Farm Manager and Catchers killed chickens in a painful manner; moreover, since the killings do not comport with Virginia’s definition of “euthanasia” and violate standard industry practices, they are not exempt as “farming activities.”⁸¹

In the agricultural context, killing animals with “impair[ed] health or bodily function”⁸² is considered “euthanasia,”⁸³ and is a permissible standard practice, as long as the killing is

⁷⁷ Incident Nos. 4, 5.

⁷⁸ VA. CODE ANN. § 3.2-6570(A)(ii).

⁷⁹ See Moyer, THE WASHINGTON POST, *supra* note 7 (video at 1:06 showing similar undercover footage of cruel killings/improper euthanasia used in successful prosecution).

⁸⁰ See *supra* note 55 (discussing that “cruelly” is part of the *actus reus* analysis).

⁸¹ VA. CODE ANN. § 3.2-6500.

⁸² VA. CODE ANN. § 3.2-6503.1.

⁸³ VA. CODE ANN. § 3.2-6500 (emphasis added).

“accomplished by a method that involves **instantaneous unconsciousness and immediate death** or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.”⁸⁴ The standard industry method for euthanizing chickens is called “rapid cervical dislocation” because it cleanly separates their neck vertebrae.⁸⁵ To perform the technique properly and prevent prolonged suffering, a person must hold a chicken near the feet, below the hocks, and then carefully “place the other hand’s thumb and index finger at the base of the skull on either side of the head,” and “rotate the head backward while pulling straight down on the neck.”⁸⁶ Workers then must verify that the animal has died by observing for rhythmic breathing and touching the eye to check for blink reflexes.⁸⁷ The NCC Guidelines demonstrate this procedure in a clear, four-step diagram.⁸⁸

⁸⁴ *Id.* Jannat Farm never administered anesthesia or painlessly rendered birds unconscious before killing them; therefore, only the first method of euthanasia is relevant.

⁸⁵ NCC Guidelines, *supra* note 6, at App. 5.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

How To Perform Cervical Dislocation

1. Grasp the chicken near the feet or below the hocks using the non-dominant hand. Do NOT hold between the hocks and thigh.
 
2. Place the other hand's thumb and index finger at the base of the skull on either side of the head. Using your leg for support as necessary, rotate the head backward while pulling straight down on the neck.
 


3. When you feel complete separation of the neck vertebrae place the bird on its back on the ground. Reflexive wing flapping and leg movement will occur for several minutes.
 

4. To verify death observe for rhythmic breathing, and touch the eye to check for blink reflex.
 

Center for Food Animal Wellbeing
 DIVISION OF AGRICULTURE
U of A RESEARCH & EXTENSION
 University of Arkansas System

Using improper and ineffective methods of cervical dislocation—which do not instantaneously render animals unconscious—falls outside the definition of “euthanasia,” violates industry standards, snaps the necks of birds causing them to suffer, and therefore constitutes a criminal act.

In each recording of the Manager, Mr. W., killing a chick or chicken, Mr. W. held the animals above the hocks and held them upright—which the industry manual expressly states is

improper.⁸⁹ Then, rather than placing his hand by the base of their skulls and pulling their heads away from their bodies in a single motion, he repeatedly tugged their necks down towards their bodies.⁹⁰ In one video, Mr. W. tugs the neck of a small chick 8 times in an attempt to kill the bird.⁹¹ Similarly, in the two recordings of Catchers killing chickens, the workers snapped the birds' necks by pulling them in the wrong direction.⁹² In one Incident, a Catcher pulled the chicken's head completely off, and the headless body spasmed on the ground.⁹³

Because Mr. W. and the catch crew workers did not follow standard industry practice, their acts did not cause “instantaneous unconsciousness and immediate death” as required to meet the definition of euthanasia under Virginia law, and their acts are not exempt as a standard “farming activity.”⁹⁴ Instead, as is clear from the videos, these killings were ineffective, caused pain and suffering, and were therefore “cruel[.]” Since “cruelly killing” animals is a strict liability crime in Virginia,⁹⁵ Mr. W. committed three Class 1 misdemeanors and each catch crew worker committed one Class 1 misdemeanor for cruelly killing the chickens on Jannat Farm.

ii. Each Killing Also Violates the Law Because it is “Ill-Treatment” and “Torture.”

Incident Nos. 1–5 show violations of Virginia’s animal cruelty law for a second (and third) reason; Mr. W. and the Catchers’ conduct amounts to ill-treatment and torture. As discussed above,⁹⁶ “ill-treatment” is the broadest category of criminal conduct in Virginia’s cruelty law; it

⁸⁹ Compare Incident Nos. 1, 2, 3 with NCC Guidelines, *supra* note 6 at App. 5 (requiring workers to grasp chickens “near the feet or below the hocks”)

⁹⁰ Compare Incident Nos. 1, 2, 3 with NCC Guidelines, *supra* note 6 at App. 5 (explaining the proper technique for separating the neck vertebrae).

⁹¹ Incident No. 1.

⁹² Incident Nos. 4 & 5.

⁹³ Incident No. 4.

⁹⁴ VA. CODE ANN. § 3.2-6500.

⁹⁵ As discussed below, the prosecution could easily establish that Mr. W. and the catch crew workers acted with criminal negligence if a court (improperly) required this showing.

⁹⁶ See *supra* notes 53, 54.

entails “improper” conduct (*i.e.*, conduct outside the norm) that causes injury or pain.⁹⁷ For the reasons described in Section (i) above, Mr. W. and the Catchers did not follow industry standards when killing birds on the Farm, and their conduct was therefore “improper”; in addition, because they did not follow industry norms, they snapped the birds’ necks and caused them to feel pain. Indeed, by yanking on birds’ necks up to 8 times—and in one instance, hard enough to pull the head clean off the body—Mr. W. and the Catchers caused pain that was both “extreme” and “unreasonable,” and therefore amounts to torture.⁹⁸ Again, both “ill-treatment” and “torture” are strict liability crimes in Virginia,⁹⁹ so the guilty acts are sufficient to establish a violation of the law. Accordingly, Mr. W. committed three Class 1 misdemeanors and each catch crew worker committed one Class 1 misdemeanor for “ill-treating” and “torturing” the animals they killed on Jannat Farm.

iii. Each Killing Violates the Law Because it Involves “Willful Infliction of Inhumane Pain or Injury.”

Finally, in Incident Nos. 1–5, Mr. W. and the Catchers violated Virginia’s animal cruelty law because they willfully inflicted inhumane pain and injury.

A “willful” act or omission is “voluntary and intentional but not necessarily malicious,” and “ma[kes] it not improbable that injury [will] be occasioned”; in addition, the Defendant must know or be “charged with the knowledge of[] the probable results of her acts.”¹⁰⁰ In other words, a willful act “involves conscious wrong . . . or at least inexcusable carelessness, whether the act is right or wrong.”¹⁰¹ Here, the Manager and Catchers—poultry industry workers whose jobs require

⁹⁷ See *supra* note 53 (discussing ill-treatment).

⁹⁸ See *supra* note 54 (discussing torture).

⁹⁹ As discussed below, the prosecution could easily establish that Mr. W. and the Catchers acted with criminal negligence if a court (improperly) required this showing.

¹⁰⁰ *Pelloni*, 65 Va. App. 733, 741 (2016); *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004). See also *supra* note 61 (discussing “willfulness” standard).

¹⁰¹ See *Pelloni*, 65 Va. App. at 739.

ethanizing birds—knew, or were charged with knowing, the proper technique for euthanasia and that these techniques are designed specifically to prevent the pain and suffering of animals. Mr. W., in particular, has managed Jannat Farm for 8 years and is, therefore, a highly experienced worker in the poultry industry tasked with this knowledge. By holding birds improperly, violently snapping their necks in the wrong directions, and thereby disregarding standard practices for euthanasia, Mr. W. and the Catchers committed conscious wrongs, or at least showed “inexcusable carelessness” in causing injury and pain before ultimately killing the animals. Their failure to check the birds for breathing or blink reflexes after killing them, as required by industry standards, further confirms their inexcusable carelessness.¹⁰² The “pain and injury” was, of course, “inhumane,” because it is contrary to a bird’s health and well-being to have its neck yanked and snapped.¹⁰³

Accordingly, Mr. W. committed three Class 1 misdemeanors and each catch crew worker committed one Class 1 misdemeanor for “willfully inflicting inhumane pain or injury” in killing animals on Jannat Farm.¹⁰⁴

B. Catchers Committed Criminal Acts when They Threw, Kicked, and Roughly Handled Birds While Collecting Them to Bring to Slaughter.

In a dozen videos, catch crew workers can be seen throwing, kicking, and roughly handling chickens.¹⁰⁵ Each instance is a distinct criminal act: throwing, kicking, and rough handling chickens amounts to (1) ill-treatment and (2) willful infliction of inhumane injury or pain. Further, because kicking, throwing, and rough handling is a non-standard practice, it does not fall within

¹⁰² Compare Incident Nos. 1–5 with NCC Guidelines, *supra* note 6 at App. 5 (requiring workers to “verify death”).

¹⁰³ See *supra* note 52 and accompanying text for discussion of “inhumane.”

¹⁰⁴ Since Mr. W. and the Catchers acted willfully when killing the chickens on Jannat Farm, they satisfy the lesser *mens rea* of criminal negligence as well. Therefore, if a court (improperly) inferred a *mens rea* element for “ill-treatment” and “torture,” the prosecution could easily make this showing.

¹⁰⁵ Incident Nos. 63–75.

the “farming activities” exemption in the cruelty law.¹⁰⁶ Indeed, Virginia prosecutors have used similar footage in successful prosecutions for animal cruelty.¹⁰⁷

First, the Catchers violated the “ill-treatment” provision of the cruelty law by kicking, throwing, and roughly handling birds. Conduct amounts to “ill-treatment” if it is “improper” (*i.e.*, outside of normal practices) and causes injury or pain,¹⁰⁸ and kicking, throwing, and rough handling animals violates industry practice. The NCC Guidelines, addressing “Catching and Transportation,” state that “Birds must never be thrown.”¹⁰⁹ These Guidelines also list (in bold lettering) acts that “put chicks or broilers in immediate danger,” and these acts include “kicking” and “throwing” birds.¹¹⁰ Since kicking and throwing chickens during catching violates industry norms and hurts birds, it is an “improper” practice that amounts to ill-treatment. As discussed above, ill-treatment is a strict liability crime in Virginia and the prosecution need not prove any *mens rea* element to convict the catch crew workers.¹¹¹

In addition, workers “willfully inflicted inhumane injury or pain” when they kicked, threw, and otherwise roughly handled birds. A “willful” act or omission is “voluntary and intentional but not necessarily malicious,” and “ma[kes] it not improbable that injury [will] be occasioned”; the Defendant must also know or be “charged with the knowledge of[] the probable results of her

¹⁰⁶ VA CODE ANN. § 3.2-6500. Not only is rough-handling birds a non-standard practice, but it is, moreover, contrary to the purpose of “farming activities,” which is to provide food. Kicking, throwing, and rough handling birds only serves to injure and bruise chickens and lower their likelihood of being usable for food.

¹⁰⁷ See Moyer, THE WASHINGTON POST, *supra* note 7 (video at 1:00 showing similar footage of workers kicking and throwing birds used in successful prosecution).

¹⁰⁸ See *supra* note 53 (discussing ill-treatment).

¹⁰⁹ NCC Guidelines, *supra* note 6 at 13 (Catching and Transportation); *id.* at 18 (Abuse and Audit Failure).

¹¹⁰ NCC Guidelines, *supra* note 6 at 13 (Catching and Transportation); *id.* at 18 (Abuse and Audit Failure).

¹¹¹ See *supra* note 64 and accompanying text. Since the catch crew workers acted willfully when kicking, throwing, and rough handling the chickens on Jannat Farm, as discussed below, they satisfy the lesser *mens rea* of criminal negligence as well. Therefore, if a court (improperly) inferred a *mens rea* element for “ill-treatment,” the prosecution could easily make this showing.

acts.”¹¹² The Catchers acted “willfully” because, as the video evidence shows, they intended to kick, throw, and roughly handle the birds and did not do so accidentally. In addition, as poultry industry workers, the Catchers knew—or at least was charged with knowing—that throwing, kicking, and rough handling birds is wrong because it violates industry Guidelines that state “[b]irds must never be thrown,” and lists “kicking” and “throwing” as dangerous acts.¹¹³ Finally, the pain and injury that these birds endured from being kicked, thrown, and roughly handled, is “inhumane” because it is contrary to their health and well-being¹¹⁴—indeed, that is why the NCC Guidelines proscribe this conduct.

Accordingly, the Catchers are guilty of thirteen counts of misdemeanor animal cruelty; one count for each Incident in which a worker kicked, threw, or roughly handled birds on Jannat Farm.

C. Mr. W. and Ms. W. Violated Virginia’s Animal Cruelty Law by Leaving Injured, Sick, and Deformed Birds to Suffer and Die.

Over six weeks, Mr. W. and Ms. W. left countless birds to die from injuries and wounds, leading to some of the worst suffering documented on Jannat Farm.¹¹⁵ Failure to either provide veterinary treatment or euthanize these birds violates several provisions of Virginia’s animal cruelty law: (1) ill-treatment, (2) torture, and (3) willful infliction of inhumane injury or pain.¹¹⁶

First, by leaving these animals to suffer, Mr. W. and Ms. W. are guilty of ill-treatment and torture under Virginia law. As discussed above, a person can be guilty of ill-treatment and torture based on either acts or omissions.¹¹⁷ On Jannat Farm, Mr. W. and Ms. W. were responsible for walking the houses every day, if not twice a day, and euthanizing birds who were too impaired to

¹¹² *Pelloni*, 65 Va. App. 733, 741 (2016); *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004). *See also supra* note 61 (discussing “willfulness” standard).

¹¹³ NCC Guidelines, *supra* note 6 at 13 (Catching and Transportation); *id.* at 18 (Abuse and Audit Failure).

¹¹⁴ *See supra* note 52.

¹¹⁵ Incident Nos. 6–62.

¹¹⁶ VA CODE ANN. § 3.2-6570(A)(i),(ii).

¹¹⁷ *See supra* notes 53, 54 and accompanying text.

survive;¹¹⁸ by failing to perform this job, they caused birds to endure pain and suffering. In multiple clips, birds can be seen:

- With abnormal gaits, struggling to walk;¹¹⁹
- attempting to move by writhing on the ground, with their legs positioned unnaturally on either side of their bodies;¹²⁰
- suffering from severe injuries to their heads, wings, necks, and eyes—in some instances, to the extent that their skulls and tendons were exposed;¹²¹ and
- lying on the ground, struggling to breathe.¹²²

Leaving birds in these conditions is “improper” because it violates standard industry practice, which is to euthanize chickens when they are unable to grow and develop normally.¹²³ And because the pain and suffering was visibly “intense” and “unreasonable,” leaving birds in these conditions amounts to torture.¹²⁴ The prosecution need not establish any *mens rea* to convict Mr. W. and Ms. W. under these provisions.¹²⁵

In addition, Mr. W. and Ms. W.’s failure to euthanize violates Virginia law as a willful infliction of inhumane pain or injury.¹²⁶ As discussed above, Virginia courts have found omissions to be willful where they “created a situation reasonably calculated to produce injury, or which made it not improbable that injury would be occasioned, and [the Defendant] knew, or was charged

¹¹⁸ Incident No. 166

¹¹⁹ See, e.g., Incident Nos. 19, 20, 43, 45, 56, 59.

¹²⁰ See, e.g., Incident No. 7.

¹²¹ See, e.g., Incident Nos. 8–10, 12–16.

¹²² See, e.g., Incident No. 11.

¹²³ See NCC Guidelines, *supra* note 6 (When necessary, birds must be properly euthanized.”).

¹²⁴ See *supra* note 54 (discussing torture).

¹²⁵ See *supra* note 64 and accompanying text. Regardless, since Mr. W. and Ms. W. acted willfully, as discussed below, they satisfy the lesser *mens rea* of criminal negligence as well. Therefore, if a court (improperly) inferred a *mens rea* element for “ill-treatment” and “torture” the prosecution could easily make this showing.

¹²⁶ VA CODE ANN. § 3.2-6570(A)(ii).

with the knowledge of, the probable results of her acts.”¹²⁷ Here, Mr. W. openly admitted that he and Ms. W. do not euthanize birds nearly as much as they should because it takes too much effort.¹²⁸ In one conversation, Mr. W. told the Investigator:

[Tyson’s Advisor] bitches at me a lot about that because I don’t cull that much. Oh well. *laughs* I don’t like to cull a ton of ‘em. ‘Cause I’ll be in here all day, if I just cull.¹²⁹

In fact, in the same incident, Mr. W. pointed to several birds, including a bird that wasn’t moving, and told the Investigator, “that’s part of what needs to be culled . . . They’re just fucked up.” Then, instead of culling the birds, he laughed, walked on, and left the birds to suffer.¹³⁰ Since Mr. W. voluntarily left these birds, even though he knew they would continue suffering if he left them, his failure to euthanize was “willful.”

Ms. W. also acted willfully in failing to euthanize chicks and chickens on Jannat Farm. Because she and Mr. W. were responsible for walking the houses every day, if not twice a day, to pick up dead birds and euthanize suffering birds,¹³¹ she knew—or at least was charged with knowing—that injured, sick, and deformed birds would be left to suffer if she failed to do her job. Nevertheless, Ms. W. did not walk through the houses every day; instead, like Mr. W., she voluntarily skipped days altogether,¹³² and even when she did walk houses, she refused to cull because she did not like to.¹³³

Accordingly, under all three provisions discussed above, Ms. W. and Mr. W. violated Virginia law by failing to euthanize birds. In total, the Investigator documented 59 chicks and

¹²⁷ See *supra* note 61 (citing *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004); *Sutter v. Commonwealth*, 2018 WL 4567680, at *7 (Va. Ct. App. Sept. 25, 2018); *Pelloni*, 65 Va. App. 733, 741 (2016)).

¹²⁸ Incident Nos. 6, 17.

¹²⁹ Incident No. 6.

¹³⁰ *Id.*

¹³¹ Incident No. 166

¹³² Incident No. 164.

¹³³ Incident No. W-1.

chickens who were left to suffer¹³⁴; therefore, ██████████ should bring up to 59 charges for misdemeanor animal cruelty against Mr. W. and Ms. W. At a bare minimum, ██████████ ██████████ should charge Mr. W. with three counts of animal cruelty based on Incident No. 6, in which Mr. W. pointed out three birds who needed to be culled but did not euthanize them.

D. ██████████, **Mr. W., and Ms. W. Violated Virginia's Cruelty Law by Subjecting the Birds to Harmful and Inadequate Living Conditions.**

██████████, Mr. W., and Ms. W. subjected the birds on Jannat Farm to deplorable living conditions, which Virginia's courts have previously found violates Virginia law.¹³⁵

Throughout the grow-out period, the following conditions on Jannat Farm harmed the animals: water-lines leaked and soaked birds;¹³⁶ litter became so water-logged that birds injured their feet and legs;¹³⁷ moisture built up to the extent that water droplets visibly accumulated on the ceilings;¹³⁸ ammonia levels reached toxic levels due to poor ventilation and moisture buildup;¹³⁹ rats and black bugs infested the feed and bit the birds;¹⁴⁰ birds died (and were left) in the feed trays and throughout the houses;¹⁴¹ and the houses were in general disrepair, riddled with holes, and lacking insulation.¹⁴² The Farm Owner, Manager, and Ms. W. all contributed to this disrepair. Mr. W., admitted that he and Ms. W. refuse to perform the necessary work on the Farm (*e.g.*, repairing water lines, turning over litter, patching holes, fixing fans and ventilation, and changing out bug infested feed) because they feel the Owner underpays and underappreciates them.¹⁴³ Mr.

¹³⁴ Incident Nos. 6–62.

¹³⁵ See *Ingram v. Commonwealth*, 74 Va. App. 59, 78 (2021).

¹³⁶ Incident Nos. 103–120.

¹³⁷ Incident No. 104. Litter became so water-logged that when the Investigator squeezed it, dirty brown water streamed out.

¹³⁸ Incident Nos. 119, 120.

¹³⁹ Incident Nos. 99–102.

¹⁴⁰ Incident No. 121.

¹⁴¹ Incident Nos. 143–160.

¹⁴² Incident Nos. 93–95, 122.

¹⁴³ Incident No. 162.

W. also recognized that, as a result, the Farm is largely neglected.¹⁴⁴ For his part, ██████████, the Owner, was ultimately responsible for the conditions on his Farm, yet he failed to take necessary, corrective steps—even when doing so was free. For example, ██████████ did not spray for black bugs between flocks, even though Tyson covers the cost of spraying.¹⁴⁵

By subjecting birds to these conditions on Jannat Farm, these Proposed Defendants violated three provisions of Virginia’s cruelty law: (1) they “ill-treated” the animals, (2) they deprived animals of necessary shelter, and (3) they willfully inflicted injury or pain.

i. ██████████ Mr. W., and Ms. W. Ill-Treated Animals by Subjecting them to Harmful and Inadequate Living Conditions.

First, because they subjected animals to the conditions on Jannat Farm, ██████████, Mr. W, and Ms. W. are guilty of “ill-treat[ing]” animals. To constitute “ill-treatment,” an act or omission be “improper” (*i.e.*, contrary to norms) and cause injury or pain.¹⁴⁶

The conditions on Jannat Farm were “improper” because they violated standard industry practices. The NCC Guidelines describe industry standards for maintain ammonia levels and litter condition. Regarding ammonia levels, the Guidelines provide:

Ammonia in the atmosphere must not exceed 25 parts per million [ppm] at bird height. A documented ammonia monitoring program must be in place which must include appropriate corrective actions should the maximum ammonia level be exceeded.”¹⁴⁷

The NCC Guideline is in place because ammonia levels above 25 ppm are toxic to chickens.¹⁴⁸

On Jannat Farm, however, the Investigator documented ammonia levels in House 6 that regularly fluctuated between 25 and 30 parts per million.¹⁴⁹ To Animal Outlook’s knowledge, no program

¹⁴⁴ Incident Nos. 162–63.

¹⁴⁵ Incident No. 121.

¹⁴⁶ See *supra* note 53 (discussing ill-treatment).

¹⁴⁷ See NCC Guidelines, *supra* note 6 at 10 (Comfort and Shelter).

¹⁴⁸ See Ammonia Toxicity, POULTRYDVM, (last visited Nov. 29, 2022), available at

<http://www.poultrydvm.com/condition/ammonia-burn#:~:text=Ammonia%20toxicity%20refers%20to%20an,ppm%20are%20toxic%20to%20chickens.>

¹⁴⁹ Incident Nos. 99–102.

was in place for monitoring these levels, and [REDACTED] Mr. W., and Ms. W. never took corrective actions.

Regarding litter conditions, the NCC Guidelines provide:

Litter should be loosely compacted when squeezed in the hand. If the litter remains in a clump when it is squeezed in the hand, it is too wet. A minimum of two houses must be evaluated for litter moisture.¹⁵⁰

On Jannat Farm, litter became so water-logged that when the Investigator squeezed it, dirty brown water streamed out.¹⁵¹ To Animal Outlook’s knowledge, Mr. [REDACTED] Mr. W., and Ms. W. never evaluated any houses for litter moisture, let alone took corrective actions to correct this issue.

The improper conditions on Jannat Farm demonstrably hurt and injured the animals. First, as the NCC Guidelines make clear, “foot pad health” strongly indicates whether “[l]itter, ventilation, drinking systems, and feed formulations” are properly managed.¹⁵² Accordingly, Appendix 4 of the NCC Guidelines provides the American Association of Avian Pathologists’ pass/fail “Broiler Paw Scoring Guide.” Indications of poor welfare include erosions, ulceration, or scab formation that covers more than half of the foot pad, and hemorrhages or swelling of the foot pad.¹⁵³ On Jannat Farm, the investigator documented the pads of chicken’s feet, which were covered in erosions, ulcerations, and scabs, indicating that the conditions violated industry norms and were harming the animals.¹⁵⁴ In addition to showing foot-pad damage, many videos depict chickens covered in mud, with wet feathers and injured legs, stuck and lying down in water-logged litter and shivering.¹⁵⁵ The suffering is palpable in these clips.

¹⁵⁰ See NCC Guidelines, *supra* note 6 at 10 (Comfort and Shelter).

¹⁵¹ Incident No. 104.

¹⁵² See NCC Guidelines, *supra* note 6 at 10 (Comfort and Shelter).

¹⁵³ *Id.*

¹⁵⁴ See, e.g., Incident Nos. 178–180. It is well-established in the industry that injury to chickens’ “paws” results from water-logged and unclean litter and poor ventilation. See NCC Guidelines, *supra* note 6 at 10 (Comfort and Shelter); *id.* App. 4 (describing severe damage to feet as erosions, ulceration, or scab formation covering more than half the foot pad and sometimes the toes).

¹⁵⁵ Incident Nos. 6–62, 143–160, 105–117.

For the reasons discussed above, “ill-treat[ment]” is a strict liability crime in Virginia. Therefore, ██████████ need not establish *mens rea* to prosecute Mr. ████████ Mr. W, and Ms. W. for subjecting animals to deplorable living conditions.¹⁵⁶

ii. ████████ ████████ Mr. W., and Ms. W. Deprived Animals of Necessary Shelter by Subjecting them to Harmful and Inadequate Living Conditions.

In addition to “ill-treat[ing]” birds by subjecting them to deplorable living conditions, the Proposed Defendants deprived them of necessary shelter. Under Virginia law, shelter is only “adequate” if it “protects each animal from injury . . . physical suffering, and impairment of health” and “is properly cleaned.”¹⁵⁷

The chicken houses on Jannat Farm did not provide adequate shelter: the water-logged litter injured chickens’ legs and feet; the bugs bit the chickens and caused physical suffering; the leaking water lines and moisture buildup soaked the birds and caused them to suffer physically; and the toxic ammonia levels impaired their health. Moreover, given the bug and rat infestations and the dead birds in feed trays, it is clear that the shelters were not “properly cleaned”; indeed, Mr. W. and Ms. W. admitted to skipping days when they were supposed to walk through and clean the chicken houses.¹⁵⁸

Accordingly, by subjecting the animals to deplorable living conditions, Mr. ████████ Mr. W., and Ms. W. violated a second provision of Virginia’s cruelty law: depriving animals of shelter. Like “ill-treat[ment],” depriving animals of shelter is a strict liability crime in Virginia, so ████████ need not establish *mens rea* to bring this charge.¹⁵⁹

¹⁵⁶ See *supra* note 64 and accompanying text. Regardless, since Mr. W. and Ms. W. acted willfully, as discussed below, they satisfy the lesser *mens rea* of criminal negligence as well. Therefore, if a court (improperly) inferred a *mens rea* element for “depriv[ation] of feed” and “ill-treatment” the prosecution could easily make this showing.

¹⁵⁷ VA. CODE ANN § 3.2-6500.

¹⁵⁸ Incident No. 164.

¹⁵⁹ See *supra* note 64 and accompanying text. Regardless, since Mr. W. and Ms. W. acted willfully, as discussed below, they satisfy the lesser *mens rea* of criminal negligence as well. Therefore, if a court

iii. Mr. [REDACTED] Mr. W., and Ms. W. Willfully Inflicted Inhumane Pain or Injury by Subjecting Animals to Harmful and Inadequate Living Conditions.

Finally, by subjecting birds to deplorable living conditions, [REDACTED] Mr. W., and Ms. W. also violated the provision in Virginia’s cruelty law that proscribes “willfully inflicting inhumane pain or injury.”¹⁶⁰ Virginia courts have found omissions to be willful where they “created a situation reasonably calculated to produce injury, or which made it not improbable that injury would be occasioned, and [the Defendant] knew, or was charged with the knowledge of, the probable results of her acts.”¹⁶¹ All three Proposed Defendants acted willfully in creating the painful and injurious conditions on the Farm.

First, Mr. W. and Ms. W. openly discussed the inadequate Farm conditions, including the black bug infestation,¹⁶² the rat problem,¹⁶³ the holes in the houses,¹⁶⁴ the general disrepair,¹⁶⁵ and the snakes and feral cats that enter the houses.¹⁶⁶ As noted above, Mr. W. admitted that he and Ms. W. refuse to perform all necessary repairs on the Farm,¹⁶⁷ and that the Farm is largely neglected.¹⁶⁸ Finally, Mr. W. and Ms. W. had conversations acknowledging that the conditions were harmful and painful to the chickens. For example, Mr. W. and Ms. W. had a conversation with the Investigator and Ms. [REDACTED] (Tyson’s Broiler Technician), in which they acknowledged that black bugs hurt the chickens.¹⁶⁹ Mr. W. also told the Investigator that wet litter hurts the

(improperly) inferred a *mens rea* element for “depriv[ation] of feed” and “ill-treatment” the prosecution could easily make this showing.

¹⁶⁰ VA CODE ANN. 3.2-6570(A)(ii).

¹⁶¹ See *supra* note 61 (discussing *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004); *Sutter v. Commonwealth*, 2018 WL 4567680, at *7 (Va. Ct. App. Sept. 25, 2018); *Pelloni* 65 Va. App. 733, 741 (2016)).

¹⁶² Incident No. 121.

¹⁶³ Incident No. 129.

¹⁶⁴ Incident No. 93.

¹⁶⁵ *Id.*

¹⁶⁶ Incident No. 125.

¹⁶⁷ Incident No. 162.

¹⁶⁸ Incident No. 163.

¹⁶⁹ Incident No. 121.

chickens feet.¹⁷⁰ Accordingly, by leaving the Farm in disrepair, Mr. W. and Ms. W. knew they were creating a situation reasonably calculated to produce injury and pain.

Mr. [REDACTED] also acted willfully in his capacity as the Farm's owner. As the owner of a poultry-growing operation, Mr. [REDACTED] knew, or was charged with knowing, that failing to spray for bugs (even though doing so is free), failing to pay for repairs to holes and insulation, and failing to repair leaking water lines created deplorable living conditions for thousands of animals and that these animals would suffer.¹⁷¹ In fact, as the Farm Manager conveyed to the Investigator, Mr. [REDACTED] was worried that Ms. [REDACTED] would report the conditions on the Farm, and that Tyson would shut it down.¹⁷² If the Farm Owner knew that Farm conditions were so poor as to warrant closure, then he also knew they would probably cause injury and pain.

For all these reasons, Mr. [REDACTED] Mr. W., and Ms. W. violated Virginia law by (1) ill-treating the animals, (2) depriving them of necessary shelter, and (3) willfully causing them to suffer inhumane injury and pain. While these violations amount to many counts of misdemeanor animal cruelty, [REDACTED] should charge these actors with, at minimum, 9 counts—one for each bird depicted shivering, stuck in water-logged litter, and exhibiting macerated, sored paws.¹⁷³

E. **Mr. W. and Ms. W. Deprived Animals of Water in Violation of Virginia's Cruelty Law.**

VA Code Ann. 3.2-6570(A)(iii) prohibits any person from “depriv[ing] any animal of necessary . . . drink.” The definition of “adequate water” provides guidance for when animals are deprived of this necessity.¹⁷⁴ In relevant part, “‘adequate water’ means provision of and access to

¹⁷⁰ Incident No. 161.

¹⁷¹ Incident No. 16.

¹⁷² *Id.*

¹⁷³ Incident Nos. 103, 105, 109, 110, 113, 116, 117.

¹⁷⁴ VA CODE ANN. § 3.2-6500.

clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals . . . to maintain normal hydration for the age, species, condition, size and type of each animal.”¹⁷⁵ To be “adequate,” water must be “accessible to each animal.”¹⁷⁶ Likewise, the NCC Guidelines specify that watering systems must be “easily accessible by all birds,” and that “water consumption must be routinely monitored.”¹⁷⁷

On several occasions, Mr. W. and Ms. W. deprived the birds on Jannat Farm of water, thereby violating Virginia’s animal cruelty law.

First, on September 27 and 28, 2022, when the birds were still chicks in their first week on the Farm, Mr. W. “forgot” to lower the water lines for an entire day in a section of House 4.¹⁷⁸ On September 27, the Investigator recorded himself telling Mr. W. that the chicks in House 4 did not have access to water, which Mr. W. acknowledged.¹⁷⁹ The next day, on September 28, the Investigator entered House 4 to find that Mr. W. still had not lowered the water lines.¹⁸⁰ The video shows a noticeable difference in the birds; many were weak and lethargic, and others had died.¹⁸¹ When the Investigator told Mr. W., Mr. W. said that he had forgotten to lower the lines.¹⁸²

Second, on November 4, 2022—a full day after House 4 had been cleared—the Investigator documented a bird the Catchers had left behind.¹⁸³ Since Mr. W. had turned off the water lines, and he and Ms. W. had neglected to check House 4 after pick-up, the bird was deprived of water for the entire day.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ See NCC Guidelines, *supra* note 6 at 9 (Nutrition and Feeding).

¹⁷⁸ Incident Nos. 89, 76.

¹⁷⁹ Incident No. 89.

¹⁸⁰ Incident No. 76.

¹⁸¹ *Id.*

¹⁸² Incident No. W-2.

¹⁸³ Incident No. 80.

Finally, in addition to the above-specified instances, Mr. W. and Ms. W. did not make water accessible to the smaller birds throughout the six weeks the flock was on Jannat Farm.¹⁸⁴ Therefore, videos show birds jumping repeatedly underneath a water dispenser in several unsuccessful attempts to get access to water.¹⁸⁵ When the Investigator lifted these birds, they drank for extended periods of time.¹⁸⁶ Because Mr. W. and Ms. W. did not make water accessible to these smaller birds, they violated Virginia law and industry norms, both of which provide that water must be accessible to “each animal” to be “adequate.”¹⁸⁷

For the reasons discussed above, depriving animals of water is a strict liability crime, and the prosecution need not show *mens rea*.¹⁸⁸ However, if a court were to (wrongly) infer a *mens rea* element in the statute (which would be criminal negligence, by default),¹⁸⁹ the prosecution could easily show that Mr. W. and Ms. W. acted with criminal negligence.

A defendant demonstrates criminal negligence when he remains “indifferent,” even though he knows or should know the probable consequences of his acts.¹⁹⁰ First, the fact that Mr. W. “forgot” to provide water for an entire day from September 27–28, after being reminded, shows his indifference to whether the birds had adequate water. Second, on October 17, 2022, Mr. W. told the Investigator he was surprised a small bird was still alive because it couldn’t get to water,¹⁹¹ but he did not adjust the water lines, make any effort to provide another water source, or even cull the smaller bird. Mr. W.’s comment, coupled with his inaction, shows indifference to whether the

¹⁸⁴ See, e.g., Incident Nos. 77 (bird stuck in feed bowl cannot access water); No. 88 (bird cannot support itself to access water, Investigator helps); No. 79 (small bird unsuccessfully jumping in attempt to access water lines).

¹⁸⁵ Incident No. 79.

¹⁸⁶ Incident Nos. 77, 78.

¹⁸⁷ VA CODE ANN. § 3.2-6500; NCC Guidelines, *supra* note 6 at 9 (Nutrition and Feeding).

¹⁸⁸ See *supra* note 64 and accompanying text.

¹⁸⁹ See *supra* note 72 and accompanying text.

¹⁹⁰ *Ellis v. Commonwealth*, 29 Va. App. 548, 557 (1999).

¹⁹¹ Incident No. 84.

smaller birds would die from their inability to reach water lines. Finally, Mr. W. and Ms. W. showed “indifference” by turning off the water lines after the catch crew picked up the birds—without even a cursory check to see if any birds were left in the houses.

Based on the above Incidents, ██████████ should prosecute Mr. W. and Ms. W. for (1) up to 3 counts of misdemeanor animal cruelty, for the 3 birds the Investigator needed to lift to reach water lines¹⁹² and (2) one count of misdemeanor animal cruelty for depriving a bird of water on November 4, 2022.¹⁹³ ██████████ should also prosecute Mr. W. for depriving birds of water on September 27 and 28; at minimum, these charges should include 4 counts, one for each dead animal the Investigator documented in the area without water.¹⁹⁴

F. **Mr. W., Ms. W., and ██████████ (Tyson’s Broiler Technician) Deprived Birds on Jannat Farm of Food in Violation of Virginia’s Cruelty Law.**

Not only did Mr. W. and Ms. W. deprive the birds on Jannat Farm of water, as discussed above, but on several occasions, Mr. W., Ms. W., and ██████████ (the Tyson Advisor who replaced Ms. ██████████) also deprived them of food. Here, again, Virginia’s definition of “adequate feed” is instructive. In relevant part, to be “adequate,” feed must be “of sufficient quantity and nutritive value to maintain each animal in good health,” “provided at suitable intervals for the species, age, and condition of the animal, but at least once daily,” “provided in a clean and sanitary manner,” and “placed so as to minimize contamination by excrement and pests.”¹⁹⁵ In addition, the NCC Guidelines specify that under standard industry practice, “[f]eed withdrawal must not exceed 18 hours prior to slaughter.”¹⁹⁶

¹⁹² Incident Nos. 76–92.

¹⁹³ Incident No. 80.

¹⁹⁴ Incident Nos. 89, 76.

¹⁹⁵ VA CODE ANN. § 3.2-6500.

¹⁹⁶ See NCC Guidelines, *supra* note 6 at 10 (Health Care and Monitoring).

First, before the birds were even delivered, the Investigator documented a conversation he had with Mr. W., Ms. W., and Ms. [REDACTED] in which all parties recognized that the feed was infested with bugs, posing a mortality risk to the birds because bugs do not have nutritional value.¹⁹⁷ The Investigator documented one such feed tray that was crawling with black bugs.¹⁹⁸ Moreover, throughout the grow-out period, rats infested the feed trays, and birds died—and were left by Mr. W. and Ms. W.—in the trays.¹⁹⁹ Since the feed was contaminated by bugs (to such a degree that it could deplete the “nutritive value”),²⁰⁰ rats, and dead birds, it was inadequate under Virginia law.

Second, at numerous times throughout the grow-out period, Mr. W. and Ms. W. neglected to fill the feed trays, leaving birds without access to any food whatsoever.²⁰¹

Third, between November 2–3, 2022, before the birds were picked up for slaughter, House 6 (with nearly 40,000 birds) ran out of feed. A delivery driver informed the Investigator of the issue on November 2,²⁰² and on November 3²⁰³ Tyson still had not replaced the feed, so the birds did not eat again prior to slaughter. Mr. W. told the Investigator, “it’s documented on my phone, I called [REDACTED] [from Tyson] and I told her. I let ‘em know.”²⁰⁴ Since Tyson did not provide feed for the birds to eat “at least once daily”²⁰⁵ and withdrew feed more than “18 hours prior to slaughter,”²⁰⁶ and [REDACTED] was the Tyson employee responsible for the feed delivery, she violated

¹⁹⁷ Incident No. 121.

¹⁹⁸ Incident No. 128.

¹⁹⁹ Incident Nos. 124, 126–27, 130, 143–160.

²⁰⁰ Incident No. 121.

²⁰¹ *See, e.g.*, Incident Nos. 85-87, 90.

²⁰² Incident No. 92.

²⁰³ Incident No. 88.

²⁰⁴ *Id.*

²⁰⁵ VA CODE ANN. § 3.2-6500.

²⁰⁶ *See* NCC Guidelines, *supra* note 6 at 10 (Health Care and Monitoring).

Virginia law and clear industry standards. (Tyson is also liable for this deprivation as discussed *infra*).

Finally, on November 4, 2022—a full day after the catch crew cleared House 4—the Investigator documented a bird who was still in the House. Throughout that entire day, since Mr. W. and Ms. W. did not check the houses, the bird did not have access to food. As discussed above, depriving animals of food is a strict liability crime in Virginia.²⁰⁷ Therefore, based on the above guilty acts, ██████████ should prosecute Mr. W., Ms. W., and ██████████ under VA Code Ann. § 3.2-6570(A)(iii).

G. Ms. ██████████, Tyson’s Broiler Technician Advisor, Violated Virginia Law by Willfully Setting on Foot and Furthering the Cruelty on Jannat Farm.

Finally, Ms. ██████████—Tyson’s Broiler Technician Advisor—is guilty of willfully setting on foot and furthering ill-treatment, torture, infliction of inhumane injury and pain, and deprivation of shelter on Jannat Farm.²⁰⁸ An act or omission is willful if it “create[s] a situation reasonably calculated to produce injury, or [] ma[kes] it not improbable that injury would be occasioned, and [the Defendant] knew, or was charged with the knowledge of, the probable results of her acts.”²⁰⁹ Here, all the cruelty described above was the “probable result[.]” of Ms. ██████████ inaction, and she “knew, or was charged with the knowledge” that this cruelty would ensue.²¹⁰

²⁰⁷ While depriving birds of feed is a strict liability crime, ██████████ can establish that ██████████, Mr. W., and Ms. W. acted with criminal negligence if a court (improperly) requires such a showing. A defendant demonstrates criminal negligence when she remains “indifferent,” even though she knows or should know that her conduct will probably result in “injury or illegality.” *Ellis v. Commonwealth*, 29 Va. App. 548, 557 (1999). ██████████ showed indifference by failing to ensure feed delivery on November 2–3, despite clear laws and industry guidelines, and despite that Mr. W. sent her a reminder. Since part of ██████████ job as Tyson’s Broiler Technician Advisor is “monitoring feed consumption,” she knew or should have known that failure to deliver feed for a full day violated the law and industry standards, and would harm the animals. Mr. W. and Ms. W. showed indifference for the same reasons described in Section D: they ignored their job duties with no consideration for the impact on the birds.

²⁰⁸ VA. CODE ANN. § 3.2-6570(A)(vi).

²⁰⁹ See *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004); see also *supra* note 61 (discussing “willfulness”).

²¹⁰ *Barrett v. Commonwealth*, 268 Va. at 184.

In September 2022, when Tyson delivered the new flock of chickens to Jannat Farm, Ms. [REDACTED] had already worked with Jannat Farm, on Tyson’s behalf, for over 7 years.²¹¹ In her capacity as Tyson’s Broiler Technician Advisor, it was her responsibility to, *inter alia*, make farm visits and “document[] bird comfort” and “management of the flock” for Tyson.²¹² In a number of conversations²¹³ with the Investigator, the Manager, and Ms. W., Ms. [REDACTED] made clear that, from her farm visits, she knew: (1) shelter conditions on Jannat Farm had been inadequate for years; (2) in September 2022, the shelter conditions were inadequate for the new flock; (3) these conditions would cause birds to suffer; and (4) the Manager and Ms. W. ill-treated birds. Specifically, before Tyson delivered the flock on September 22, Ms. [REDACTED] noted that there was a bug and rat infestation and, moreover, expressed that the problem could both harm the chickens and cause them pain. Regarding “pain,” Ms. [REDACTED] said, “the bugs are all along the walls, those things bite [the chickens]. They don’t like em. They hurt.”²¹⁴ Regarding “harm,” Ms. [REDACTED] noted that the bug infestation would deprive the chicks of nutrition, saying “The little baby chicks are just gonna peck at those bugs and then they’re gonna eat them and then they’re gonna die.”²¹⁵ Ms. [REDACTED] also noted that the houses had “a lot of holes”²¹⁶ and basically no insulation,²¹⁷ and that the water-logged litter from the leaking water lines would severely damage the chickens’ feet.²¹⁸

In addition to noting the deplorable conditions on Jannat Farm, Ms. [REDACTED] complained to the Investigator that, for years, the Manager had been indifferent to the poor condition of the

²¹¹ Incident No. W-3.

²¹² See *supra* note 22 (string citing Tyson job advertisements for Broiler Tech Advisors).

²¹³ Many of these conversations are transcribed in Section C of the Statement of Facts.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ Incident No. 122.

²¹⁷ Incident No. 121.

²¹⁸ Incident No. 161.

farm and unwilling to follow Tyson’s instructions or recommendations.²¹⁹ In fact, the Manager admitted to the Investigator that Ms. [REDACTED] and he speak openly about how the Farm and the birds are neglected,²²⁰ and, in particular, about how he and Ms. W. do not euthanize birds.²²¹ Indeed, at each Farm visit, Ms. [REDACTED] saw—or was charged with observing—the vast number of birds who the Manager and Ms. W left to suffer.

In short, Ms. [REDACTED] knew about persistent cruel conditions and treatment of animals on Jannat Farm, yet she allowed her employer, Tyson, to deliver a new flock of chickens, “set[ting] on foot” the cruelty described above. Then, as she learned of more cruelty, she failed to increase monitoring efforts, reprimand the Farm, or otherwise intervene, “further[ing]” the cruelty on Jannat Farm.²²² Because Ms. [REDACTED] knew about the cruelty on the Farm, the “probable result[]” of her allowing Jannat Farm to raise a new flock, without intervention, was that more animals would suffer unnecessarily.²²³ This is, in fact, what happened.

Accordingly, [REDACTED] should prosecute Ms. [REDACTED] for willfully setting on foot and furthering animal cruelty in violation of Virginia law. [REDACTED] should charge Ms. [REDACTED] with each count for which he charges Mr. [REDACTED] Mr. W, and Ms. W. At minimum, Ms. [REDACTED] should be charged with each count pertaining to: (1) failure to euthanize animals, and (2) harmful shelter conditions since Ms. [REDACTED] undeniably knew about these ongoing violations.

²¹⁹ Incident No. W-3.

²²⁰ Incident No. 163.

²²¹ Incident No. 6. Such statements are admissible under hearsay exceptions including: (1) admissions by a party-opponent, (2) evidence of then-existing mental, emotional, or physical condition, such as intent and (3) depending on availability to testify, as statements against interest. VA. R. SUP. CT. 2:803; 2:804.

²²² VA. CODE ANN. § 3.2-6570(A)(vi).

²²³ *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004)

III. TYSON AND JANNAT FARM ARE GUILTY OF ANIMAL CRUELTY UNDER VIRGINIA LAW.

Tyson and Jannat Farm both violated Virginia law because they are liable for the criminal acts of their employees. In addition, Tyson is criminally liable under several specific provisions of VA Code Ann. § 3.2-6570. First, as the owner of the chickens raised on the Farm, Tyson is liable under § 3.2-6570(A)(vii) for permitting cruelty to these animals. Second, Tyson is liable under VA Code Ann. § 3.2-6570(A)(vi) for willfully setting on foot and furthering the acts of cruelty on the Farm. Third, Tyson is liable under § 3.2-6570(A)(viii) because its acts were a but-for and proximate cause of the cruelty. As set forth in more detail below, [REDACTED] should charge each business entity for animal cruelty.

A. Virginia’s Animal Cruelty Law Applies to “Any Person,” Which Includes Corporations.

Virginia’s animal cruelty law applies with equal force to corporations engaged in criminal conduct as it does to individuals. Virginia’s animal cruelty law applies to “[a]ny person” who violates § 3.2-6570. Under Chapter 2.1 of Virginia’s Code, which addresses Virginia’s common law rules of construction and definitions, a “person” “includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.”²²⁴ Likewise, under Virginia’s Criminal Code, “person” “means any individual, partnership, corporation or association.”²²⁵ Since Virginia’s animal cruelty law applies to “any person,” and the definition of “person” includes corporations, Virginia’s animal cruelty law, by its plain text, applies to “corporations.”

²²⁴ VA. CODE ANN. § 1-230.

²²⁵ VA. CODE ANN. § 18.2-506.

Moreover, Virginia has a long history of recognizing that corporations can be liable for criminal conduct. In 1919, Virginia’s Supreme Court held, “whatever may have been the holding of earlier cases as to the nonliability of a corporation to indictment or other criminal process, the rule has long been otherwise in many states of the Union, including Virginia.”²²⁶ Later cases have adhered to the same principle that corporations are persons subject to criminal statutes.²²⁷ Indeed, Virginia statutes provide procedures for bringing criminal proceedings against corporations.²²⁸

To determine whether a corporation is criminally liable, “Virginia . . . follow[s] the *New York Central & Hudson* Liberal Rule for corporate crime.”²²⁹ This rule, set forth in *New York Central & Hudson River Railroad Co. v. United States*,²³⁰ “allows courts to punish a corporation if any employee misbehaves in the scope of her employment — thereby imputing to a corporation any employee’s malice, knowledge, recklessness or other scienter or mens rea.”²³¹ For example, in a seminal case called *Crall v. Commonwealth*, Virginia’s Supreme Court sustained criminal charges against a corporation on the basis that its agents made sales without a license.²³² The

²²⁶ *Postal Tel.-Cable Co. v. City of Charlottesville*, 126 Va. 800, 802 (1919).

²²⁷ See *Landmark Commc'ns, Inc. v. Commonwealth*, 217 Va. 699, 703 (1977), *rev'd on other grounds by Landmark Commc'ns, Inc. v. Virginia*, 435 U.S. 829 (1978) (holding that corporation was subject to the proscription of a criminal statute); *Rooney v. Commonwealth*, 27 Va. App. 634, 640 (1998) (citing *Landmark Communications*, 217 Va. At 702–03 and holding that a corporation may be a person within the meaning of a criminal statute).

²²⁸ See, e.g., VA. CODE ANN. § § 19.2-238 (addressing summons against corporations to answer an indictment).

²²⁹ Christopher R. Green, *Punishing Corporations: The Food-Chain Schizophrenia in Punitive Damages and Criminal Law*, 87 NEB. L. REV. 197, 202 (2008) (collecting cases).

²³⁰ 212 U.S. 481 (1909); see also *United States v. Potter*, 463 F.3d 9, 25 (1st Cir. 2006).

²³¹ Green, *supra* note 229 at 199. See also *United States v. Singh*, 518 F.3d 236, 249 (4th Cir. 2008) (“We have recognized that a corporation is liable for the criminal acts of its employees and agents done within the scope of their employment with the intent to benefit the corporation.”).

²³² *Crall v. Commonwealth*, 103 Va. 855, 859–60 (1903). The Court in *Crall* cited Francis Wharton’s criminal treatise, which set forth the Liberal Rule for corporate crime, later advanced in *New York Central & Hudson*, *supra* note 230. See 1 FRANCIS WHARTON, A TREATISE ON CRIMINAL LAW § 247, at 273 (9th ed. 1885) (“[A]s it is only by agents that corporations can act, it is not necessary to prove, on charging a corporation with a criminal act performed by an agent, within his range of duty, that this act was specifically authorized by the corporation.”).

Virginia Supreme Court has repeatedly cited *Crall* in affirming the principle that “[a] corporation can act alone through its officers and agents.”²³³

The “scope of employment” test is well-established under Virginia law; an employee acts within the scope of employment if the “acts were committed while [the employee] was performing his duties . . . and in the execution of the services for which he was employed.”²³⁴ In fact, “the willfulness or wrongful motive which moves an employee to commit an act which causes injury . . . does not of itself excuse the employer’s liability therefor.”²³⁵ Thus, in *Commercial Business Systems v. BellSouth*, the Virginia Supreme Court held that conduct that was “outrageous and violative of [the] employer’s rules” occurred during the scope of employment, even where the “motive [for the conduct] was personal.”²³⁶

Here, both Tyson and Jannat Farm are “persons” subject to Virginia’s laws.²³⁷ For the reasons set forth below, [REDACTED] should prosecute both entities for animal cruelty.

B. Both Tyson and Jannat Farm are Criminally Liable for their Employees’ Cruelty to Animals.

As discussed above, business entities are criminally liable for the conduct of agents acting within their scope of employment. Therefore, Tyson is liable for Ms. [REDACTED] [REDACTED] and the Catchers’ violations of Virginia’s cruelty law. Likewise, Jannat Farm is liable for the criminal acts

²³³ *Andrews v. Ring*, 266 Va. 311, 324 (2003) (quoting *Crall v. Commonwealth*, 103 Va. 855, 859 (1903)); see also *Postal Tel.-Cable Co. v. City of Charlottesville*, 101 S.E. 357, 358 (Va. 1919).

²³⁴ *Commercial Business Systems v. BellSouth*, 249 Va. 39, 45 (1995);

²³⁵ *Shifflett v. Food Lion, Inc.*, 45 Va. Cir. 475, 479 (1998) (quoting *BellSouth*, 249 Va. at 44).

²³⁶ *BellSouth*, 249 Va. at 45.

²³⁷ Tyson is liable as a person because it is a corporation. Animal Outlook could not determine whether Jannat Farm is a registered corporation in Virginia. Regardless, Virginia’s definition of person applies broadly to partnerships, sole proprietorships, associations, and any “other legal or commercial entity.” VA. CODE ANN. § 1-230. Moreover, the principle of vicarious criminal liability applies equally to all forms of business entities. See *United States v. A & P Trucking Co.*, 358 US 121, 124–25 (1957) (holding that partnerships can be vicariously liable). Therefore, even if Jannat Farm is not a registered corporation, it is liable under Virginia’s animal cruelty law.

that its Manager, Mr. W., and employee, Ms. W., committed in the scope of their employment.²³⁸ This is because all employees, of both entities, were “performing [their] duties” and “execut[ing] [] the services for which [they were] employed” in every instance in which they harmed animals.²³⁹

For example, when the Manger of Jannat Farm, Mr. W., killed the chickens on the Farm, he was acting within the scope of his employment because farmworkers must “cull” animals when they seem unable to survive.²⁴⁰ Even if Mr. W. killed these animals in a manner that was “violative of [the] employer’s rules,” he still did so in the “execution of the services for which he was employed.”²⁴¹ For the same reason, Tyson is liable for catch crew workers throwing, kicking, and cruelly killing chickens; they committed these acts while collecting chickens, for Tyson, to bring to slaughter, and therefore while “performing [] duties . . . and in the execution of the services for which [they were] employed.”²⁴²

Other examples of cruelty for which Tyson and Jannat Farm are liable include the following:

- Tyson is liable for all criminal acts of Ms. [REDACTED]—namely her role in setting on foot and furthering the cruelty on Jannat Farm—because she acted within the scope of her employment when deciding, on Tyson’s behalf, to allow flock after flock of chickens to be raised there without corrective action.
- Tyson is liable for [REDACTED] conduct in depriving animals of feed on November 3–4, 2022. When [REDACTED] failed to set up a food delivery, she was acting within the scope of her employment because, as the Broiler Technician Advisor on Jannat Farm, it was her job to “monitor[] feed consumption” and ensure that food was delivered.²⁴³

²³⁸ *Crall v. Commonwealth*, 103 Va. 855, 859–60 (1903); see discussion *supra* note 232 and accompanying text.

²³⁹ *Commercial Business Systems v. BellSouth*, 249 Va. 39, 45 (1995).

²⁴⁰ See NCC Guidelines, *supra* note 6 (“When necessary, birds must be properly euthanized.”).

²⁴¹ *BellSouth*, 249 Va. at 45.

²⁴² *Id.*

²⁴³ See *supra* note 22 (string citing Tyson job advertisements for Broiler Tech Advisors).

- Jannat Farm is liable for the deplorable living conditions on the Farm. When Jannat Farm’s Manager, Mr. W., and employee, Ms. W., kept the shelters in inadequate condition (*i.e.*, by putting out feed too early, so that it became infested by bugs), they did so while performing job duties for the Farm.²⁴⁴

Accordingly, ██████████ should prosecute Tyson and Jannat Farm for each count of animal cruelty leveled against their employees.

C. Tyson is Liable for Permitting Cruelty to the Animals it Owns.

Tyson, as the owner of the chickens that were raised on Jannat Farm, is also liable for permitting cruelty to those animals.

To “permit” means “to allow something, or make something possible.”²⁴⁵ The term “permit” does not imply any *mens rea* element; indeed, if “permit” inherently implied a *mens rea*, then it would be surplusage for so many Virginia statutes to qualify “permit” with a *mens rea* element.²⁴⁶ Unlike these other Virginia statutes that penalize an actor for permitting wrongdoing, Virginia’s animal cruelty law does not include a *mens rea* requirement.²⁴⁷ Accordingly, under the Virginia Supreme Court precedent discussed in detail *supra*, Section I, an owner of animals is strictly liable for a Class 1 misdemeanor if the owner “permits [cruel] acts to be done by another” to those animals.²⁴⁸ In policy terms, Virginia’s Legislature decided that owners of animals are

²⁴⁴ Jannat Farm is also liable for these conditions because Mr. ██████████ the owner, was directly responsible for paying for upkeep (*e.g.*, spraying for bugs).

²⁴⁵ Permit, CAMBRIDGE DICTIONARY (last visited Nov. 28, 2022), *available at* <https://dictionary.cambridge.org/us/dictionary/english/permit>; *see also* Permit, MERRIAM WEBSTER (last visited Nov. 28, 2022), *available at* <https://www.merriam-webster.com/dictionary/permit>.

²⁴⁶ *See, e.g.*, Va. CODE ANN. § 40.1-103 (unlawful for any person employing or having the custody of any child to “willfully or negligently . . . permit” the life of such child to be endangered); VA. CODE ANN. § 52-8.3 (misdemeanor if a person employed by a law-enforcement agency or other governmental agency “knowingly permits” another to use an official record unlawfully); Va. Code Ann. § 18.2-258 (misdemeanor if a tenant “knowingly permits” a common nuisance); Va. Code Ann. § 18.2-429 (misdemeanor if a person “knowingly permits” another to use his telephone with the intent to annoy a third party); Va. Code Ann. § 3.2-6573 (misdemeanor if any person “knowingly permits” another to use any building, room, field or premises to shoot birds for sport).

²⁴⁷ VA CODE ANN. 3.2-6570(A)(viii).

²⁴⁸ *Esteban v. Commonwealth*, 266 Va. 605, 609 (2003).

responsible for the well-being of those animals, and if the owners allow or make possible cruelty to their animals, they will be strictly liable for such cruelty as well.

Here, by selecting Jannat Farm as an agent to raise its animals and then delivering those animals to Jannat Farm, Tyson made it possible for the Farm to subject them to cruel treatment and conditions. By leaving the chickens on Jannat Farm for 6 weeks, Tyson allowed the cruelty to continue. Tyson thereby “permitted” cruelty, and this guilty act is a Class 1 misdemeanor.

Moreover, even if a court (improperly) held that, to read the statute as constitutional, it must infer a *mens rea* element for “permit[ting]” cruelty to one’s animals, ██████████ can easily make this showing. As discussed above,²⁴⁹ in rare cases in which Virginia courts read a *mens rea* into a statute, they read in criminal negligence,²⁵⁰ which requires a showing that a defendant remained indifferent even though he knew or should have known that his conduct or omission would probably result in harm.²⁵¹ Here, according to Tyson’s employee Ms. ██████████ Tyson was indifferent to the care its flocks received on Jannat Farm because Tyson does not have competition in the area.²⁵² This admission, in itself, is sufficient to establish criminal negligence.²⁵³ In addition, Tyson should have known—and in fact knew—about a myriad of violations on Jannat Farm; this is because Tyson employed Ms. ██████████ to make farm visits and acquire knowledge, for Tyson, about bird comfort, sanitation, and flock management.²⁵⁴ As discussed in detail, Ms. ██████████ worked with Jannat Farm for over 7 years, and was fully aware

²⁴⁹ See *supra* note 72 and accompanying text.

²⁵⁰ In fact, prior to *Esteban*, 266 Va. at 609, which held that courts should infer silent statutes as strict liability crimes, an appellate court in *Mosby v. Commonwealth*, 23 Va. App. 53, 55 (1996) read a *mens rea* of criminal negligence into a child endangerment statute, which provides that no person shall “permit” the endangerment of a child.

²⁵¹ *Ellis v. Commonwealth*, 29 Va. App. 548, 557 (1999).

²⁵² Incident No. 122.

²⁵³ *Ellis*, 29 Va. App. at 557.

²⁵⁴ See *supra* note 22 (string citing Tyson job advertisements for Broiler Tech Advisors).

of cruel conditions and practices on the Farm. Therefore, Tyson had knowledge of this cruelty both because (1) Ms. ██████ documented the information for the company, and (2) because she acquired this knowledge in the scope of her employment, and accordingly, her knowledge as Tyson’s agent is imputed onto the company.²⁵⁵ Since Tyson both knew and should have known about the cruelty on Jannat Farm, yet allowed it to persist, Tyson acted with (at least) criminal negligence in permitting cruelty to its animals.

Accordingly, ██████ should prosecute Tyson for each count of animal cruelty leveled against the individual Proposed Defendants.

D. Tyson is Liable for Willfully Setting on Foot and Furthering Acts of Cruelty to the Chickens on Jannat Farm.

Not only did Tyson “permit” the cruelty to its animals on Jannat Farm, but Tyson “willfully set[] on foot and further[ed]” the acts of cruelty.²⁵⁶

A “willful” act or omission is “voluntary and intentional but not necessarily malicious,” and “involves conscious wrong . . . or at least inexcusable carelessness, whether the act is right or wrong.”²⁵⁷ Moreover, courts may find that an act or omission was willful if it “created a situation reasonably calculated to produce injury, or which made it not improbable that injury would be occasioned, and [the Defendant] knew, or was charged with the knowledge of, the probable results of her acts.”²⁵⁸

Tyson voluntarily delivered over 150,000 birds to Jannat Farm to be raised for slaughter and voluntarily left them on Jannat Farm for a six-week period. In doing so, Tyson “set[] on foot”

²⁵⁵ See *supra* notes 231–233 and accompanying text.

²⁵⁶ VA Code Ann. § 3.2-6570.

²⁵⁷ *Pelloni*, 65 Va. App. at 739.

²⁵⁸ *Barrett v. Commonwealth*, 268 Va. 170, 184 (2004).

and “further[ed]” the cruelty to these birds.²⁵⁹ Moreover, as discussed above, Tyson knew, or at minimum was charged with the knowledge, that leaving these birds on Jannat Farm would likely result in their suffering; this is because (1) Ms. ██████ in her capacity as Tyson’s employee, documented the cruel conditions on Jannat Farm for the company, and (2) she acquired this knowledge in the scope of her employment, and accordingly, her knowledge as Tyson’s agent is imputed onto the company.²⁶⁰ Indeed, Ms. ██████ and therefore Tyson had much of this knowledge long before Tyson delivered the flock because Ms. ██████ had worked with Jannat Farm for 7 years.²⁶¹ Therefore, in delivering to and leaving the birds at Jannat Farm—without even issuing reprimands, increasing monitoring, or taking any other corrective measures—Tyson committed a conscious, or at least inexcusably careless wrong.

Accordingly, ██████ should prosecute Tyson for each count of animal cruelty leveled against the individual Proposed Defendants because Tyson willfully set on foot and furthered cruelty to animals it owned.

E. Tyson is Liable Because its Conduct was a But-For and Proximate Cause of the Cruelty on Jannat Farm.

Tyson is also culpable under a third provision of VA Code. Ann. § 3.2-6570 because its actions were a “cause[.]” of the cruelty on Jannat Farm.

Under VA Code. Ann. § 3.2-6570(viii), “[a]ny person who . . . causes any of the [proscribed acts of cruelty]” is guilty of a misdemeanor. Under Virginia law, an act is the factual cause of harm if, “but for” the act, the harm would not have occurred.²⁶² Moreover, an act proximately

²⁵⁹ VA CODE ANN. § 3.2-6570(A)(vi).

²⁶⁰ See *supra* notes 231–233 and accompanying text.

²⁶¹ See Incident Nos. 121–23.

²⁶² *Wells v. Whitaker*, 207 Va. 616, 622 (1966).

causes harm if the harm “was the natural and probable consequence of the negligence or wrongful act, and that it ought to have been foreseen in the light of the attending circumstances.”²⁶³

By delivering chickens to Jannat Farm, Tyson caused them to suffer from ill-treatment, torture, infliction of inhumane pain and injury, and deprivation of necessities. “But for” Tyson delivering the chicks to the farm, they would not have been subjected to cruelty. Moreover, the birds’ suffering was the “natural and probable” and “foreseeable” consequence of their delivery to the Farm, because the Farm had not been sprayed for bugs, there was a rat infestation, the shelter conditions were abysmal, and Mr. W. and Ms. W. had established a pattern of failing to euthanize the birds.²⁶⁴ Since “causing” cruelty is a strict liability crime, the delivery is sufficient to make Tyson liable for animal cruelty under Virginia law. Regardless, for the reasons discussed in the preceding Subsections, the prosecution could easily establish criminal negligence if a court (improperly) read a *mens rea* element into the statute and required this showing.

Accordingly, on this additional basis, [REDACTED] should prosecute Tyson for each count of animal cruelty leveled against the individual Proposed Defendants.

IV. TYSON, JANNAT FARM, AND THEIR AGENTS VIOLATED VIRGINIA’S BIOSECURITY LAWS.

Apart from violating Virginia’s animal cruelty laws, Mr. W., Ms. W., Ms. [REDACTED] Tyson, and Jannat Farm all violated Virginia’s biosecurity laws. These violations were especially egregious because in September–November 2022, when the Investigator documented them, highly pathogenic avian influenza infections were spreading rapidly among commercial and backyard

²⁶³ *Spence v. Am. Oil Co.*, 171 Va. 62, 73 (1938).

²⁶⁴ *Id.*

flocks.²⁶⁵ In fact, in February 2022, after a flock of Tyson’s chickens tested positive for bird flu, the company made a promise to “ramp[] up biosecurity measures at its farms.”²⁶⁶

Virginia’s biosecurity regulations require that “[e]very poultry dealer and his agents and employees shall institute biosecurity measures in all business dealings (including live haul and egg pick-up) involving visits to farms.”²⁶⁷ More specifically, the regulations state that “Boots shall be disinfected prior to entering any premises where poultry is raised.”²⁶⁸ Virginia law criminalizes violations of this biosecurity regulation as a Class 1 misdemeanor.²⁶⁹

Before Tyson Foods delivered the flock to Jannat Farm on September 22, 2022, Ms. ██████ explained that the company would be instituting biosecurity measures on Jannat Farm to prevent an avian flu outbreak.²⁷⁰ Specifically, Ms. ██████ told Mr. W., Ms. W., and the Investigator:

I’ll try to bring you some [bleach trays] tomorrow. Um, so that would be, we would put dry bleach beds at the doors of the houses so you would have to walk through the dry bleach to go in the house.²⁷¹

Two weeks into the flock’s arrival, however, Ms. ██████ Mr. W., and Ms. W. still had not set up bleach trays for four of the six chicken houses on the Farm.²⁷² Accordingly, Tyson Foods,

²⁶⁵ 2022 Confirmations of Highly Pathogenic Avian Influenza in Commercial and Backyard Flocks, USDA ANIMAL AND PLANT HEALTH INSPECTION SERVICE (last visited Nov. 20, 2022), *available at* <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/avian-influenza/hpai-2022/2022-hpai-commercial-backyard-flocks>.

²⁶⁶ Daniella Genovese, Flock of Tyson Foods chickens test positive for bird flu; company ramps up biosecurity measures, FOX BUSINESS (Feb. 17, 2022), <https://www.foxbusiness.com/lifestyle/tyson-foods-kentucky-farm-bird-flu>.

²⁶⁷ 2 VA. ADMIN. CODE 5-170-80.

²⁶⁸ *Id.*

²⁶⁹ VA. CODE ANN. § 3.2-6043 (“It is unlawful for any person to violate any of the (i) provisions of this chapter or (ii) regulations adopted or quarantines established under this chapter. Any person who violates such provisions or regulations is guilty of a Class 1 misdemeanor.”).

²⁷⁰ Incident No. 123.

²⁷¹ *Id.*

²⁷² Incident No. 163.

Jannat Farm, and their agents and employees failed to “institute biosecurity measures” and violated Virginia law.

Making matters worse, when the Manager, Mr. W, did finally put out bleach trays, he positioned them by the wrong (unused) entrances and exits of Houses 1–4. As a result, Mr. W. and Ms. W. never used the trays in Houses 1 & 2 and only occasionally used the trays in Houses 3 & 4.²⁷³ Therefore, Mr. W. and Ms. W. also violated Virginia’s biosecurity law because they did not abide by the requirement that “Boots shall be disinfected prior to entering any premises where poultry is raised.”²⁷⁴

Because Virginia’s biosecurity regulation does not have a *mens rea* element, the guilty acts described above are sufficient to prosecute Tyson Foods, Jannat Farm, Ms. [REDACTED] Mr. W., and Ms. W. However, if a court (improperly) inferred a *mens rea* element in the regulation (which would be criminal negligence, by default, as discussed throughout this memorandum), [REDACTED] [REDACTED] could easily make this showing.

A defendant demonstrates criminal negligence when he remains “indifferent,” even though he knows or should know that his conduct will probably result in “injury or illegality.”²⁷⁵ Here, before Tyson delivered the chicks, Ms. [REDACTED] Mr. W., Ms. W., and the Investigator had a conversation proving that they knew about the heightened concern over avian flu outbreaks. The conversation included the following exchange:

Ms. [REDACTED] We are in code yellow, again. We were out of code yellow for a month, maybe.

Investigator: What's that mean?

²⁷³ Incident Nos. 132–142.

²⁷⁴ *Id.*

²⁷⁵ *Ellis v. Commonwealth*, 29 Va. App. 548, 557 (1999).

Ms. [REDACTED] Avian influenza . . . can depopulate a chicken house quickly. So um . . . it used to be here on the East coast, that, we really only during migratory bird season, where we, um . . . have biosecurity. Which reminds me, do you have any dry bleach over here?"

Mr. W.: No, I . . . I need some.

Ms. [REDACTED] Okay, I'll try to bring you some tomorrow. Um, so that would be, we would put dry bleach beds at the doors of the houses so you would have to walk through the dry bleach to go in the house, in case stuff or something, going into the house. Chicken flu, bird flu, whatever. But this year, for us, usually it's just been during migratory bird season, this year they've been having most of the backyard flocks that are popping positive . . . but they're also seen in farms now.

Despite knowing about the heightened risk, Ms. [REDACTED] Mr. W., Ms. W. still failed to take precautions; in doing so, they showed "indifference" to biosecurity risks and therefore acted with criminal negligence. Moreover, because these individual actors demonstrated criminal negligence, their employers, Tyson Foods and Jannat Farm, are charged with the same *mens rea*.²⁷⁶

Accordingly, for this biosecurity violation, [REDACTED] should charge all enumerated parties with an additional Class 1 misdemeanor.

RESOURCES

Recent trends demonstrate that animal cruelty laws can be—and often are—successfully applied to animals used in agriculture. In the past several years, a significant (and growing) number of prosecutions for these animals have resulted in convictions.

In support of the rapidly increasing number of animal cruelty prosecutions, several organizations offer resources to assist prosecutors handling these cases. Assistance available includes legal advice, "second chair" support, sample jury instructions, sample voir dire questions, as well as summaries and guides of state animal cruelty laws.

²⁷⁶ See *supra* notes 231–233 and accompanying text.

The table below provides a partial listing of resources available for prosecuting animal crimes such as those documented in this memorandum:

Organization	Details	Link
National District Attorney's Association ("NADA")	Provides resources for prosecutors working on animal abuse cases, including definitions, videos, manuals, and summaries of state laws.	https://ndaa.org/programs/animal-abuse/
Animal Legal Defense Fund ("ALDF")	ALDF's Criminal Justice Program provides free legal assistance to prosecutors and law enforcement in handling cruelty cases. ALDF provides guides for various topics including neglect, forfeiture, and links to other forms of violence. ALDF also provides jury instructions and voir dire questions.	https://aldf.org/article/online-resources-for-prosecutors-and-law-enforcement/
American Society for the Prevention of Cruelty to Animals ("ASPCA")	ASPCA's Legal Advocacy department provides legal assistance to police and law enforcement, including provision of "second chair" support in prosecutions.	https://www.aspc.org/animal-protection/legal-advocacy
Association of Prosecuting Attorneys ("APA")	The APA manages the "Animal Abuse Prosecution Project," providing technical assistance to prosecutors in animal cruelty cases including summaries of state laws, publications, and an annual conference.	https://www.apainc.org/programs-2/animal-abuse-prosecution-project/
Virginia Office of the Attorney General ("VOAG")	VOAG's Animal Law Unit is the first attorney general's office in the nation with an Animal Law Unit dedicated to prosecuting animal crimes. The Unit, run by Senior Assistant Attorney General Michelle Welch, has experience prosecuting crimes ranging from farmed animal abuse, to dog fighting, to wildlife crimes and frequently consults with other prosecutor's offices.	https://www.oag.state.va.us/media-center/news-releases/435-january-22-2015-herring-creates-nation-s-first-attorney-general-s-animal-law-unit

Thank you for your time and for all the work your department carries out. Please contact me at (516) 232-5167 or jgleckel@animaloutlook.org to confirm receipt of these materials and advise how we may be of further assistance.

APPENDIX A
INCIDENT STATEMENT

**REPORT OF FINDINGS FROM UNDERCOVER INVESTIGATION OF JANNAT
FARM**

JANUARY 23, 2023

TABLE OF CONTENTS

I.	JANNAT FARM IN [REDACTED]	3
II.	DOCUMENTED AND WITNESSED INCIDENTS.....	3
A.	OVERVIEW.....	3
	1. Improper Euthanasia.....	3
	2. Failure to Euthanize.....	4
	3. Rough Handling, Throwing & Kicking.....	5
	4. Food/Water Deprivation.....	6
	5. Harmful Shelter Conditions.....	7
	6. Exposure to Pests.....	8
	7. Biosecurity Risks.....	9
B.	SPECIFIC INCIDENTS.....	10
	1. Improper Euthanasia.....	10
	2. Failure to Euthanize.....	10
	3. Rough Handling.....	15
	3.1. Throwing/Kicking Birds.....	16
	4. Food/Water Deprivation.....	17
	5. Harmful Shelter Conditions.....	19
	5.1. Dangerous Ammonia Levels.....	19
	5.2. Moisture Buildup and Water-Logged Litter.....	20
	6. Exposure to Pests.....	22
	6.1. Bug Infested Food.....	22
	6.2. Rat Infestation.....	22
	7. Biosecurity Risks and Unused Bleach Trays.....	23
	7.1. Dead Birds in Chicken Houses/Food Trays.....	25
	8. Context.....	26
	9. Miscellaneous.....	28

I. JANNAT FARM IN JETERSVILLE, VA

An Animal Outlook investigator was employed at a broiler chicken farm contracted to Tyson Foods Inc., located at 23271 St. James Rd. in Jetersville, Virginia 23083 (the “Farm”). The Farm is owned by [REDACTED]

Approximately five times per year, newborn chicks bred for meat consumption are delivered to the Farm from a Tyson Foods, Inc., hatchery and placed inside the 6 chicken houses by members of a delivery crew. The chicks are then raised in the houses for 43 days and a chicken catching crew working for Tyson Foods Inc., retrieves the birds to transfer them to a slaughterhouse.

The investigator was employed as a Poultry Farm Worker between the dates of August 28th, 2022 and November 4th, 2022, and he performed all required job duties. As part of these duties, the investigator was responsible for walking through the chicken houses and removing dead chickens inside the houses, as well as performing routine maintenance of equipment and/or structures on the Farm site as instructed by the Farm manager, [REDACTED]. During his term of employment, the investigator took videos and photos documenting the condition and treatment of live animals on the farm.

The investigator worked or interacted with the following employees:

- [REDACTED] W. – Farm Manager
- [REDACTED] W. – Farm Worker
- [REDACTED] [REDACTED] – Broiler Technician Advisor for Tyson Foods, Inc., who worked with Jannat Farm for approximately 7 years until on or around November 1, 2022.
- [REDACTED] – Broiler Technician Advisor for Tyson Foods, Inc., who replaced [REDACTED] on or around November 1, 2022.

II. DOCUMENTED AND WITNESSED INCIDENTS

A. OVERVIEW

1. Improper Euthanasia

At Jannat Farm, like at most broiler chicken farms, from the moment that newborn chicks are delivered from the hatchery to the farm and throughout the time they are grown in the chicken houses, there are a number of chickens in the flock that inevitably display visible signs that they are unable to survive through the duration of the flock cycle, which lasted for 43 days.

The expectation for a certain rate of mortality in flocks is so typical within the broiler chicken farming industry that there are guidelines established for identifying weak or ill chickens who should be euthanized, or “culled” by the industry (if not provided medical treatment). Birds who are stunted in growth or do not grow at the same accelerated rate as the rest of the flock are also culled. Animal welfare guidelines dictate that farm workers cull the chickens swiftly after they are identified to minimize extended suffering for the animals.

The American Veterinary Medical Association Guidelines for the Euthanasia of Animals¹ (AVMA Guidelines) and National Chicken Council Guidelines² (NCC Guidelines) set forth standard methods for humane slaughter in animal agriculture. The AVMA Guidelines provide more detailed scientific explanation, and the NCC Guidelines explain how to euthanize chickens with clear diagrams.

According to both sets of guidelines, the primary method of culling chickens in broiler farm settings is manual cervical dislocation. The Guidelines establish a specific process for performing cervical dislocation, which helps to minimize the suffering of the animals. Specifically, (1) the worker should grasp the legs of the bird, holding it upside down; (2) place the thumb and index finger at the base of the skull; (3) pull down and rotate the head backwards to dislocate the vertebrae and cause immediate unconsciousness; and (4) check the bird to verify death. Crushing of cervical vertebrae and spinal cord is not acceptable unless the bird is first rendered unconscious.

While the investigator was employed at Jannat Farm, he documented ██████ killing chicks and chickens in a method that plainly violates industry standards. ██████ held the fragile body of a chick in one hand and tugged repeatedly on the head -- a total of 8 times. When euthanizing larger chickens, ██████ was documented holding the chickens upright and gripping their wings with one hand as he pulled their heads sharply, in the improper direction, two times or more with his other hand.

In addition, at the end of the flock cycle, as the chicken catching crew collected the birds on the farm to send to a Tyson Foods Inc. slaughterhouse, the investigator documented two employees on the chicken catching crew using improper techniques to kill chickens. In one incident, an employee on the chicken catching crew held a chicken upright by the torso and pulled on the head so roughly that he tore the chicken's head off the body. He then tossed the bird onto the ground, and the investigator documented the chicken's headless body as it displayed clonic spasms.

2. Failure to Euthanize

Throughout the term of his employment on Jannat Farm, the investigator witnessed and documented numerous chickens that had been left, likely for days, to suffer from deformities, injuries, wounds, and illness, unable to access food or water, and with no hope of surviving the flock cycle. Some birds were unable to walk or even stand. ██████ made clear to the investigator, on several occasions, that he leaves many birds to suffer instead of euthanizing them. In one recorded incident, shortly after the flock was delivered, ██████ informed the investigator that he would see chickens who were immobile, deformed, or otherwise growing at a less accelerated rate than the greater majority of the chickens in the chicken house, with the smaller chickens being unable to access the water lines that are raised to accommodate the accelerated growth rate

¹ <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf>.

² https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf.

of the majority of the flock. In this same incident, ██████ stated that he did not cull all the chickens he identified as necessary to cull, and went on to say that he would leave them for the next day and vaguely alluded to leaving them for some other extended period of time. In addition, ██████ and ██████ explicitly prohibited the investigator from euthanizing any of the chickens he came across in the chicken houses. The investigator received no formal instruction or training on how to euthanize chickens.

In another recorded incident, ██████ walked through a chicken house with the investigator and identified several immobile or incapacitated chicks as necessary to cull but made no effort to cull any of those chicks. He went on to explain that despite complaints from the broiler technician advisor, ██████ he refused to cull chickens regularly or urgently because it would take up too much of his time.

3. Rough Handling

At the end of the flock cycle at Jannat Farm, a chicken catching crew arrived on the farm site to remove the chickens from each of the 6 houses and load them onto trucks that would transport the animals to a slaughterhouse to be killed. The process took place over the course of 2 days. The investigator witnessed and documented the chicken catching process, during which the chicken catchers caught chickens by hand, oftentimes holding the birds upside down by their fragile legs, collecting multiple birds in each hand and placing them in large crates with compartments where the chickens would be stored as they were transported to the slaughterhouse. The chicken catchers conducted the process in an expedient manner, as quickly as possible with apparent little regard for the wellbeing of the chickens being collected to be sent to slaughter. On both days of the chicken catching process, the investigator documented incidents of multiple chicken catchers carelessly and roughly tossing chickens into large crates, repeatedly.

3.1. Throwing/Kicking Birds

During the chicken catching process, the investigator documented employees on the chicken catching crew throwing and kicking chickens. In one incident, a chicken catcher kicked birds at his feet a total of 4 times. In another documented incident, a worker tossed a chicken, like a ball, to a second worker, who threw the chicken down into the crate. In multiple other incidents, other chicken catchers were documented tossing birds through the air and into crowds of other live birds.

4. Food/Water Deprivation

- i. Many individual birds could not access feed or water lines throughout the flock cycle

At Jannat Farm, food and water sources were present in the chicken houses and either attached to or suspended from long pipes that extended length-wise down from one end of the chicken house to the other and suspended a certain amount of distance above the ground via a pulley system. The pipes were commonly referred to as water lines and feed lines by employees on the farm site. Throughout the flock cycle, as the birds grew in height, the height of the water lines were gradually adjusted by [REDACTED] and raised to accommodate the growing height of the majority of the birds in each chicken house.

Due to the farm manager and employee's failure to cull chickens who were injured, deformed, immobile or growing at a slower rate than the rest of the flock, many of the chickens who fell under the aforementioned categories were frequently and consistently left unable to access food or water in the chicken houses. In multiple documented incidents, the investigator identified small chickens struggling to access the water lines in the chicken houses, which were gradually adjusted to be well out of their reach. Small chickens were documented jumping repeatedly in failed attempts to drink water from the water lines. In some cases the investigator assisted the birds by lifting them up to the water lines to give them the opportunity to drink, and the birds would proceed to drink for several minutes. Other chickens who were completely immobile due to injuries or abnormalities in their gait were left unable to access food or water due to their inability to either sit upright, walk or stand. In one documented incident, [REDACTED] acknowledged a young, sick bird that the investigator pointed out. [REDACTED] made no attempt to cull the bird, but instead expressed his surprise that the small birds were still alive as they were unable to reach the water lines.

- ii. Early in the flock cycle, [REDACTED] left birds in the wrong area of a house and neglected to lower water lines.

Early in the flock cycle, chicks in each chicken house are kept in a brooding area where the heat in the barn is controlled via heat lamps and other means. The area is separated from the other half of the chicken house by dividers that can be placed or removed by employees on the farm site. Shortly after the flock was delivered at Jannat Farm, the investigator documented a number of chicks who had escaped from one side of the chicken house designated as the brooding area, to the other side of the house where the water lines were completely elevated from the ground and completely inaccessible to the birds in that area. The investigator documented several lethargic or dead chicks in that area and notified [REDACTED] of the birds that escaped the brooding area and didn't have access to water. The next day, the investigator returned to the chicken house to find that [REDACTED] had yet to lower the water lines for the birds outside of the brooding area and notified [REDACTED] again. [REDACTED] then stated that he forgot to lower the water lines and went on to say that he planned to lower the water lines before [REDACTED] arrived to the farm site the next day.

- iii. At the end of the flock cycle, Tyson Foods Inc. failed to deliver adequate feed and the birds ran out of food.

During the final days of the flock cycle, the investigator documented [REDACTED] explaining that one of the houses had run out of feed for the live chickens still present in the chicken house and the chickens had gone without feed throughout the night and were still without feed during the day.

█████ stated that he had called and notified █████, the new broiler technician advisor who replaced █████ after she returned to work at the hatchery. The investigator then entered two different chicken houses on the farm site and documented the empty feed bowls in the houses where live chickens were present.

5. Harmful Shelter Conditions

When the investigator began his employment at Jannat Farm, █████ frequently complained about the chicken houses and the state of disrepair the farm site was in at the time, due to lack of maintenance and funds provided by █████ to maintain the farm. █████ would also express his lack of motivation to maintain the houses or the equipment on site due to personal issues with █████

The poor state of the farm site was repeatedly pointed out by the broiler service technician, █████ who frequented the farm, and collected information about the condition of the Farm and the birds for Tyson Foods, Inc. Even before the flock was delivered to the farm, the investigator documented █████ and █████ discussing many of the poor conditions, and how they would harm the birds.

5.1. Dangerous Ammonia Levels

According to the NCC Guidelines³, ammonia in the atmosphere inside chicken houses must not exceed 25 parts per million at bird height. It is advised that appropriate corrective actions are taken should the maximum ammonia level be exceeded on any farm site.

On certain occasions, the investigator monitored the ammonia levels in the chicken houses while walking through the chicken houses and completing daily tasks. In house 6, the investigator documented ammonia levels that exceeded 25 parts per million on multiple days, recording readings of 27 to 29 parts per million.

5.2. Moisture Buildup and Water-Logged Litter

Water line leaks resulting in wet litter in the chicken houses were a constant issue on Jannat Farm. The investigator documented numerous incidents of wet litter in the chicken houses, chickens wading through water-logged litter and wet chickens covered in mud. In one incident, the investigator documented a live, wet chicken covered in mud who was sitting on top of the

³ https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf

*Since the time of the investigation, the National Chicken Council released the 2023 edition of their guidelines for animal welfare, which also specifies that the ammonia levels in chicken houses must not exceed 25 parts per million.

rotting corpse of another chicken. In a separate incident, the investigator picked up a clump of litter in one of the chicken houses and documented himself squeezing the clump of litter in his hand. Copious amounts of water can be seen streaming out of the litter as the investigator squeezes it. Each time the investigator discovered a water line leak, he promptly reported the issue to [REDACTED]. During one of [REDACTED] visits to the farm site, she identified multiple leaks in water lines inside the chicken houses and told the investigator that several issues on the farm with respect to water line leaks and feed running over onto the ground in the houses could result in wounds developing on the foot pads of the birds and the birds eating moist, moldy food which could make the birds sick.

6. Exposure to Pests

Near the start of the investigator's employment period at Jannat Farm, [REDACTED] informed him that snakes and feral cats were able to enter the chicken houses and [REDACTED] had witnessed cats entering the houses, following after him as he opened the doors to enter the houses himself. The investigator discovered evidence of the presence of a snake and rats on the farm site while documenting a pile of dead chicks removed from inside the chicken houses.

When [REDACTED] arrived on the farm to perform an inspection prior to the delivery of the flock, she acknowledged the run-down state of the chicken houses, and particularly the presence of bugs in the chicken feed and a clear rat infestation in the houses. In one documented incident, [REDACTED] spoke with the investigator, [REDACTED] and [REDACTED] stating that there was a serious bug and rat infestation problem on the farm site, that the bug presence in the chicken feed posed a mortality risk to the chicks, and that the bugs would bite and hurt the birds. She went on to explain that the bug infestation in the chicken feed was due in part to [REDACTED] placing down feed trays earlier than needed. After the conversation took place, the investigator asked [REDACTED] whether the flock would still be delivered despite [REDACTED] complaints and [REDACTED] confirmed that there would be no delay to the flock delivery.

7. Biosecurity Risks

Before the flock delivery, the investigator documented a conversation with [REDACTED] during which [REDACTED] stated that Tyson Foods, Inc. did not implement biosecurity practices on the East coast at any time other than during migratory bird season, yet with the current threat of avian influenza depopulating chicken farms, they were now required to implement biosecurity measures. Despite this threat, [REDACTED] and [REDACTED] did not set up—and [REDACTED] did not make them set up—biosecurity stations (also known as dry bleach stations) inside or near 4 out of the 6 chicken houses at the farm until 14 days after the flock had been delivered. When [REDACTED] finally put out the trays, he placed them improperly by unused entrances and exits. For two of the six houses, nobody (aside from the Investigator) used the bleach trays at any time during the flock cycle. In the other houses, the trays were also underused.

In a witnessed incident, two weeks into the flock cycle, ██████ complained once more to the investigator about the lack of biosecurity measures, acknowledging that the bleach trays had still not been put out. In that conversation, she also complained about ██████ work ethic generally, citing multiple issues with water line leaks and his failure to adhere to biosecurity measures. She stated that she has experienced these same issues with ██████ over the course of 7 years.

7.1. Dead Birds in Chicken Houses/Food Trays

Throughout the duration of the investigator’s employment at Jannat Farm, he documented the presence of severely decayed and rotting corpses of birds in the chicken houses during every shift. Dead birds were also witnessed and documented inside of feed bowls, as live chickens would frequently become trapped in the feed bowls and die inside the equipment. In one documented incident, the investigator had a conversation with ██████ during which ██████ admitted to the investigator that neither he or ██████ walked the chicken houses to remove dead chickens on Sundays. In a separate documented incident, the investigator spoke with ██████ who stated that although the expectation from Tyson Foods, Inc. was that the chicken houses would be walked and dead birds removed from the houses twice a day, ██████ both walked the houses only once a day.

B. SPECIFIC INCIDENTS

1. Improper Euthanasia

Incident 1	9/27/2022	Jannat Farm Video 1	00:00:06-00:01:18
██████ tugs on the neck of a live chick a total of 8 times in an attempt to kill the bird before tossing the body.			
Incident 2	10/29/2022	Jannat Farm Video 1	00:01:18-00:12:44
██████ holds a chicken upright by the wings with one hand and yanks sharply down on the neck multiple times. He then waves the dead bird around over the live birds to compel them to move out of his walking path.			
Incident 3	11/3/2022	Jannat Farm Video 1	00:12:44-00:19:25
██████ holds a chicken by the wings, upright, and yanks harshly on the neck twice, away from his body, then hands the dying bird to the investigator.			
Incident 4	11/3/2022	Jannat Farm Video 1	00:19:25-00:28:51

A chicken catcher [REDACTED] holds a chicken upright by the torso, and pulls improperly on the chicken's head to kill the bird. The worker then tosses the chicken's body into a pile of other dead birds. At 00:23:33, it is evident that the worker pulled the chicken's head off and the headless body exhibits clonic spasms on the ground.			
Incident 5	11/3/2022	Jannat Farm Video 1	00:28:51-00:32:04
A chicken catcher ([REDACTED] d) holds a chicken by the wings, upright, and tugs the head sharply down, in the improper direction for culling. He then tosses the chicken's body across the barn and onto a pile of other dead chickens.			

2. Failure to Euthanize

Incident 6	10/21/2022	Jannat Farm Video 1	00:32:07-00:40:52
At 00:38:34, [REDACTED] walks through the chicken house and points out several chicks that he deems necessary to cull but makes no attempt to cull any of the birds he points out. He then tells the investigator that [REDACTED] frequently complains about his failure to euthanize consistently. [REDACTED] laughs and states that he does not like to cull a lot of birds as he would spend all his time inside the chicken house if he did.			
Incident 7	10/26/2022	Jannat Farm Video 1	00:40:52-00:41:22
A chick with a severely abnormal gait attempts to move by writhing on the ground. The chicken's legs are positioned unnaturally, extended out on either side of the body.			
Incident 8	9/29/2022	Jannat Farm Video 1	00:41:22-00:41:52
The investigator holds a live, bloody chick with severe injuries to the left leg and neck.			
Incident 9	10/5/2022	Jannat Farm Video 1	00:41:52-00:43:47
A chick with severe head injuries. The chick's skull is partially exposed and one eye is damaged and cloudy.			
Incident 10	10/5/2022	Jannat Farm Video 1	00:43:47-00:44:22
The same chick from the previous clip, illuminated by a light the investigator is shining. The chick's skull is exposed and one eye is damaged and cloudy.			
Incident 11	10/12/2022	Jannat Farm Video 1	00:44:22-00:45:35
A chick missing feathers who is prone on the ground and breathing heavily.			
Incident 12	9/29/2022	Jannat Farm Video 1	00:45:35-00:46:06

The same live, bloody bird with severe injuries from Incident 8. The bird has noticeable injuries to the head, neck, left leg, right foot, abdomen, and left wing.			
Incident 13	11/2/2022	Jannat Farm Video 1	00:46:06-00:46:40
A live chicken covered in blood and significant injuries.			
Incident 14	11/2/2022	Jannat Farm Video 1	00:46:40-00:46:56
The same live chicken from Incident 13 covered in blood and significant injuries.			
Incident 15	9/29/2022	Jannat Farm Video 1	00:46:56-00:47:10
A chick with a severe injury to the wing/shoulder area.			
Incident 16	9/29/2022	Jannat Farm Video 1	00:47:10-00:47:26
The same live, bloody bird with severe injuries from Incidents 8 and 12. The bird has a noticeable exposed tendon or muscle on the left leg.			
Incident 17	9/27/2022	Jannat Farm Video 1	00:00:06-00:01:18
At 00:00:06, [REDACTED] tells the investigator that he postpones culling chicks that he identifies as necessary to cull and goes on to say that he returns to cull them the next day or some other day that he does not specify.			
Incident 18	10/5/2022	Jannat Farm Video 1	00:47:26-00:48:25
A chick who is unable to stand due to an apparent leg issue lies on the ground and breathes heavily.			
Incident 19	10/5/2022	Jannat Farm Video 1	00:48:25-00:49:01
A chick with an abnormal gait who is unable to walk properly.			
Incident 20	10/10/2022	Jannat Farm Video 1	00:49:01-00:50:36
A chick with a severely abnormal gait who is unable to walk properly.			
Incident 21	10/6/2022	Jannat Farm Video 1	00:50:36-00:51:24
A small chick who is unable to walk properly due to an issue with their leg.			
Incident 22	9/23/2022	Jannat Farm Video 1	00:51:24-00:51:53
Two immobile chicks huddled together on the ground.			
Incident 23	9/23/2022	Jannat Farm Video 1	00:51:53-00:52:38
Two chicks huddled together. One chick has an apparent leg injury.			
Incident 24	9/23/2022	Jannat Farm Video 1	00:52:38-00:52:53

A chick who is unable to stand, breathing heavily, lying down on their right side.			
Incident 25	9/29/2022	Jannat Farm Video 1	00:52:53-00:53:03
A chick with a dark red, swollen vent.			
Incident 26	9/29/2022	Jannat Farm Video 1	00:53:03-00:53:57
The same chick from Incident 25 with a dark red, swollen vent is held by the investigator and placed back down. The bird is unable to stand or walk and is breathing heavily with their wing splayed out. The bird's right shank is slightly bruised.			
Incident 27	9/29/2022	Jannat Farm Video 1	00:53:57-00:54:53
The same live, bloody bird with severe injuries from Incident 12 and Incident 16. The bird has noticeable injuries to the head, neck, left leg, right foot, abdomen, and left wing.			
Incident 28	10/5/2022	Jannat Farm Video 1	00:54:53-00:56:05
A small chick unable to walk or stand and incapable of reaching the water lines inside the chicken house.			
Incident 29	10/5/2022	Jannat Farm Video 1	00:56:05-00:56:40
A chick with an injured leg.			
Incident 30	10/5/2022	Jannat Farm Video 1	00:56:40-00:57:35
A chick attempts to move but is unable to walk or stand.			
Incident 31	10/5/2022	Jannat Farm Video 1	00:57:35-00:58:45
A chick who is unable to stand, lying down on their back and vocalizing.			
Incident 32	10/6/2022	Jannat Farm Video 1	00:58:45-00:59:33
A small chick with a leg injury who is unable to stand.			
Incident 33	10/6/2022	Jannat Farm Video 1	00:59:33-01:00:33
A chick who is unable to walk due to a leg injury.			
Incident 34	10/6/2022	Jannat Farm Video 1	01:00:33-01:01:01
A chick who is unable to walk due to a leg injury.			
Incident 35	10/10/2022	Jannat Farm Video 1	01:01:01-01:01:35
A chicken with a leg issue who is incapable of walking properly.			
Incident 36	10/10/2022	Jannat Farm Video 1	01:01:35-01:02:08

A chicken unable to walk due to a leg injury.			
Incident 37	10/10/2022	Jannat Farm Video 1	01:02:08-01:03:14
A small chick who is incapable of walking properly.			
Incident 38	10/19/2022	Jannat Farm Video 1	01:03:14-01:03:41
A chicken lying down on their side, unable to walk, stand or right themselves.			
Incident 39	10/19/2022	Jannat Farm Video 1	01:03:41-01:04:03
A chicken with a leg injury who is unable to walk or stand properly.			
Incident 40	10/19/2022	Jannat Farm Video 1	01:04:03-01:04:42
A chicken flapping their wings in an attempt to move is unable to walk or stand.			
Incident 41	10/19/2022	Jannat Farm Video 1	01:04:42-01:05:10
A chicken who is unable to walk or stand.			
Incident 42	10/21/2022	Jannat Farm Video 1	01:05:10-01:05:33
A chicken gasping for air while prone on their side, unable to move.			
Incident 43	10/21/2022	Jannat Farm Video 1	01:05:33-01:06:06
A chicken with an abnormal gait who is incapable of walking properly.			
Incident 44	10/21/2022	Jannat Farm Video 1	01:06:06-01:07:01
A chicken who is unable to stand and gasping for air.			
Incident 45	10/22/2022	Jannat Farm Video 1	01:07:01-01:07:47
A chicken with a severely abnormal gait. Their leg is twisted in an unnatural manner.			
Incident 46	10/22/2022	Jannat Farm Video 1	01:07:47-01:08:33
A chicken with a severe leg deformity struggles with accessing water from the water lines in the chicken house.			
Incident 47	10/22/2022	Jannat Farm Video 1	01:08:33-01:09:05
The same chicken from Incident 42 with labored breathing who is unable to stand or walk.			
Incident 48	10/21/2022	Jannat Farm Video 1	01:09:05-01:09:41
A chicken with a wry neck deformity.			
Incident 49	10/24/2022	Jannat Farm Video 1	01:09:41-01:10:04

A chicken with a wry neck deformity.			
Incident 50	10/28/2022	Jannat Farm Video 1	01:10:04-01:10:21
A crippled chicken covered in litter and bugs.			
Incident 51	11/1/2022	Jannat Farm Video 1	01:10:21-01:12:12
Multiple chickens with walking issues in House 6.			
Incident 52	11/1/2022	Jannat Farm Video 1	01:12:12-01:12:24
A chicken missing feathers and unable to walk or stand.			
Incident 53	11/2/2022	Jannat Farm Video 1	01:12:24-01:14:55
10 chickens unable to walk or stand properly in one chicken house.			
Incident 54	11/2/2022	Jannat Farm Video 1	01:14:55-01:16:23
Multiple chickens unable to walk or stand properly in one chicken house.			
Incident 55	11/2/2022	Jannat Farm Video 1	01:16:23-01:18:59
Multiple chickens unable to walk or stand properly in one chicken house.			
Incident 56	10/17/2022	Jannat Farm Video 1	01:18:59-01:19:27
A chicken with an abnormal gait.			
Incident 57	10/17/2022	Jannat Farm Video 1	01:19:27-01:20:06
A chicken who is incapacitated and covered in feces.			
Incident 58	9/30/2022	Jannat Farm Video 1	01:20:06-01:20:42
A chick who is immobile on the ground and breathing unnaturally.			
Incident 59	9/30/2022	Jannat Farm Video 1	01:20:42-01:21:43
A chick with an abnormal gait who is unable to walk.			
Incident 60	9/30/2022	Jannat Farm Video 1	01:21:43-01:23:09
A chick with a severe injury to their shoulder.			
Incident 61	9/29/2022	Jannat Farm Video 1	01:23:09-01:23:21
A chick is prone on their back and immobile. The bird's leg and wing spasm severely.			
Incident 62	9/23/2022	Jannat Farm Video 1	01:23:21-01:23:59
A live chick writhes on the ground with their eyes closed inside one of the chicken houses.			

Incident W-1	9/28/2022	Witnessed-Only	N/A
<p>At the start of the investigator's shift, [REDACTED] instructed him to work with [REDACTED] for the day as she demonstrated her way of walking the houses as [REDACTED] was typically the worker responsible for walking the houses before the investigator began working at the farm. While the investigator interacted and worked with [REDACTED] during the shift, she stated that she does not euthanize the birds because they are too cute and that she has [REDACTED] euthanize the birds instead. She informed the investigator that she told [REDACTED] that the investigator would not be permitted to euthanize birds for now either and that it would be [REDACTED] responsibility to do that.</p>			

3. Rough Handling

Incident 63	11/4/2022	Jannat Farm Video 2	00:00:06-00:15:36
<p>Multiple chicken catchers appear to carelessly toss live chickens into the compartment.</p>			
Incident 64	11/3/2022	Jannat Farm Video 2	00:15:36-00:20:04
<p>At the 00:17:01 the silhouette of a chicken catcher can be seen dropping a chicken out of his hands, the chicken can be seen falling to the ground. The remainder of the video until 00:18:16 shows silhouette of workers roughly tossing chickens into the compartment.</p>			

3.1. Throwing/Kicking Birds

Incident 65	11/3/2022	Jannat Farm Video 2	00:20:07-00:21:13
<p>At 00:20:42 timestamp, a chicken catcher can be seen throwing a bird.</p>			
Incident 66	11/3/2022	Jannat Farm Video 2	00:21:13-00:22:40
<p>A chicken catcher in what looks like gray sweatpants and a blue sweater or sweatshirt to the left of the crew picks up and throws down a live chicken, kicks the live chickens at his feet 4 times.</p>			
Incident 67	11/3/2022	Jannat Farm Video 2	00:22:40-00:23:55
<p>One chicken catcher ([REDACTED]), tosses a live chicken into the hands of another chicken catcher ([REDACTED]), who turns and tosses the chicken into the compartment in an exaggerated manner.</p>			
Incident 68	11/4/2022	Jannat Farm Video 2	00:23:55-00:40:15
<p>A chicken catcher throws a chicken across the chicken house.</p>			

Incident 69	11/4/2022	Jannat Farm Video 2	00:23:55-00:40:15
Multiple chicken catchers kick a number of live chickens.			
Incident 70	11/4/2022	Jannat Farm Video 2	00:23:55-00:40:15
A chicken catcher throws a live chicken into a crowd of other live chickens.			
Incident 71	11/4/2022	Jannat Farm Video 2	00:23:55-00:40:15
Two different chicken catchers throw live chickens into a crowd of chickens during the catching process.			
Incident 72	11/4/2022	Jannat Farm Video 2	00:40:15-01:05:03
A chicken catcher throws what appears to be a live chicken.			
Incident 73	11/4/2022	Jannat Farm Video 2	00:40:15-01:05:03
A chicken catcher throws what appears to be a live chicken.			
Incident 74	11/4/2022	Jannat Farm Video 2	00:00:06-00:15:36
A chicken catcher picks up a live chicken and winds his arm back, then quickly throws the bird into the compartment.			
Incident 75	11/3/2022	Jannat Farm Video 2	00:22:40-00:23:55
The same chicken catcher ([REDACTED]) from Incident 66 is seen handling birds roughly, tossing one bird into the compartment by swinging the bird by their legs, sideways, into the compartment.			

4. Food/Water Deprivation

Incident 76	9/28/2022	Jannat Farm Video 2	01:05:06-01:07:04
The investigator documents the area where the chicks escaped the brooding area in house 4. Some of the chicks were dead and there was a noticeable difference in some of the birds' behavior as they appeared weak. The chicks did not have access to water on that side of the chicken house as the water lines were raised too high for the chicks to reach. In the recording, the investigator documents several dead birds in the area and attempts to give water to a lethargic bird.			
Incident 77	10/6/2022	Jannat Farm Video 2	01:07:04-01:14:21
The investigator frees a chick who is stuck on their back inside a feed bowl. As the bird appeared to be lethargic, the investigator assisted the bird by holding them up to a water			

dispenser and allowing them to drink. The bird continues to drink water for an extended period of time.			
Incident 78	10/15/2022	Jannat Farm Video 2	01:14:21-01:20:09
The investigator assists a chick in accessing water as the bird is unable to access the water line inside the chicken house due to their inability to support themselves on their legs and their small stature. The bird drinks for an extended period of time.			
Incident 79	10/26/2022	Jannat Farm Video 2	01:20:09-01:21:02
A chick who is too small to reach the water lines repeatedly jumps underneath a water dispenser in several unsuccessful attempts to get access to water.			
Incident 80	11/4/2022	Jannat Farm Video 2	01:21:02-01:25:00
The investigator documents a live chicken left behind in House 4 after the chicken catching process was completed in the chicken house a day prior to the recording of this clip.			
Incident 81	11/4/2022	Jannat Farm Video 2	01:25:00-01:25:38
The investigator documents a live chicken left behind in House 4 after the chicken catching process was completed in the chicken house a day prior to the recording of this clip. The chicken was left in the chicken house with no access to food or water, as evidenced in the recording showing that the food and water lines are raised and out of the bird's reach.			
Incident 82	11/4/2022	Jannat Farm Video 2	01:21:02-01:25:00
The investigator documents a live chicken left behind in House 4 after the chicken catching process was completed in the chicken house a day prior to the recording of this clip.			
Incident 83	11/4/2022	Jannat Farm Video 2	01:25:00-01:25:38
The investigator documents a live chicken left behind in House 4 after the chicken catching process was completed in the chicken house a day prior to the recording of this clip. The chicken was left in the chicken house with no access to food or water, as evidenced in the recording showing that the food and water lines are raised and out of the bird's reach.			
Incident 84	10/17/2022	Jannat Farm Video 2	01:25:38-01:29:20
At 01:27:23 timestamp, [REDACTED] culls a chicken and expresses his surprise that the small birds are still alive and acknowledges that they can't reach the water lines.			
Incident 85	9/27/2022	Jannat Farm Video 2	01:29:20-01:33:15
Multiple chicks are present in the non-brood area of chicken house where no feed is present. Empty feed baskets are visible in the area where the chicks are.			
Incident 86	11/3/2022	Jannat Farm Video 2	01:33:15-01:37:05

Empty feed bowls in House 1, where live chickens are present without access to food.			
Incident 87	11/3/2022	Jannat Farm Video 2	01:37:05-01:39:37
Empty feed bowls in House 5, where live chickens are present without access to food.			
Incident 88	11/3/2022	Jannat Farm Video 2	01:39:37-01:46:20
At 01:39:37, ██████ tells the investigator that the chickens in one of the chicken houses have been out of feed since 9:00pm the previous night.			
Incident 89	9/27/2022	Jannat Farm Video 2	01:46:20-01:48:18
At 01:46:40, the investigator asks ██████ about birds in House 4 on the farm site not having access to water. ██████ confirms that the birds in the chicken house don't have access to water.			
Incident 90	10/17/2022	Jannat Farm Video 2	01:48:18-01:49:30
Empty feed bowls in House 5.			
Incident 91	10/5/2022	Jannat Farm Video 2	01:49:30-01:50:01
A small chick who is incapable of reaching the water lines inside one of the chicken houses.			
Incident 92	11/2/2022	Jannat Farm Video 2	01:50:01-01:52:29
At 01:51:36 timestamp, the feed delivery truck driver enters the chicken house to tell the investigator that House 6 has no feed.			
Incident W-2	9/28/2022	Witnessed-Only	N/A
When the investigator arrived at the farm, he asked ██████ about lowering the water lines for the birds in one of the chicken houses. ██████ admitted that he had forgotten about lowering the water lines for the birds in the chicken house.			

5. Harmful Shelter Conditions

Incident 93	9/22/2022	Jannat Farm Video 3	00:00:06-00:12:55
██████ confirms that the chicken houses are in a state of disrepair, and ██████ acknowledges the presence of holes in the chicken houses.			
Incident 94	10/5/2022	Jannat Farm Video 3	00:12:55-00:13:30
Holes in walls and chicks standing underneath the walls due to gaps between bedding and walls.			
Incident 95	9/17/2022	Jannat Farm Video 3	00:13:30-00:18:29

Holes in the tarp that is meant to provide insulation to the chicken house.			
Incident 96	9/7/2022	Jannat Farm Video 3	00:18:29-00:20:39
█████ states that he has no interest in putting effort into maintaining the farm site due to conflict with █████ the farm owner.			
Incident 97	9/29/2022	Jannat Farm Video 3	00:20:39-00:21:28
Cobwebs hanging from the ceiling in one of the chicken houses, dust and dirt on the walls.			
Incident 98	9/17/2022	Jannat Farm Video 3	00:21:28-00:23:21
The investigator documents the inside of House 5 after it has been cleaned and █████ approved the house as ready for a new flock.			

5.1. Dangerous Ammonia Levels

Incident 99	10/24/2022	Jannat Farm Video 3	00:23:24-00:24:01
The investigator documents a high ammonia reading of 26 ppm - 30 ppm in House 6.			
Incident 100	10/28/2022	Jannat Farm Video 3	00:24:01-00:24:36
The investigator documents an ammonia reading between 23 ppm and 27 ppm in House 6.			
Incident 101	10/28/2022	Jannat Farm Video 3	00:24:36-00:25:12
The investigator documents an ammonia reading in House 6 of 25 - 29 ppm.			
Incident 102	10/26/2022	Jannat Farm Video 3	00:25:12-00:25:35
The investigator documents ammonia levels in House 6 that range from 26 ppm and 29 ppm.			

5.2. Moisture Buildup/Water Logged Litter

Incident 103	10/26/2022	Jannat Farm Video 3	00:25:38-00:26:22
A live, wet chicken covered in filth sits near the wet dead body of another chicken atop wet litter in a chicken house.			
Incident 104	10/26/2022	Jannat Farm Video 3	00:26:22-00:27:19
The investigator picks up wet litter in House 1 and squeezes it in his hand. Dirty brown water streams out of the litter.			

Incident 105	10/24/2022	Jannat Farm Video 3	00:27:19-00:28:30
A wet chicken covered in mud who is unable to walk or stand, lying down in water-logged litter. The investigator touches the litter and confirms that it is muddy.			
Incident 106	10/5/2022	Jannat Farm Video 3	00:28:30-00:29:14
A leak in one of the chicken houses created a large wet area on the ground.			
Incident 107	11/1/2022	Jannat Farm Video 3	00:29:14-00:32:30
Multiple chickens covered in mud with wet feathers in a chicken house with water-logged litter on the ground.			
Incident 108	11/1/2022	Jannat Farm Video 3	00:32:30-00:33:03
Wet birds in one of the chicken houses.			
Incident 109	11/1/2022	Jannat Farm Video 3	00:33:03-00:34:00
A wet chicken lying on top of the decayed corpse of another chicken.			
Incident 110	10/28/2022	Jannat Farm Video 3	00:34:00-00:34:44
Chickens walking and lying down in water logged litter.			
Incident 111	10/28/2022	Jannat Farm Video 3	00:34:44-00:36:24
Chickens walk through muddy litter in one of the chicken houses.			
Incident 112	10/28/2022	Jannat Farm Video 3	00:36:24-00:36:43
A wet chicken missing a substantial number of feathers.			
Incident 113	10/26/2022	Jannat Farm Video 3	00:36:43-00:37:10
Multiple chickens standing in wet litter. Their feet sink partially into the litter.			
Incident 114	10/26/2022	Jannat Farm Video 3	00:37:10-00:38:09
A wet chicken laying down in wet litter shivers repeatedly.			
Incident 115	10/26/2022	Jannat Farm Video 3	00:38:09-00:38:39
A wet chicken who is missing a large number of feathers.			
Incident 116	10/26/2022	Jannat Farm Video 3	00:38:39-00:38:57
A wet chicken breathing heavily.			
Incident 117	10/26/2022	Jannat Farm Video 3	00:38:57-00:39:36

The investigator helps a chicken who is stuck on their back to stand again. Wet litter is stuck to the bird's back and their feathers are damp.			
Incident 118	10/24/2022	Jannat Farm Video 3	00:39:36-00:40:17
The dead birds the investigator picked up in House 5.			
Incident 119	10/19/2022	Jannat Farm Video 3	00:40:17-00:40:48
Water droplets accumulating on the ceiling in House 6.			
Incident 120	10/19/2022	Jannat Farm Video 3	00:40:48-00:41:19
Water droplets accumulating on the ceiling in one of the chicken houses.			

6. Exposure to Pests

Incident 121	9/22/2022	Jannat Farm Video 3	00:41:22-00:45:54
At 00:41:36, [REDACTED] states that the farm has a bug and rat infestation problem. She goes on to say that the bugs are in the chicken feed and pose a mortality risk to the new flock the farm receives during the investigator's time of employment.			
Incident 122	9/22/2022	Jannat Farm Video 3	00:00:06-00:12:55
At 00:04:00, [REDACTED] states that the farm has a bug infestation problem due in part to [REDACTED] and [REDACTED] placing feed trays out earlier than needed.			
Incident 123	9/22/2022	Jannat Farm Video 3	00:00:06-00:12:55
At 00:08:13, [REDACTED] states that avian influenza is a real concern and explains that Tyson Foods Inc. farms only practices biosecurity procedures during migratory bird season.			
Incident 124	9/23/2022	Jannat Farm Video 3	00:45:54-00:45:59
The investigator documents the compost pile, where dead chicks, dead rats and a dead snake removed from one of the chicken houses has been disposed.			
Incident 125	9/7/2022	Jannat Farm Video 3	00:45:59-00:56:42
At 00:47:59 timestamp, [REDACTED] tells the investigator that snakes can access the inside of the chicken houses and feral cats have entered the chicken houses in the past and die in their attempts to leave the house by colliding with the large, industrial fans on the houses.			
Incident 126	9/23/2022	Jannat Farm Video 3	00:56:42-00:57:03

Dead chicks removed from the chicken houses. Dead rats and a dead snake are visible in the pile.			
Incident 127	9/23/2022	Jannat Farm Video 3	00:57:03-00:57:15
Dead chicks removed from the chicken houses. Dead rats and a dead snake are visible in the pile.			

6.1. Bug Infested Food

Incident 128	9/17/2022	Jannat Farm Video 3	00:13:30-00:18:29
Numerous black bugs crawl in the feed trays placed inside the chicken houses for the arrival of the new flock of chicks. Bugs are also seen crawling through the litter.			

6.2. Rat Infestation

Incident 129	9/22/2022	Jannat Farm Video 3	00:41:22-00:45:54
At 00:44:15 timestamp, after ██████ states that ██████ and ██████ have a pest problem on the farm and walks away, ██████ admits that she is aware of the presence of rats in the chicken houses. She recounts an event when she saw a rat in one of the chicken houses and the rat ran across her foot and startled her. The investigator then asks in the same conversation whether the birds will still be delivered by Tyson Foods Inc. and ██████ confirm that the flock will still be delivered to a select number of houses on the farm site, since one of the houses is having technical issues.			
Incident 130	8/31/2022	Jannat Farm Video 3	00:57:18-00:57:57
Dead rats on top of a fan cage.			
Incident 131	9/7/2022	Jannat Farm Video 3	00:57:57-00:58:23
A dead rat near the feed bowls in a chicken house.			

7. Biosecurity Risks and Unused Bleach Trays

Incident 132	9/27/2022	Jannat Farm Video 3	00:58:26-00:58:43
---------------------	-----------	---------------------	-------------------

A dry bleach station in House 6, with no dry bleach in the tray for the employees to sanitize their shoes before entering the chicken house.			
Incident 133	11/1/2022	Jannat Farm Video 3	00:58:43-00:59:00
A dry bleach tray in House 4 shows no signs of any employee sanitizing their shoes upon entering the chicken house aside from the investigator.			
Incident 134	11/1/2022	Jannat Farm Video 3	00:59:00-00:59:20
A dry bleach tray in House 3 shows no signs of any employee sanitizing their shoes upon entering the chicken house aside from the investigator.			
Incident 135	10/26/2022	Jannat Farm Video 3	00:59:20-00:59:37
A dry bleach tray in House 4 that shows little signs of use by any employees on the farm, other than the investigator.			
Incident 136	10/6/2022	Jannat Farm Video 3	00:59:37-01:01:18
A chicken house on the farm site with old dry bleach in a tray outside the door to enter.			
Incident 137	9/27/2022	Jannat Farm Video 3	01:01:18-01:02:28
The investigator walks the route employees on the farm use to enter House 6 and documents the lack of dry bleach in the tray that is intended to be used by employees to sanitize their shoes before entering the chicken house.			
Incident 138	9/27/2022	Jannat Farm Video 3	01:02:28-01:03:36
The investigator documents the entrance to House 3, where no dry bleach station is present for employees to sanitize their shoes before entering the chicken house.			
Incident 139	9/29/2022	Jannat Farm Video 3	01:03:36-01:03:56
A cigarette butt in a dirty dry bleach tray meant for employees to sanitize their shoes before entering the chicken house.			
Incident 140	9/30/2022	Jannat Farm Video 3	01:03:56-01:04:33
The investigator documents the entrance of one of the chicken houses, where very little dry bleach is present in the dry bleach tray at one door of the chicken house and no bleach is present at another door used to enter the chicken house.			
Incident 141	10/19/2022	Jannat Farm Video 3	01:04:33-01:05:21
An unused dry bleach station in House 1. There is no indication of anyone on the farm site stepping into the dry bleach aside from the investigator.			
Incident 142	11/1/2022	Jannat Farm Video 3	01:05:21-01:05:40

An unused dry bleach station in House 1. There is no indication of anyone on the farm site stepping into the dry bleach aside from the investigator.

7.1. Dead Birds in Chicken Houses/Food Trays

Incident 143	9/27/2022	Jannat Farm Video 3	01:05:43-01:06:03
Two dead chicks present in a feed tray with live chicks.			
Incident 144	9/27/2022	Jannat Farm Video 3	01:06:03-01:06:33
Live chicks run over dead chicks embedded into the litter in one of the chicken houses.			
Incident 145	9/27/2022	Jannat Farm Video 3	01:06:33-01:07:20
Two dead chicks in a feed tray and an incapacitated live chick.			
Incident 146	9/17/2022	Jannat Farm Video 3	01:07:20-01:09:12
The decayed corpse of a dead chicken left in the chicken house for an extended period of time.			
Incident 147	9/27/2022	Jannat Farm Video 3	01:09:12-01:09:24
A pile of dead chicks that the investigator picked up inside House 6.			
Incident 148	9/30/2022	Jannat Farm Video 3	01:09:24-01:10:16
A dead chick in an advanced state of decay.			
Incident 149	10/10/2022	Jannat Farm Video 3	01:10:16-01:10:41
A dead bird in an advanced state of decay.			
Incident 150	10/10/2022	Jannat Farm Video 3	01:10:41-01:11:33
A dead bird in a feed tray alongside a trapped live chick.			
Incident 151	11/1/2022	Jannat Farm Video 3	00:33:03-00:34:00
A wet chicken lying on top of the decayed corpse of another chicken.			
Incident 152	10/28/2022	Jannat Farm Video 3	01:11:33-01:11:46
72 dead birds that the investigator collected in House 5.			
Incident 153	10/24/2022	Jannat Farm Video 3	01:11:46-01:12:19
Three dead chickens who died in close proximity to each other in a chicken house.			

Incident 154	10/24/2022	Jannat Farm Video 3	01:12:19-01:12:43
A dead chicken in an advanced state of decay with rotting flesh.			
Incident 155	10/21/2022	Jannat Farm Video 3	01:12:43-01:13:45
A dead chicken in an advanced state of decay.			
Incident 156	10/21/2022	Jannat Farm Video 3	01:13:45-01:14:40
The investigator picks up a bloated, decayed carcass of a bird from the floor of a chicken house.			
Incident 157	10/19/2022	Jannat Farm Video 3	01:14:40-01:15:02
A dead chicken in an advanced state of decay.			
Incident 158	11/2/2022	Jannat Farm Video 3	01:15:02-01:15:28
A dead chicken present in a feed bowl.			
Incident 159	10/24/2022	Jannat Farm Video 3	01:15:28-01:15:45
A dead chicken in an advanced state of decay inside one of the chicken houses. The flesh is rotting.			
Incident 160	9/27/2022	Jannat Farm Video 3	01:15:45-01:16:15
An extremely decayed corpse of a chicken left in one of the chicken houses.			

8. Context

Incident 161	10/10/2022	Jannat Farm Video 3	01:16:18-01:33:37
At 01:20:46, ██████ tells the investigator that ██████ regularly complains about the numerous issues with the farm site and overall lack of maintenance, lax biosecurity standards and other issues. ██████ also states that ██████ believes that ██████ wants to shut the farm down. ██████ appears unconcerned and voices his indifference with the situation.			
Incident 162	10/10/2022	Jannat Farm Video 3	01:33:37-01:36:44
██████ tells the investigator that he refuses to perform more repairs on the farm, despite ██████ warnings, because he is frustrated with the amount of work he is tasked with. He also complains about the farm owner, ██████			
Incident 163	10/10/2022	Jannat Farm Video 3	01:36:44-01:40:12

<p>██████ acknowledges that ██████ frequently complains about the state of the farm and that he agrees with her that the farm is largely neglected. The investigator asks ██████ if Tyson Foods Inc. would shut down the farm and he states that the company would not shut the farm down in the middle of a flock cycle.</p>			
Incident 164	10/10/2022	Jannat Farm Video 3	01:40:12-01:45:51
<p>██████ instructs the investigator to fill in the numbers of dead birds picked up for the day before the investigator's shift when the investigator picks up birds during this shift to cover for ██████ not picking up birds on Sunday. ██████ talks about falsifying the numbers of dead birds picked up in the houses.</p>			
Incident 165	9/15/2022	Jannat Farm Video 3	01:45:51-01:46:07
<p>The chicken houses, residential house and storage room on the Jannat Farm site.</p>			
Incident 166	9/28/2022	Jannat Farm Video 3	01:46:07-01:46:39
<p>██████ tells the investigator that she and ██████ only walk through each house on the farm site one time per day although the paperwork reviewed by ██████ has sections for employees on the farm to write down the number of dead chickens picked up from a first and second walkthrough of each house.</p>			
Incident 167	10/5/2022	Jannat Farm Video 3	01:46:39-01:48:39
<p>The investigator walks through one of the chicken houses.</p>			
Incident 168	10/26/2022	Jannat Farm Video 3	01:48:39-01:49:01
<p>Chickens crowded together inside of House 5.</p>			
Incident 169	10/26/2022	Jannat Farm Video 3	01:49:01-01:49:15
<p>Chickens crowded together inside one of the chicken houses.</p>			
Incident 170	10/12/2022	Jannat Farm Video 3	01:49:15-01:49:58
<p>Context shot of birds.</p>			
Incident 171	10/12/2022	Jannat Farm Video 3	01:49:58-01:51:01
<p>A panoramic view of a chicken house.</p>			
Incident 172	9/30/2022	Jannat Farm Video 3	01:51:01-01:51:42
<p>A crowd of chicks inside a chicken house.</p>			
Incident 173	9/29/2022	Jannat Farm Video 3	01:51:42-01:52:33
<p>A crowd of chicks in a chicken house.</p>			

Incident 174	9/23/2022	Jannat Farm Video 3	01:52:33-01:52:51
Chicks inside a chicken house.			

9. Miscellaneous

Incident 175	10/26/2022	Jannat Farm Video 3	01:52:54-01:53:20
An injured chicken stuck in a feed bowl.			
Incident 176	10/21/2022	Jannat Farm Video 3	01:53:20-01:53:46
A small chick trapped in a feed bowl.			
Incident 177	10/19/2022	Jannat Farm Video 3	01:53:46-01:54:33
█ keeps 3 goats on the farm site. One of the goats has an injury to their foot.			
Incident 178	10/26/2022	Jannat Farm Video 3	01:54:33-01:54:47
A live chicken with sores on their foot pads.			
Incident 179	10/26/2022	Jannat Farm Video 3	01:54:47-01:55:04
The footpads of a live chicken. Positioning and size of the sores on the bird's paws are indicators of the bird kneeling often.			
Incident 180	11/2/2022	Jannat Farm Video 3	01:55:04-01:55:18
A dark sore on the paw of a live chicken. A growth on their toe is also visible.			
Incident W-3	10/6/2022	Witnessed-Only	N/A
<p>While the investigator was completing daily job duties, walking the chicken houses and removing dead chickens from inside the houses, █ arrived on the farm site and asked where █ was. When the investigator replied that █ was inside his trailer on the farm site, █ proceeded to complain about █ work ethic and his indifference to the poor condition of the farm, characterizing him as lazy multiple times during the conversation. █ also stated that in the 7 years she had been working in her current position, █ has always been difficult for her to work with as he never follows through with any of her instructions or recommendations. █ explained that it was typical for █ to be inside his trailer and not working whenever she visits. █ went on to list the issues she found on the farm site during her visit, including water line leaks in the chicken houses, chicken feed on the ground in the houses, which would develop mold from the moisture and posed a risk of making the chickens ill if they consumed it, as well as the absence of dry bleach stations at 4 out of the 6 houses on the farm site. █ then informed the investigator that she would notify █ of these issues.</p>			

