



THE ZONE OF DESPAIR

The Failure of Both Aviculture and the “Humane Society” to Protect the Welfare of Breeding Parrots in Pierce County, Washington

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This article describes the lack of the most basic protections needed for the welfare of breeding birds in certain aviaries in Pierce County, Washington. For reasons of space, I will document only some of the abuses. Equally importantly, this article reveals how certain prominent aviculturists, one so-called “Humane Society” (the Pierce County Humane Society or PCHS), and county and city officials, together, by both commission and omission, synergistically perpetuated years of unacceptable husbandry practices. Most sadly of all, it documents that a well-known member of the American Federation of Aviculture (AFA) traveled from another state to actually oppose an ordinance designed to help prevent such abuses in the future. I entitled this article “Zone of Despair” because the birds in question have been abandoned in a ‘Twilight Zone’ of

Despair—adequately protected neither by current law, by the local humane agency given the responsibility to protect their welfare, nor even by the national Federation which trumpets ceaselessly its role in seeking to prevent such abuses, while often seeming only to obstruct meaningful redress. AS Shakespeare wrote in Hamlet, “[The lady doth protest too much, methinks.](#)”

I became aware of the existence of several large breeding facilities in Pierce County, Washington some years ago. The distressing conditions in which exotic birds were kept at several specific facilities were a shock to me, but were not a surprise to many other people involved in both keeping and breeding birds, in Washington State. The aviaries to be discussed are, to employ a euphemism, well-known. My exposure to the darker side of the breeding business started one day a few years ago when in my quest for knowledge about those magnificent birds, the parrots, I telephoned a friend who operates a sanctuary for parrots. I noticed that her demeanor on the phone was very quiet. I asked her if there was something wrong. She told me that on the previous day she had been to an Aviary in Roy, Washington . Although she had been in large breeding facilities in the past, this was the first time she had left in tears. She related to me her visit in detail and followed that up with a complaint to the Pierce County Humane Society (PCHS). My friend told the PCHS that she was prepared to provide care, veterinary services and boarding for the three hundred (300) birds which we were certain would be seized by the PCHS as a result of the inspection.

The PCHS has little or no knowledge of minimal standards of care for birds, identification of individual bird species, or the basics of recognizing sick parrots. Therefore, they recruited a veterinarian to accompany them. The person who was selected is a general veterinarian, not avian board-certified and has limited knowledge of avian care. The shortcomings in the inspection process were compounded by the PCHS inspector’s refusal to utilize his own observations as a basis for seizure. The conditions did not merely border on abuse; they went so far beyond abuse as to probably be criminal under the laws of the state of Washington. A few of the observations which had been made by my friend in the weeks just prior to the PCHS inspection included the following:

- Presence of emaciated, weak and extremely ill birds. Many birds were too weak to hold their own food.
- Absence of water in some cages
- Absence of heat in some of the buildings
- Absence of nutritious food
- Inadequate amount of food
- The birds smelled of mold
- Filthy cages ; some had feces 6” high on the bottom.

The sides of the cages were coated with excrement such that, as the bird climbed down to their food bowl , they contaminated their feet. It would seem that they could not avoid ingesting the bacteria when they then held their food in their feet.

The above constitutes only a partial list of the problems that have been observed at the facility by other persons as well, people who have extensive, hands-on experience in caring for psittacines. Following are two pictures from among the many I took at the facility:



This Building housed 50 Parrots



Water Bottles encrusted with algae and mold

In addition, the reputation of the farm is considered so bad that the publication “Bird Talk Magazine “ has permanently rejected accepting advertising from this Aviary .

Nonetheless, PCHS took no action, claiming that while the first facility was disgusting, there were no ‘actionable’ problems. **This is a key phrase.** And it is highly relevant to the obstruction, by a member of the American Federation of Aviculture (AFA), **of a proposed ordinance which might have made such abuses actionable, at least in pierce county** (see below).

[Ed note: The owners of this facility changed and it has since gone out of business for financial reasons.]

A short time later, I was told that just down the road from the first aviary, there was an even larger breeder aviary (700-900 birds), which had been in business for some 20 years. There had been complaints filed against this breeder.

[Ed note: More than one highly respected breeder in the state has commented that conditions at the Martha Scudder/Robert Vincent farm are so substandard as to be abusive. However, since they have to deal with other breeders in the community in the general geographical area, they have requested that their comments remain anonymous]

Records in the possession of PCHS, which sadly were obtainable to me only under subpoenas from my attorney, revealed that a virtual litany of avian diseases had been present, as documented in the necropsies of approximately 47 birds submitted to the Avian Health and Food Safety Laboratory of the State of Washington.

[Ed note: As more records became available, the number of necropsies reported between 1999 and 2004 rose to at least 120. The numbers are analyzed in a bit more depth in the Declaration of Dr. Stewart Metz.]

However, the PCHS had never taken any substantive action. In the state of Washington , each county or town can contract for animal control enforcement. As a result, as long as they hold the contract as the local Humane Society, PCHS is authorized to enforce the laws. In other words if an agency refuses to act, then no other party or government agency can enforce those laws.

I then asked an advocate from the Progressive Animal Welfare Society (PAWS) to visit the Aviary and document any observations. Based on the report by the PAWS animal advocate, which was supported by a Board-certified Avian Veterinarian, the PCHS requested an investigation of the aviary. However the agency conducted the inspection without a warrant; as a result they were limited to the areas to which the owners granted them access. Had the PCHS obtained a warrant, they would have had access to all areas. The PCHS stated that they were striving to work cooperatively with the aviary to resolve the issues.

Because I had voiced concern over the inspection at the first Aviary, the PCHS permitted me to select the veterinarian to accompany them on the inspection of the second, larger facility. The veterinarian whom I selected is a highly regarded avian-board-certified veterinarian. However, PCHS required the veterinarian to sign a confidentiality agreement prior to the inspection, which barred release of any information to any agency or individual except the PCHS

Towards the end of February of 2003, the inspection took place. On March 7, 2003 , the veterinarian's report was faxed to the PCHS. Access to the report was first denied to me; eventually, with both insistence and persistence, I received it .The reported showed that extensive conditions had been observed which were described as "cruel" by the examining avian veterinarian. Among many abuses were the presence of extremely small cages; no perches in many cages; outdoor cages providing inadequate protection from the elements; extremely poor sanitation; lack of regular medical care; contamination of water dishes; and lack of any water availability in some cases.

[*Ed note: For details, see the complete "Summary of observations and recommendations" of Dr. Tracy Bennett*]

The PCHS position, however , was again that no '**actionable**' abuses were noted. It should be noted that essentially a similar story of poor husbandry played out starting with complaints against yet a third aviary in Bonney Lake. The only "action" ever taken in this case was that the flock had been substantially thinned—unfortunately, this was due to the death of a large number of birds. .

I next approached the County Council and actually met with two of the councilmen and representatives of the council, accompanied by Dr. Stewart Metz and Ms. Renee Ward . I provided them with numerous relevant documents including : copies of the state animal abuse laws, veterinarian's reports, laboratory reports and numerous other documents which I felt substantiated the gist of the situation . Despite assurances of action, very little occurred after this meeting.

Then, to my dismay, the almost-predictable occurred. On October 16, 2003, the King County Health Department instituted a quarantine of a pet store in Federal Way, Washington. The quarantine was based on the presence of chlamydiosis in several birds; this is a zoonotic disease , meaning that it can potentially can be transmitted to humans. Laboratory tests confirmed that an infected bird at the shop actually came from the larger aviary which I have described above.

[*Ed note:* This conclusion is not entirely clear. However, at the very least, despite the possibility that birds with chlamydiosis might have originated on her farm, Martha Scudder did not test the birds for this disease but simply denied the possibility. The failure to test--a rather striking breakdown in surveillance-- incensed Kathy Scudder because it jeopardized her reputation as well (*viz.* KathyPhillipsScudderDepositionPtII, Sections 37 & 40)

On his website (<http://www.parrot-depot.com>), Robert Vincent notes that some birds at the Scudder Parrot Depot subsequently tested negative for chlamydiosis, thereby seeming to exonerate their birds. However, only 10 birds out of several hundred were tested; and these were presumably well birds. This would seem to be a very ineffective way to address the issue of whether chlamydiosis occurred in any birds at the Scudder/Vincent farm.]

In the first part of 2004, I was contacted by the County and informed that they had written the basic structure for a new animal abuse ordinance . Its tenets were very simple in that it aimed to extend to birds, those basic welfare protections which were already provided to other animals in Pierce County . The Ordinance would affect only owners of more than 24 birds, requiring them to obtain a license of \$250/yr (identical to that for kennels). This in turn would require an examination of the birds by a veterinarian, and an openness to inspection of their records and facilities by the PCHS. As Representative Shawn Bunney noted at the Pierce County meeting discussed below, the Humane Society had “no regulatory tool” to deal with animal mistreatment and unacceptable husbandry. The Ordinance would provide a simple tool to meet this need.

The new ordinance would have developed minimum standards for birds in the following areas:

- Sanitation and safety
- Food and water
- Construction and maintenance of facilities
- Classification and separation of animals
- Requirements for veterinarian care
- Requirement for a minimum level of record keeping by the Aviaries
- Minimum level of training for animal control officers
- (for birds) minimum standards for caging

The objectification of such standards would have minimized the need for the Animal Control Officers to make subjective judgment calls, and would have gone a long call towards finally defining an **“actionable”** violation.

The fact that the council had finally recognized that they needed to take action to protect these animals was wonderful news and I once again got my hopes up that perhaps things could change for the better. I would soon find out how wrong I was. The most stunning revelation to me was finding out who would take the strongest opposition to protecting these wonderful animals.

In retrospect, I shouldn't have been surprised. A meeting of the Public Safety and Human Services Committee of Pierce County was called to convene on February 24, 2004. The night before the public hearings on the county's new animal abuse ordinance, I discovered that two members of the American Federation of Welfare (AFA), who did NOT reside in Washington state, were going to attend the meetin . Ms. Desborough is currently Legislative Vice-President of the AFA and Ms. Wall is Chair of its Avian Welfare Committee.

[*Ed note: There is some question whether Ms. Wall actually attended the meeting*]

I attempted to contact Ms. Desborough and arrange a few minutes to discuss what I thought were our mutual interests. I was turned down; she told me that our interests were not compatible and that she saw no reason to discuss the matter with me or anyone who supported enactment of the ordinance. I, like others, took that to mean that my desire to ensure the welfare of parrots in captivity is, indeed, not compatible with the ilk of at least *some* aviculturists might place their political autonomy and pocketbooks above at least some considerations of the welfare of their “product”, or to use Ms. Desborough's term, “specimen” (see below).

Mr. Desborough's speech contained a number of contentions which seemed to support these concerns. Here are just a few, taken with quotations directly from the actual videotape of the proceedings of the meeting (which was reviewed and discussed with Dr. Stewart Metz):

#1. Her first contention was that The Animal Welfare Act (AWA)—a federal law recently revised to include birds-- would soon offer protection to captive birds. However, the protections under the AWA will not likely be written for at least 3-5 years. Do the birds in the Pierce County Aviaries have years of misery to spare? Even in this scenario, the AWA regulations may well be limited and lacking in real “teeth”, according to one of the senior USDA officials initially involved in its implementation (personal communication, telephone call by Dr. S. Metz to Dr. Jerry dePoyster following passage of the revision to the AWA).

Furthermore, implementation on a national level is likely to be extremely difficult. Ms. Desborough argued that we already have sufficient ordinances to protect the animals but that those agencies charged with the protection of these birds are having difficulty difficulty enforcing the existing regulations . Having said that, her support for the new involvement of a complicated federal law in the protection of domestically-raised birds is certainly very difficult to understand.

Furthermore, anyone involved in the debate about including birds under the aegis of the AWA will readily recall the fierce opposition of the AFA to the inclusion of birds under

the protections of the AWA prior to its finalization. Now, in the current setting, Ms. Desborough seeks to present such inclusion of birds in a positive light! This sudden support, therefore, seems highly disingenuous. It appears that some members of the AFA might now feel that they can use that legislation to ward off the passage of new **local** ordinances which might actually give teeth to **local** authorities and finally render abuses “**actionable**.”

#2. Ms. Desborough passingly cited “certain liabilities” that might ensue if the Pierce County Humane Society were to step in and confiscate certain very sick or abused exotic birds which happened to be of species listed under The Convention on International Trade in Endangered Species (CITES) or the United States Endangered Species Act—and the birds then died. In other words, she implied that rescuing abused or dying birds might be a national or international crime. In fact, there are only a few parrots on the national list covering the Endangered Species Act, and CITES is a treaty covering *international trade*. Providing veterinary care to sick birds violates neither.

[*Ed note:* Even putting aside this legal prestidigitation, Ms. Desborough's implication that it is preferable to allow sick birds to die rather than risk a non-existent legal infraction, is reminiscent in its callousness to Martha Scudder letting 16 rare parrots suffocate over a week's time from exposure to a smoldering fire, rather than risk putting them off their breeding, [viz., Martha Scudder Deposition, Pt1, Sections 114-116.] At any rate, one might suspect that the real purpose of introducing this rushed paragraph was to sneak the scare word “liability” into a Council meeting.]

#3. Ms. Desborough then pleaded that since the gene pool of these birds in captivity is limited, we can't afford to lose any exotic birds. We “need every *specimen* (*italics mine*)... These birds would be at risk in a confiscation.” Even assuming that the breeders' success and not the humane treatment of the birds was the major issue at hand in the meeting (which it was not), her statement seems to miss the point that the birds in some of these aviaries were so sick as to be barely breeding at all. Concerns about breeding are not central when confiscating birds to provide for their humane treatment and survival.

#4. Ms. Desborough expressed her fears that with release of information under Freedom of Information Act consequent to the passage of the proposed new Ordinance to protect birds, certain imagined “Animal Rights Radicals” would obtain the home addresses of breeders, and might storm their aviaries and release the birds. Presumably, she feels that the members of this putative posse of Washington State Extremists are not clever enough to get the same legally-accessible information from the USDA officials overseeing the Animal Welfare Act.

#5. Ms. Desborough was eager to point out that “pet birds are very different from breeder birds.” This is true, but the insinuation that this difference should extend to a lesser concern about humane conditions for the latter is not. Sadly, the concern she DID express was that an inspector entering a closed breeder aviary would cause “scrambled eggs”, to which comment an avian-certified veterinarian in attendance replied that a qualified person was perfectly capable of avoiding such a catastrophe.

[*Ed note*: The mantra about inspectors causing great harm is frequently cited but seems to be overstated. The new Ordinance would have required that the Inspectors be avian-qualified (but not necessarily avian-certified vets), such as performed routine walk-throughs of Scudder's Parrot Depot (Dr. Scott McDonald). In fact, Kathy Scudder testified that Martha Scudder permitted an entire troop of taco makers to tour her *entire* facility without any apparent adverse effect [viz., KathyPhillipsScudderDeposPt1, Section 72] and Dr. S. Dhillon regularly took veterinary students through the facility as a teaching exercise.]

#6. One Councilman pointedly asked her whether there was any reason not to enact the Ordinance now while awaiting the implementation of the revised Animal Welfare Act which was a number of years off and then “sunset” out the local ordinance. At a temporary loss for words, Ms. Desborough essentially replied ‘why waste the money.’ It appears that once again, she forgot about the Pierce County birds, who it appears will be holding their collective breaths for at least another 3 to 5 years before they receive any legal reprieve (although doubtless many will not live that long).

Despite its one-sided (and to the minds of some, callous) approach , her testimony had its desired effect. At the conclusion of the public hearing, the Council voted to table the ordinance indefinitely. Many people have since contacted the county councilmen on the committee requesting a date for the next public hearing in hopes that those of us that support the ordinances can be heard-- but to no avail. It appears that the American Federation of Aviculture had succeeded in keeping the abused parrots of Pierce County, Washington in the Zone of Despair for the foreseeable future.

[*Ed note*:at least until February 14, 2006, when a follow-up meeting was held...]

I have amassed over 200 documents in the course of this story. Unfortunately none of them have freed the birds from their long wait for death in order to escape their torment.

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[*End*]