

## Lost Innocence For Farm Market Customers

The legal case against farmer Danny Rohrer pulls back the curtain on how a community grapples with trust, local food, and the impractical nature of “knowing your farmer.”

By Amy Mathews Amos



Rohrer's weathered barn and property (right).

By the time I arrived at Danny Rohrer's farm in Boonsboro, Maryland on a steamy June morning, more than six months had passed since the Humane Society of Washington County had seized his animals. I knew that I wouldn't see what Humane Society officer Crystal Mallory saw when she responded to a caller's tip the previous November. Unlike her, I wouldn't see thin cattle in a hayless pasture after record-breaking cold. I wouldn't step over a dead sheep when I entered the barn, as Mallory and veterinarian Edward Wurmb did when they returned later with a search warrant.

I already had spent two days in a windowless courtroom (and would spend at least one more before the trial was over), listening first to the state's attorneys argue 318 animal cruelty charges against Rohrer—a farmer whose meat I had purchased at the nearby Shepherdstown Farmers Market for more than a decade—and then to defense attorneys skillfully whittling those charges away. But I was still trying to figure out the truth. And I wondered: what would a visit to the farm months later tell me?

The November scene that Mallory and Wurmb described at the trial was

horrific. On the trial's opening day, Mallory testified under oath that she drove by Rohrer's pasture the week before Thanksgiving to follow up on the tip. She said she saw about 40 cattle in the field; a few of them bawling at the fence line along the road. She thought they looked thin—she could see bones through their skin, and their heads looked particularly prominent; an indication that their bodies were too small. It was enough to send her back to her office and check the Humane Society's database to see if there was a history of concern at Rohrer's property.

There was. So she called Wurmb at Mid-Maryland Dairy Vets to accompany her to the pasture and judge with his expert eye whether there was cause for concern.

When he arrived, Wurmb “body-scored” the cattle using a standard numeric ranking of a cow's weight: a score of 5 is ideal, 9 is obese, and 1 is near starving. Wurmb estimated that about a third of the cattle in the field scored a 1 or a 2. Mallory noticed other details: she described the fencing as in “disarray” and the feeders empty. One cow had wire trapped around its leg. Together, Mallory and Wurmb approached the barn, across the road from the pasture,

but got no further. Rohrer demanded that they get a search warrant if they wanted to see inside.

Five days later, on November 24, 2014, Mallory and Wurmb returned with their search warrant and a deputy sheriff. Beyond the carcass greeting them at the entrance, they found other dead animals scattered throughout the barn. Live sheep, goats, cows, pigs, and chickens mingled throughout the space. The hay feeder had no hay, but housed yet another dead sheep.

The water in the two-tiered watering trough was dirty—the top level covered with scum and the lower level filled with debris and feces. Other water tubs were dry. Most of the barn animals appeared well fed—in fact, the sheep seemed overfed, according to Wurmb. But he claimed that overfeeding the sheep led to the death of several pregnant ewes weeks later from a common condition called pregnancy toxemia.

At least one sheep and two of the four goats had other signs of neglect, namely, untrimmed hooves up to six inches long that hobbled their movement. Because of that, the goats “high-stepped,” meaning they lifted their feet above their head, almost as if in an elaborate prance, before placing them down on

the ground again; a bizarre requirement of physical mechanics for goats with legs six inches longer than normal. They also had calluses on their knees, an indication that they sometimes walked or ate kneeling down to overcome the challenges on their feet.

“How long would it take for hooves to get that long?” the prosecuting attorney asked Wurmb when he took the stand. “They grow about one-quarter of an inch every three months,” responded Wurmb. I did the math: that meant six years of no trimming.

### Down at the Farm

Those high stepping goats and fat sheep were long gone by the time I arrived on June 11. They were among the first shipped out to foster farms by the Humane Society in the days and weeks following the barn search. Soon thereafter, the Humane Society composted the dead carcasses in the barn, rounded up most of the cattle, and ordered Rohrer to cease and desist feeding and watering his livestock—the Humane Society would be taking that over. But they had left the pigs, chickens, and 12 of the cows with him (none of the cruelty charges against Rohrer related to pigs or chickens). And



Emaciated cows, animal carcass, overgrown goat hoof. Photos by Humane Society.

in December, a judge ruled that Rohrer could legally purchase additional animals.

Instead, when I arrived, a bank of overgrown sumac trees hid the weathered barn from the road. Puddles from a recent rain filled the potholes on the circular dirt driveway. Ancient rusting farm equipment all but disappeared in islands of scrubby brush. I pulled into a slot facing the aging brick farmhouse, stepped into tall grass undisturbed by the sedentary sedan parked next to me, and turned at the boisterous barking of a large white dog. Rohrer emerged from the barn behind the dog and led the way inside.

Stepping into the large airy barn was like stepping back in time: Old MacDonald had a farm, and this is what it looked like. In contrast to the cramped quarters that characterize the factory farms of large modern agribusinesses, the sheep, goats, and chickens wandered freely throughout Rohrer's space. A dozen or so pigs grunted in an enclosed area to our left, moving constantly amongst each other and occasionally emitting high pitched squeals. Three steers stood on the high ground under the old bank barn—the original structure from which the more modern metal main space now extended. Two of the chickens nested contentedly in the hay feeder, a smooth beige egg next to one of them. "That's free-range," said Rohrer. "They go where they want to go."

The hay feeder held little hay, just enough for a

chicken to roost comfortably. But Rohrer pointed out three grain feeders that he said were full: one in the enclosed area with the pigs, another in a semi-enclosed area where most of the sheep congregated, and a third in the center of the barn accessible to everyone else. He showed me how he limited access in the sheep area to smaller animals, allowing the lambs to feed without risk of steers trampling them or pushing them aside, and positioned a smaller hay feeder in there as well. Black water tubs along the wall were full; retaining a bit of barnyard debris, but otherwise clear.

He demonstrated the two-tiered self-waterer, in the area where the pigs now wallowed. This was the water that Mallory and Wurmb found unacceptably dirty, with scum on the top tier and feces in the lower level. The top is designed to remain open, available for larger animals to drink. The bottom had metal flaps over the opening, allowing smaller animals to poke their heads through for water.

It was a self-waterer, meaning it never ran dry: whenever an animal drank the water level down, it triggered a float that filled the bowl back up again. A heating mechanism kept the water from freezing in the winter. As Rohrer drained the top bowl manually for me to see, debris in the bowl washed away and the mechanism refilled it with clean water. Below him, a rotating retinue of pigs pushed their muddy snouts through the metal flaps of the lower level and took

brief slurps of water before diving back into the pig melee around us.

When Mallory and Wurmb had arrived with their search warrant back in November, the pigs were free to roam throughout the barn, and all animals had access to this waterer. But Rohrer had set up a series of chutes around it, as a way to help him corral larger animals when he needed to catch them. The Humane Society maintained that those chutes hindered access to the water, preventing less assertive animals from getting their turn. And Wurmb testified that water for livestock in the barn should be clean enough for people to drink.

But the chutes were down by the time I arrived. And as I watched a continuous stream of pigs nose their way into the lower bowl, Wurmb's call for cleaner water seemed an impossibly fussy standard to meet. How could one possibly keep this water free of mud and feces in a barnyard full of livestock?

### Expert Eyes

None of what I saw at the barn that day was really a surprise, despite the terrifying testimony of the prosecution's witnesses. Because the day after that testimony, Rohrer's defense attorneys brought their own witnesses to the stand. This included Stanley Fultz, a Maryland Agricultural Extension Agent in Frederick County. Rohrer called Fultz to his farm



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Images of the cleaner, well-tended barn, June 2015: Steer in the old bank barn portion of Rohrer's barn.



A pig wanders away from the self-waterer in Rohrer's barn.

in early December to get his expert opinion on the situation and observe how the Humane Society was removing his animals. By then, the goats and sheep were gone, but Fultz surveyed the scene anyway. He found the barn sufficiently large and the dry manure floor perfectly fine. He thought the self-feeder in the barn was

large enough to handle all the animals, and that the chutes wouldn't impede access to the water. He noted that the lower levels of water troughs often get dirty.

Even the prosecution's extension agent, Jeffrey Semler of Washington County, said much the same, adding that agricultural agencies

recommend self-waterers to farmers because with them, livestock never goes thirsty. Semler had visited Rohrer's farm the previous June and found nothing amiss. He returned in December when Rohrer's sister Judy Williamson asked him to observe the Humane Society's removal of the animals. The defense's

veterinarian, Dr. Kimberly Brokaw, echoed many of Fultz and Semler's points, and added that transporting the pregnant ewes to the Humane Society's foster farm, and changing their food in doing so, could have triggered their pregnancy toxemia weeks later. And all witnesses, on both sides of the case, agreed that none of the animals were dehydrated.

But they also agreed that some of the cows were too thin: 15 to 20 of the 50-odd head were "thinner than I would like to see," said Fultz. Semler noted in particular a "little black cow" that he called "extremely thin." Both agreed that pasture in late November would have been insufficient to support the number of cattle living there without substantial supplemental hay. And all testified that dead carcasses in a barn with live animals posed an unacceptable risk of infectious disease. The "diseases of death," Wurmb called them, including botulism.

Still, the defense had an ace in the hole: the Humane Society's own records. Rohrer's attorneys demonstrated

that the system used by the Humane Society to identify and tag the animals was flawed. Some descriptions of the animals tagged as they were removed didn't match the photos submitted as evidence. Since each charge of cruelty was linked to an individual animal, the failure to accurately identify an animal meant that those charges were automatically dismissed. Moreover, the prosecution already had agreed to proceed with only the 30 strongest charges against Rohrer, even before the trial began.

By the end of the trial's second day, only 24 of 318 charges remained.

### Does local = okay?

So the Humane Society had bungled some of its record keeping. And the infrastructure of Rohrer's farm was sound: enough capacity to handle the animals he raised. But clearly there was a problem, I thought. Oddly, it wasn't the dead carcasses scattered among the living that lodged in my brain. It was those high stepping goats. My mind's eye couldn't stop seeing them prancing grotesquely with

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their freakishly long hooves. Even the defense witnesses said that they should have been trimmed.

Whether or not the goats actually were experiencing pain and suffering (the legal requirement for an animal cruelty charge) wasn't entirely the point to me. I, like many locavores, prefer buying my food at farmers markets, in part, because I believe it's the most responsible way to shop. By doing so, I can support local producers and promote open space, encourage small-scale production that uses fewer chemicals than corporate agriculture, and avoid the often inhumane conditions of factory farms.

Freshness and taste matter, but being socially and environmentally responsible is just as, if not more, important to me. I had bought into the locavore mantra that if you see the people who produce your food, you can trust them. But that belief system was feeling like a fallacy now. I had never bothered to challenge it. Had anyone?

For answers, I first turned to the organizers of the Shepherdstown Farmers

Market, which didn't accept Rohrer for the 2015 season after the cruelty charges were filed against him. I knew from my holiday purchases that Rohrer had been selling meat at the market through its 2014 completion date just before Christmas at the same time the Humane Society was removing his animals. Market organizers told me that they would not comment on the matter, but shared general information with me via email about how they choose vendors.

Like many local markets, the Shepherdstown Farmers Market is organized and run by the vendors themselves. These members must approve new applications from local producers each January, considering those who produce food within a 40 mile radius. The market's official rules call for site inspections of farms every two years to make sure vendors actually are producing the items they're selling, and to observe general conditions. But organizers admitted that they haven't done a site visit in several years. One vendor indicated that they had decided to stop visiting farms several years ago. Rohrer told me that

in the 14 years he participated in the Shepherdstown market, organizers visited his farm only once.

So what about other farmers markets? Is Shepherdstown the norm? I called Fiona Harrison, market manager for the Charles Town Farmers Market about their system. Harrison and her fellow vendors instituted a Know Your Vendor program in 2014, primarily as a way to provide customers with more information about producers. It required each vendor to agree to site visits by the steering committee, but Harrison said it initially was more a marketing tool than a quality check.

When Rohrer's case broke, she decided to ramp up the program to maintain the market's integrity and its customers' trust. Harrison contacted the West Virginia Farmers Market Association in search of models she might follow from other markets in the state. But the Association provided little guidance. And so, "most of it we've just made up as we go," said Harrison. The Charles Town Farmers Market now requires all vendors to commit to a site visit from steering committee members. The committee members can take photos and ask questions about how vendors make their products and source their ingredients. Harrison's goal is to visit every Charles Town vendor this year. But she admits that with the busy market season upon them, organizers haven't been able to do so.

Nationally, the nonprofit Farmers Market Coalition maintains an online library that all markets can use to find guidance on basic issues like establishing rules for membership, clarifying space and liability terms, and marketing. Some guides cover site inspection programs, but the larger focus seems to be on finding the right mix of local products that will draw ever-



A goat and a sheep at the grain feeder in Rohrer's barn.

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larger crowds. “We’re looking at products, and seeing if they fill a niche in our market,” said Harrison. “If there’s someone already here with a similar product we ask (applicants) to narrow it down, and maybe just bring certain things on their product list and not others. So far it’s worked pretty well for us.”

Morgan’s Grove Market in Shepherdstown follows its own unique model. Founder Peter Corum runs the market with a “start-up” mentality to give fledgling food producers a chance to test their businesses and potentially move on to bigger things. He hopes to build what

he calls “an environmentally and economically sustainable business model” that over time includes profitable retail and production facilities. Corum decides which applications to accept, and local sourcing isn’t a requirement: products can come from outside the region if that’s the closest production area. Instead, he emphasizes *food transparency*—namely, ensuring that claims made about a product are true. He said that he or his wife Andrea visit producers frequently to verify those claims.

Large sophisticated markets, such as those in New York City, can support extensive inspection programs. Michael Hurwitz manages Greenmarket in New York, a network of more than 50 farmers markets that operate throughout the five boroughs. His staff and contractors visit every new farm within three months of its application, conduct crop

inventories, audit farm sales, and review product lists to verify vendors’ claims. They might conduct multiple visits to a site, particularly for complex facilities. The inspections are designed primarily to verify that vendors are satisfying requirements for local sourcing and production, not to identify illegal activity.

Farmers generally get plenty of advance notice about an upcoming inspection. But Hurwitz claims site visits can identify larger problems as well. “Have we noticed red flags? Absolutely,” he told me. “They give us the opportunity to report (problems) to state and federal investigators. Once we reported one of our livestock producers to the U.S. Department of Agriculture, which has a criminal department. He was arrested and punished.” In a former life, Hurwitz investigated child abuse cases for a social services agency. “If there’s real abuse going on, I think inspectors can find it,” he said. “But sometimes it’s hard to catch everything.”

Such rigorous programs are expensive. Greenmarkets charges vendors a \$200 entrance fee, and then spends \$100 to \$1,200 per farm inspecting and auditing

production. It’s able to pay third party inspectors who aren’t vendors themselves, and therefore can objectively review producers’ facilities. In contrast, small local markets often are organized and run entirely by the vendors. During a busy summer season, few farmers have time to visit other vendors. And when they do, they may be competitors of those they’re reviewing, a potential conflict of interest inherent in the vendor-run model.

The Frederick Farmers Market Association in Maryland is struggling with this issue. Rachel Armistead of Sweet Farm Sauerkraut is now the association’s vice president. She said that as farmers markets have matured from their birth in the 1990s as “innocent” and “pure” gatherings of producers, to viable business models, some vendors have tried to game the system by selling goods they don’t produce. A few such instances in Maryland in recent years, combined with the Rohrer case, made the association realize that it needed to update its rules in 2015, and clarify its definition of what qualifies as locally produced. “We want our market to have specific values in terms

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of production and we want to have a lot of transparency," said Armistead. "We want our customers to really know that they're speaking with the people who are producing things that they're buying, and that they can trust those people."

The association always has reserved the right to visit production facilities on an as-needed basis when vendors or customers complained. "I think the hope down the road is that (inspections) become a routine that's done once a year or every other year," she said. But the association hasn't fleshed out an inspection program yet—that task is on the radar for the winter, said Armistead, because everyone's too busy now. For the first time in its history, her group is considering hiring staff to help ease the burden of inspections and avoid conflict of interest.

Rohrer stepped down as president of the association last November when charges were filed against him, and hasn't been permitted to participate in the West Frederick Market this year. Instead, he sells at a separate location not far from the market on Saturdays. Armistead, despite her professed desire for transparency, wouldn't talk about his case or the association's decision to exclude him from this year's market.

**Dead Reckoning**

Back at the barn that June morning, I asked Rohrer about the dead sheep. "I just didn't get them cleaned up," he said. "My loader broke down." The loader allows him to pick up dead animals and take them elsewhere to compost. He maintained that the sheep had died the previous summer and were just wool and bones by the time the Humane Society arrived in November. "In the hot weather (the bodies) are basically gone in four days," he said. But the pigs

often roamed throughout the barn, potentially feeding on carcasses. When Rohrer's animals were seized, the Maryland Department of Agriculture put a 30-day hold on his hogs while it tested for infectious disease. They came up clean.

And the dead sheep in the hay feeder? "I threw it there so you couldn't see it from the gate," he said.

So why were the goats' hooves so long? Rohrer believes they "foundered," a condition in which improper feeding causes foot damage and triggers overgrown hooves. He didn't trim the hooves, he said, because the goats were going to slaughter soon and he had difficulty catching them. They were less than two years old, and so my math on the first day of the trial was incorrect—six inches of hoof didn't equal six years of growth. But somehow that wasn't terribly reassuring.

We stepped outside the barn to check out the pasture on the other side of the road. Rohrer's family has run the farm since 1941, when his parents first rented, then owned, then rented the property again. He was born in the red brick farmhouse in 1954 and purchased the farm in 1986. Since then, he's had several run-ins with the Humane Society, he said. "My property sits right along the road; everyone sees what goes on," he said. "It's not the prettiest place; I don't have the time and money to do everything. But the animals are healthy, quality animals." He described previous interventions as unnecessary: one related to a cow that had a difficult delivery near the road, others based on concerns about disease that were unfounded.

According to Kimberley Intino, CEO of the Humane Society of Washington County, neighboring farmers have complained about Rohrer's practices for years. Intino has led the group since July 2014,

but says the Humane Society database includes repeated complaints from 2005 to 2010, long before she arrived. She said the complaints reveal a pattern of hungry cows breaking into neighboring properties in search of food. Washington County contracts out enforcement of animal control ordinances to the Humane Society.

Testimony at Rohrer's trial from his neighbor Steven Hoover suggested the same pattern. He stated that he drove by Rohrer's pasture every day in November, 2014 and saw 50 or so thin cows and no hay. Cows frequently broke out of Rohrer's pasture that autumn searching for food, he said, and ended up on his property. Hoover's mother, Pat Hoover, told me that this has happened for years. Cows routinely break out of Rohrer's pasture in search of food, she said, and "eat everything in sight." She and her husband, who own the adjacent property, won damages against Rohrer in 2004 for cows repeatedly wandering onto their land.

On that hot June day at Rohrer's pasture, I watched 12 cows and two calves calmly

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cooling off under the shade of a large tree, including a Holstein-Angus mix with a distinctive white mark on her forehead and a small black calf at her side. Weeks later, at the final day of his trial, Rohrer and his attorney would use photos of this cow to discredit the Humane Society's record keeping further and dismiss several more charges: According to the prosecution, this cow had been removed to a foster farm. Clearly, from what I observed that day in June, it had not. But in the scheme of things, this felt like a technicality.

Before I left, I asked Rohrer if he had anything else to say. "The dead animals should have been moved," he admitted. "I didn't have a loader. I'm older now. I don't have the strength that I used to . . . The animals should have been moved, but I don't think there's any law about that. It's not the best situation, and some cows were thinner than they should have been, but nothing was in danger of starving."

On July 22, Washington County District Court Judge Terry A. Myers found Rohrer not guilty of 15 of the 20 remaining counts, and guilty on five others. Those charges included inflicting unnecessary pain and suffering on a goat and a sheep with excessively long hooves, and failing to provide proper bedding and space by leaving dead carcasses in

the barn. At sentencing, the judge struck the guilty verdicts from the record in exchange for three years' probation and a \$500 fine. During that probation, Rohrer must follow a farm management plan developed by extension agents Fultz and Semler, and be subject to periodic inspections from the Humane Society. A Matter of Trust

Did the Humane Society of Washington County overreach? Perhaps. Are some of us local meat eaters in denial about the inevitable dirty realities of farming animals for food production and profit? Probably. Are farmers overwhelmed with the challenges of maintaining a popular market while producing healthy food for their customers? So it seems.

But local food is about trust. In the early years of modern farmers markets, customers giddy with the prospect of buying fresh food from the farm rather than packaged products in a supermarket were happy just to meet actual farmers who produced real food. As markets have flourished around the country and options for food expand, satisfying those customers gets more complicated.

Market organizers increasingly recognize that maintaining the integrity of their markets and the trust of their customers requires policing vendors to ensure that they meet the high standards expected. That trust starts with transparency, including establishing clear rules and procedures readily available to both vendors and customers, defining the grounds for market exclusion or disciplinary action, and practicing honesty and openness when things don't go as planned.

As a dedicated market customer and a journalist seeking answers in the Rohrer case, I finished my investigation with the disconcerting realization that, for the most part, our local

markets don't yet meet those standards. I conveniently had avoided difficult questions in the past, assuming the best in my zeal for local food; or perhaps indulging in willful ignorance. But as the movement matures, fewer markets—and customers—can get away with that.

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The Charles Town and Frederick markets recognize this new reality, and have started taking concrete steps in the right direction: Charles Town by committing to its Know Your Vendor program and Frederick by clarifying its requirements for local food. When prompted, Shepherdstown market organizers told me by email that they are now developing a schedule to conduct farm inspections of all vendors every year or two, but didn't provide specifics. That response didn't feel very satisfying. Hoeing the tough row of regaining customer trust requires unequivocal openness and a willingness to engage face-to-face, not distant communication with few details. With their innocence lost, savvy locavores know they have more options than ever. And in the end they'll go with those they trust.

Contributing editor Amy Mathews Amos writes about the environment, history, and health from her home in Shepherdstown, W.Va. Follow Amy on Twitter @AmyMatAm.

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 Serving Western, MD, Eastern Panhandle, WV and Southern, PA

**Saturday, October 17, 2015**  
 10am-Noon Registration opens at 8:30am  
 Hagerstown Community College ARCC

**Thank YOU for your Support!**  
 Breast Cancer Awareness-Cumberland Valley 800-963-0101 [www.bcacv.org](http://www.bcacv.org) For More Information