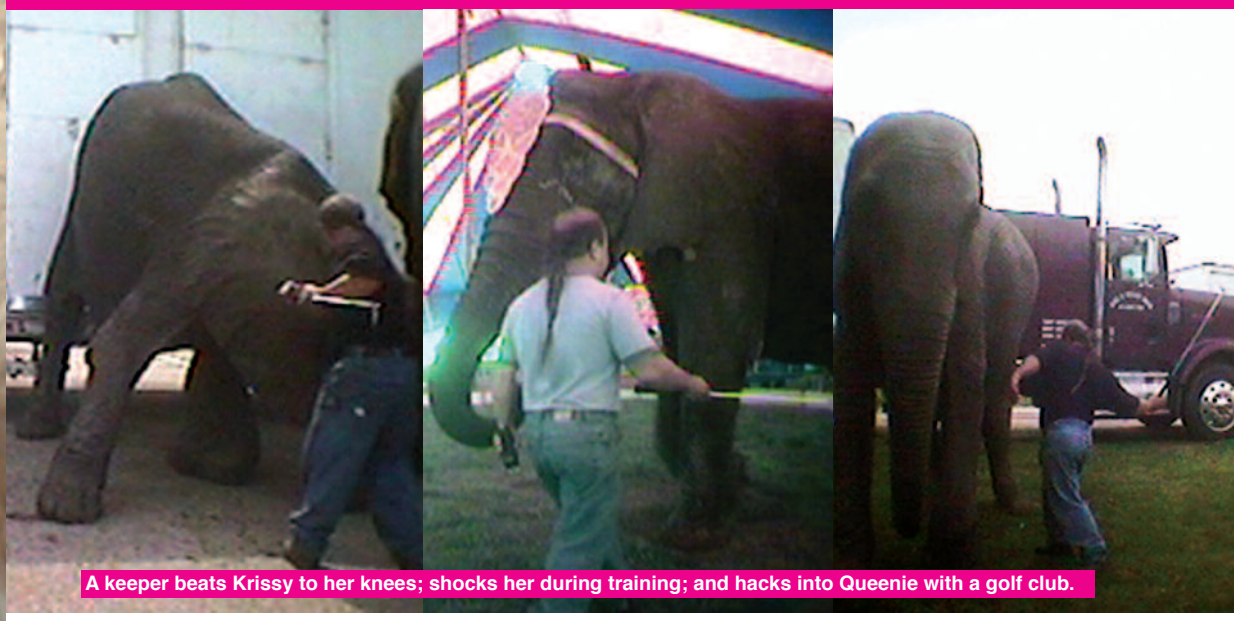
Congress Briefing: Enforcement of Animal Welfare Act (AWA)

Congress is urged to protect non-domesticated (exotic/wild) animals in traveling circuses and make public safety a priority



A keeper beats Krissy to her knees; shocks her during training; and hacks into Queenie with a golf club.

AWA Enforcement Difficulties – Traveling Circuses

The case of Krissy and Queenie

Krissy and Queenie (aka Boo) are two female Asian elephants who have toured with traveling circuses throughout the U.S. During an ADI investigation the elephants were filmed being abused by their handler. Incidents included Krissy being beaten with a bullhook, then dragged to the ground and kicked in the face as the handler screamed at her. Queenie cowered next to her. The same handler was also filmed hitting the elephants with a golf club and giving them electric shocks during rehearsals and on the way to the performance. The elephants are owned by separate individuals; neither of them is the person filmed beating Krissy. The USDA has recently removed Queenie to San Antonio Zoo. Krissy remains with her owner, traveling around to give elephant rides.

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) is responsible for enforcing the Animal Welfare Act (AWA), which includes regulating and inspecting exhibitors of wild and exotic animals. The case of Krissy and Queenie highlights the problems faced by the USDA in the enforcement of the AWA and their own policies and guidelines when it comes to exotic and non-domesticated species used in traveling circuses and exhibitions.

Wild animals handled by untrained or casual workers

The APHIS Animal Care Program acknowledges that wild and exotic animals are dangerous and as such *"only qualified, trained professionals should keep these animals (…) Care and handling of these wild and exotic cats should be left to trained*

Animal Defenders International
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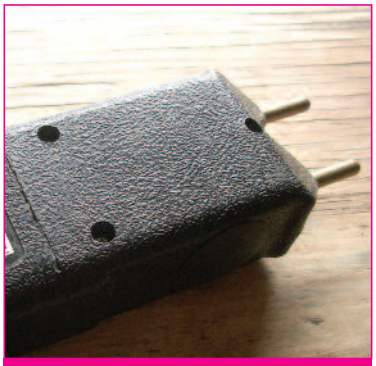
professionals who have the knowledge and means to maintain them properly"[1].

Despite this policy, ADI's studies have shown that animal handlers in traveling circuses in the U.S. fail to meet these criteria. A report published in 2008 noted: *"For most of their time, animals are being cared for by untrained minimum-wage workers who are under pressure to move the animals fast and do not understand the species they are dealing with; this alone can lead to violence"*[2].

APHIS has reported that there have been instances *"where wild and exotic cats kept by untrained people have not only harmed people but suffered themselves due to poor care" and in addition that this lack of expertise "[…] result in the unnecessary suffering and premature death of animals"*[1].



Stun guns to give electric shocks have been filmed being used on elephants in training and while walking to the performance.

The traveling nature of the circus presents difficulties for setting standards and law enforcement

In the case of Krissy and Queenie, it is evident that the keeper lacked the training and skills to handle elephants and he frequently lost his temper. His actions were a violation of section 2.131(2) (i) of the AWA, which stipulates that physical abuse shall not be used to train, work, or otherwise handle animals.

However, due to the circumstances of the traveling circus and exhibition industry, where both animals and handlers constantly change as well as move location, law enforcement officials face practical difficulties. The process of inspection, gathering and assembling evidence and then locating animals and individuals in order to follow up with enforcement action can be extremely difficult.

Krissy immobilized with a bare chain on her leg, attached to her transporter, with Bailey Brothers Circus.

In the case of Krissy, the USDA was unable to take any further action because the handler stated that he neither owned, nor was he currently handling, any elephants. Others owned both elephants and gathering evidence of the individual handling them would require a major investment in time and resources. Although ADI has continued to track these elephants and eventually filmed the same handler with the elephants – even posing in a photo with Krissy, this matter remains unresolved.

This case is a clear example of the difficulties presented by the itinerant nature of the traveling circus industry, the constant movement of staff and animals, and employment of casual labor. All of these factors make it extremely difficult to lay down and maintain standards of animal protection and welfare and follow up with enforcement.

Although local animal control inspectors also contribute to enforcement of state and local animal welfare laws, they face similar challenges. In addition, their staff may not have the necessary knowledge and training to assess welfare, since many of the animals in traveling circuses are wild species, mostly not native to the U.S. Furthermore, local inspection agencies are often already stretched

Krissy immobilised by a bare chain on the leg again, this time at the Texas Rennaissance Fair.

with local duties. For example, it is easier for animal control inspectors to enforce legislation on local issues, such as the horse carriages in Manhattan or Chicago, rather than to inspect exotic animals with a traveling circus that will only be in their jurisdiction for a couple of weeks.

Thus, despite the best efforts of federal and local enforcement to keep track of animals with traveling circuses, it is very difficult to maintain standards while they are on tour, in order to ensure compliance.

The conclusion is that given the circumstances:

(a) it is not possible for traveling circuses to provide their animals with the facilities they need to maintain optimum physical and psychological health;

(b) adequate welfare standards cannot be devised and enforced in mobile and temporary facilities;

(c) it is not feasible to devise an affordable inspection system, which could protect animals from abuse when traveling; any abuse takes place behind the scenes, away from public view, presenting difficulties with evidence and enforcement.

Krissy giving rides to children; still chained when not working; still controlled with an elephant hook.

Enforcement of regulations is time consuming and expensive

Law enforcement of animal welfare legislation for owners of animals used in traveling shows and exhibitions, and for elephant rides, has proven to be time consuming and expensive for federal agencies.

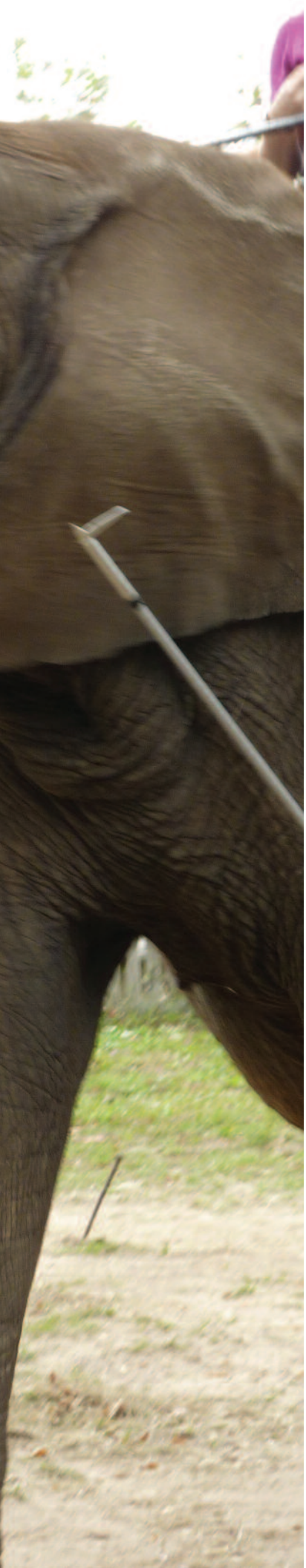
For example one owner had been exhibiting three elephants, Queenie, Jewel and Tina; the USDA received complaints from various organizations and individuals on their treatment and tracked his activities over many years. Finally in 2009 the Texas USDA confiscated Tina and Jewel because the animals had been losing substantial amounts of weight; the owner surrendered his exhibitor license. Charges were filed for violations of the AWA, with the USDA commenting, *"the gravity of the violations alleged...is great"* and the owner had *"not shown good faith"* in his repeated unwillingness to comply with AWA regulations[3]. This investigation took a long time to complete before charges could be filed, and such delays can have a negative impact on the welfare of the animals involved, as they remain with the owner. Queenie remained with the owner until finally removed by the USDA in 2010.

A reptile with mouth taped shut so that people can have their picture taken with him.

A male Asian elephant called Benny has languished in a Mexican zoo, used as a temporary holding facility for confiscated illegal animals, for ten years. He was taken out of the U.S. and into Mexico illegally by Circo Hermanos Vasquez. He was immediately seized by the Mexican authorities. The circus said, *"we needed an elephant and they are not precisely easy to get in Mexico."* In 2001, the U.S. Fish and Wildlife Service advised the Mexican authorities that Benny had been transported to Mexico illegally and was required as evidence in a case, requesting his return to the U.S. in accordance with the Convention on International Trade in Endangered Species (CITES) regulations. However, the Mexican authorities have not returned Benny; the circus has made a succesful legal challenge over the procedures (due process) implemented in the original confiscation and the Mexican zoo and authorities have now launched a legal counter-measure. Only pressure from the U.S. for CITES regulations to be complied with can move this case forward.

Benny was illegally exported to Mexico and a decade later, remains in limbo in a Mexican zoo.

The practical difficulties of maintaining standards, inspecting, gathering evidence and ensuring compliance with animal welfare legislation justifies the restriction on the use of animals of exotic or non-domesticated species in US traveling circuses and exhibitions.



Action Request

It is essential that Congress support legislation to prohibit the use of exotic and non-domesticated animals in U.S. traveling circuses.

The ban will protect public safety of workers and audiences.

The ban is the only and best way to protect animal welfare. The use of animals of domesticated species in traveling circuses will not be affected by the legislation.

There is no significant public appetite for non-domesticated wild animal acts.

Removing non-domesticated animals from traveling circuses lowers costs and animal-related accidents.

Countries around the world have recognized the importance of banning non-domesticated animals from traveling circuses:

National measures to prohibit the use of wild animals, or selected species, have been adopted in: Austria, Belgium, Bolivia, Colombia, Costa Rica, Czech Republic, Denmark, India, Israel, Malta, Peru, Portugal, Singapore, Slovakia, Sweden and Taiwan. Similar laws are being discussed in: Brazil, Chile, Netherlands, Norway and United Kingdom. Due to public concerns, local town and city bans are in place in the US, UK, Brazil and many other countries.

Animal Defenders International

With offices in Los Angeles, London and Bogota, ADI is an international campaign and animal rescue organization with a commitment to securing progressive animal protection legislation around the globe. ADI has a worldwide reputation for providing video and photographic evidence exposing the behind-the-scenes suffering in the circus industry and supporting this evidence with scientific research on captive wildlife and transport.

References
1. http://www.aphis.usda.gov/animal_welfare/downloads/big_cat/position.pdf
2. 2008. Animal Defenders International, *Animals in Traveling Circuses: The Science on Suffering*, p.4
3. The charges included: defying federal officials, including counts of abusing USDA/APHIS officials; failure to provide minimal veterinary care to the elephants between March 2008 and August 2009; failure to handle elephants safely and humanely: four counts, including an incident in Indianapolis when all three elephants were used to give rides and one elephant Queenie (Boo) and 13 people, many of them children, were injured; failure to abide by welfare standards, including protecting elephants from extreme temperatures and providing sufficient and nutritious food. *Animal Defender*, Winter 2009/2010.

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