Making the Dogman Heel: Recommendations for Improving the Effectiveness of Dogfighting Laws

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MAKING THE DOGMAN HEEL:
RECOMMENDATIONS FOR IMPROVING THE EFFECTIVENESS
OF DOGFIGHTING LAWS

Francesca Ortiz*

Abstract: Since Michael Vick’s arrest and conviction, federal, state and local governments have attempted to step up efforts at enforcing laws prohibiting dogfighting. However, because of biases held by some law enforcement personnel, prosecutors and judges as well as burdensome investigatory costs and evidentiary problems, enforcement of the laws is ineffective in many cases. This article discusses these issues and argues that, because of various social problems that are tied closely to dogfighting, continued efforts must be made to make prosecution of dogfighting more effective. To that end, the article makes recommendations to address the problems that hinder enforcement. Recommendations include several statutory changes and the creation of local, state, and federal task forces to improve enforcement through educational efforts, behavior modification, coordinated investigation, and cost-sharing.

* Presidential Research Professor and Professor of Law, South Texas College of Law. The author wishes to thank Belinda Smith, Chief, Animal Cruelty Section, Harris County District Attorney’s Office, Dr. Dawn Blackmar, Director, Veterinary Public Health at Harris County Public Health & Environmental Services, and Sherry Ferguson, Executive Director, Houston Humane Society for providing insight into the world of dogfighting and animal cruelty response. Thanks also to Professors Sandra Carnahan, Bill Wilks, and Amy Bures-Danna and attorney Melanie Renazco for comments on earlier drafts of this piece as well as to Lindsay Lutterbie for her able research assistance.
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Look at ya watch and see what time it is/Time to stop dogfighting.¹

On May 20, 2009, former Atlanta Falcons quarterback Michael Vick was released from prison after serving nineteen months in a federal penitentiary for his participation in a dogfighting venture.² From April to July 2007, Vick made daily headlines as he was investigated, indicted and eventually pleaded guilty to the charges. According to court documents, Vick’s experience began in 2001 when he, along with two others, decided to sponsor dogfighting events out of his home in Smithfield, Virginia.³ In furthermore thereof, Vick and his associates began acquiring American Pit Bull Terriers,⁴ many from outside Virginia, and


⁴ The American Pit Bull Terrier is a breed unrecognized by the American Kennel Club, but registered with the United Kennel Club. General reference to the term “pit bull” (without more) can be confusing because the term may be used to refer generally to several different breeds. See Jamey Medlin, Pit Bull Bans and the Human Factors Affecting Canine Behavior, 56 DePaul L. Rev. 1285, 1285 n.12 (2007); see also text and accompanying notes 55-59, infra (discussing the American Pit Bull Terrier). Although “pit bulls” are commonly viewed as the preferred fighting dog in the United States, other dogs are used for fighting as well, including the Fila Brasileiros, Dog Argentinos, and Presa Canarios. See Am. Soc’y for the Prevention of Cruelty to Animals, Dog Fighting FAQ, http://www.aspca.org/fight-animal-cruelty/dog-fighting/dog-fighting-faq.html (last visited Aug. 9, 2009) (hereinafter Dog Fighting FAQ). To avoid confusion, this Article will avoid use of the generic term “pit bull” where possible and use the term “fighting dog” as a general reference to a dog that is used to fight other dogs.
eventually formed “Bad Newz Kennels,” a dogfighting business. From 2002 to 2007, Bad Newz Kennels operated out of a location owned by Vick, hosting various dogfights.

Members of Bad Newz Kennels, including Vick, also held fighting sessions where several of the dogs were tested to determine their capabilities. A number of dogs that performed unsatisfactorily were killed by hanging and drowning. Vick and other Kennel members participated in paying dogfights held both at the Bad Newz Kennels location and in other locations, including areas outside Virginia. The purses for the dogfights ranged from the hundreds to the thousands of dollars for each fight.

Interestingly, the case against Vick arose, not because of a dogfight investigation, but because of the arrest of his cousin, Davon Boddie, in April 2007 on drug charges. Boddie identified Vick’s house as his home address, which was subsequently searched pursuant to an arrest warrant. The authorities discovered fifty-four American Pit Bull Terriers, many of which were scarred and injured, along with several pieces of equipment associated with dogfighting.

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5 Vick Summary of Facts, supra note 3, at 4-5.
6 Id.
7 Id. at 7-9.
8 Id. at 9. According to Vick’s indictment, dogs may have been killed by shooting, drowning, electrocution, and in at least one case, being “slammed” to the ground. See Vick Indictment, supra note 3, at 6, 12, 14, 17.
9 Vick Summary of Facts, supra note 3, at 3.
10 Id. Vick’s indictment alleged that the purse for one of the fights may have been as high as $26,000. Vick Indictment, supra note 3, at 12. Although Vick eventually admitted to authorizing the dogs’ deaths and providing the money for Bad Newz Kennels’ operation, the Summary of the Facts filed with Vick’s Plea Agreement indicates that Vick did not place side bets or receive any proceeds from fights won by Bad Newz Kennels. Vick Summary of Facts, supra note 3, at 4; see also Veronica Gorley Chufo, Vick Pleads Guilty, Apologizes, SUN HERALD, Aug. 28, 2007, at C6, 2007 WLNR 16742442 (discussing Vick’s plea agreement).
12 Id.
13 Vick Summary of Facts, supra note 3, at 9. The equipment included a “rape stand,” breaking sticks, and treadmills. Id.
Vick was indicted with three others and eventually pleaded guilty after the others did the same and agreed to testify against him. News of Vick’s arrest led to an outcry against dogfighting and animal cruelty. Some, however, tried to excuse Vick’s actions on various grounds. Clinton Portis, running back for the Washington Redskins, for example, was reported as suggesting that, because a dog is considered property, ownership entitles the owner to fight it. Further support came from Stephon Marbury, New York Knicks point guard, and NAACP Atlanta chapter president R.L. White. According to the media, Marbury explained away dogfighting as “‘just a sport’” that is “‘behind closed doors,’” and White took a similar view, considering dogfighting to be no different than hunting. Even Whoopi Goldberg weighed in on the subject, suggesting that Vick’s actions were a result of his “‘cultural upbringing.’” “‘There are certain things that are indicative to certain parts of our country,’” she said, like “‘cockfighting in Puerto Rico.’”

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14 Vick’s co-indictees were Purnell A. Peace, Quanis L. Phillips, and Tony Taylor. Vick Indictment, supra note 3, at 1.

15 Vick pleaded guilty to conspiracy to travel in interstate commerce in aid of unlawful activities and to sponsoring a dog in an animal fighting venture and could have been sentenced to up to five years in prison and a $250,000. Plea Agreement at 1, United States v. Michael Vick, No. 3:07CR274 (E.D. Va. Aug. 24, 2007), http://www.usdoj.gov/usao/vae/press.html. Prosecutors agreed to propose that Vick be sentenced to twelve to eighteen months. After the hearing, Vick apologized for not being “‘honest and forthright’” when initially questioned about the allegations and stated that dogfighting was a “‘terrible thing.’” See Chufo, supra note 10.

16 Mark Ferenchik, Can It Be Debated?, COLUMBUS DISPATCH, Aug. 28, 2007, at 1A, 2007 WLNR 16786736 (“‘It’s his property. It’s his dog. If that’s what he wants to do, do it.’” (quoting Clinton Portis)); see also Mike Bianchi, Despicable Dogfighting Reflects Poorly on Our Culture, ORLANDO SENTINEL, May 26, 2007, at C1, 2007 WLNR 9958493 (“‘Somebody needs to tell Clinton Portis you can’t make meth (methamphetamine) on your property, you can’t set kittens on fire on your property and you can’t fight dogs to the death on your property. . . . Dogfighting is a felony and the NFL needs to hold these guys accountable. It’s irresponsible and dangerous for sports figures and celebrities to have such a nonchalant attitude toward this extreme form of animal cruelty.’” (quoting John Goodwin of the Humane Society of the United States responding to Portis’s comments)).

17 Ferenchik, supra note 16, at 1A.

18 Id.


Attitudes and assumptions such as these have hindered prosecution, even though prosecution under state and federal statutes has been on the rise. Sadly, though, the number of fights has also increased, making eradication of the illegal activity an uphill battle. Indeed, John Goodwin, manager of animal fighting issues for the Humane Society of the United States, estimates that at least 40,000 people engage in high-stakes dogfighting, with at least another 100,000 participating at the street level for bragging rights. He indicates that animal shelters are taking in ten times the number of pit bulls that they have in the past, with many of the animals suffering from scars and wounds from fighting. Goodwin further notes that in the last ten to fifteen years, urban dog fights have begun to outnumber rural fights.

Law enforcement focus on high-profile cases, such as the case of Michael Vick or other celebrity dogfighters, is an easy call. Pursuit of celebrities serves as an example to others. Media coverage is high because of their high-profile status, and the message that certain

“[Cockfighting is] part of our Mexican culture. As little children, we’re raised to revere the noble cockfighting rooster.”

21 Wendy Koch, Dogfighting Raids Climb after Vick; Case Raises Awareness of Dog Torture, Killings, USA TODAY, Aug. 30, 2007, at 1A (noting that, in July and August 2007, law enforcement authorities pursued 25 more dogfighting cases—up to 42 from 17—than they had during the same time last year); Carlos Frias, Vicious Fight, PALM BEACH POST, June 3, 2007, at 1B (noting that dogfighting is on the “upsurge”).


25 Id. (“‘Up until 10 or 15 years ago, this was pretty much an entirely rural activity. . . . Now, there’s still a lot of dog fighters in the rural areas, but they’ve kind of been overtaken by an urban crowd.’”).

26 See Frias, supra note 21, at 1B (“Vick isn’t the first athlete to be connected to dogfighting. NBA player Qyntel Woods was accused of hosting dog fights at his Portland home in 2004 and he eventually pled guilty to first-degree animal abuse. Former NFL running back LeShon Johnson received a five-year deferred sentence in 2005 after officials seized 200 dogs during a raid of his dogfighting operation that led to 20 people being convicted. And former Dallas Cowboys lineman Nate Newton was arrested at a dogfight in Texas, although charges were later dropped.”); see also Mike Mosedale, Public Enemy Number One, CITY PAGES (Minneapolis/St. Paul), Oct. 25, 2006, at 4-6, http://www.citypages.com/2006-10-25/news/public-enemy-number-one (discussing the extensive involvement of Will Grigsby, an International Boxing Federation junior flyweight champion, in dogfighting).
activities are not tolerated is received by a larger audience. However, prosecution of these cases is not any easier than prosecution of any other type of dogfighting case. Law enforcement officials face a variety of difficulties, not only in investigating the dogfighting rings that remain shrouded in secrecy, but also in proving the cases and even overcoming biases in the prosecution of the activity. Indeed, investigative difficulties have moved some jurisdictions to create task forces devoted to dogfighting enforcement issues.

Yet continued and more effective enforcement efforts are required and not simply because of the inherent cruelty involved in dogfighting. Cruelty, of course, plays a large role. A fighting dog’s life is not easy. Many live most of their lives tethered on short chains that weigh more than they do and remain half-starved waiting for training or their next fight. "Dogmen"—a


28 Joanne Kimberlin & Phillip Taylor, *World of the Pit Difficult to Penetrate*, DAILY PRESS (Newport News), Sept. 17, 2000, at B3; Mann, supra note 24.


30 See Part II.A, infra.


32 Rebecca Simmons, *Dog Eat Dog: The Bloodthirsty Underworld of Dogfighting*, HSUS ANIMAL CRUELTY & FIGHTING CAMPAIGN, June 26, 2007, http://www.hsus.org/act/fighting/dogfight/dog_eat_dog_the_bloodthirsty_underworld_of_dogfighting.html (noting comments of Louisiana SPCA Executive Director Laura Maloney). Heavy chains, such as logging chains, are not only used to retrain the dogs, but also as a way to increase the dogs’ strength and endurance. John King, Animal Control Officer, West Lafayette Police Department, Dog Fighting and the Law, westlafayetepd.us/downloads/dogfighting and the law.doc (last visited Aug. 9, 2009).
name by which breeders of fighting dogs and high-stakes fighters refer to themselves—submit their dogs to punishing activities to ready them for fights. Effort is made to ensure that the dog is aggressive to other animals and is ready to fight to the death. Indeed, fighting dogs have been bred to be “game”—a quality described as a dog’s “willingness to continue to attack an opponent, or to scratch [i.e., re-engage the fight], despite being overpowered and despite having been injured.” Training fighting dogs often consists of placing dogs on treadmills and running them to exhaustion to improve stamina, having dogs hang from rubber tires or flirt poles to increase jaw strength, collaring weights around their necks to build muscle, and having them fight “bait” animals to enhance their fighting skills. Bait animals are often stray animals or companion animals that have been stolen or adopted.

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33 Frias, supra note 21, at 1B.
34 Many fights follow a typical pattern. After a dog has been “rolled”—i.e., determined to be worth fighting through sparring with other dogs—dogmen will schedule a fight between dogs of similar weight, usually two to three months hence. During that time, the dogmen will attempt to reduce the dog’s weight to the specified amount through a strict regimen of exercise and, often, reduced food intake. See, e.g., George C. Armitage, Thirty Years with Fighting Dogs 116-19, 135-43 (Read Country Books 2004) (1935); Bill Burke, Once Limited to the Rural South, Dogfighting Sees a Cultural Shift, Virginian-Pilot, June 17, 2007, 2007 WLNR 11351245.
35 Traditional fighting dogs, though, are not trained to be aggressive to humans because that would defeat the purpose of a dogfight. In that forum, the human element is required for handling the dogs. See Mosedale, supra note 26, at 4; Julie Bank & Stephen Zawistowski, Game Dogs, ASPCA Education: Resources, http://www.aspca.org/site/PageServer?pagename=edu_resources_gamedogs (last visited Sept. 10, 2007); Simmons, supra note 32; cf. Joshua Schneiderman, Editorial, It’s Not the Dogs that Are Bad, Phila. Daily News, Sept. 1, 2007, at 10 (arguing that pit bulls are not to blame for the dogfighting problem and explaining: “The systematic culling of human-aggressive pit bulls is actually the reason they are so people-oriented and affectionate. That’s how selective breeding works. When you remove human-aggressive dogs from the bloodline, the result is a less human-aggressive breed, not a more human-aggressive one. ‘Viciousness’ was not built into the breed—animal aggression was. They are not the same thing.”).
36 Carl Semencic, The World of Fighting Dogs 40 (1984). Unlike other dogs, the survival instinct has been bred out of many fighting dogs, resulting in gameness. See Bank & Zawistowski, supra note 35 (“One of the most important steps in breeding fighting dogs was to eliminate [the survival instinct] aspect of their behavior. Fighting dogs will continue to attack regardless of the submission signals of an opponent. Similarly, these dogs will continue to fight even though badly injured.”); see also Mosedale, supra note 26, at 7 (“Game-bred American pit bull terriers display a number of highly unusual characteristics. In combat, they don’t bare their teeth or raise their hackles. And unlike most dogs, which will yield once dominance has been established, the game-bred pit will sustain astonishing physical punishment without submitting.”).
37 See, e.g., Burke, supra note 34; Petula Dvorak, Police Collar New Orleans Dogfight Ring, 3 Arrested After Calls from Residents to Cops, New Orleans Times-Picayune, Sept. 25, 1999, at B8. One dogfighter has noted that his training regime included placing live bumblebees in his dogs’ food so that, when the food was eaten, the dog would be stung, “‘driving him berserk.’” Rob Johnson, Stop Dog Fighting: Curbing Spread of Bloodsport, CBS2chicago.com, July 20, 2007,
A losing dog, if not saved for use as a bait animal in the future, is often killed or left for dead so that curs—dogs with weak fighting skills or little gameness—do not contaminate a bloodline\(^{\text{39}}\) or, more likely, because the owner has been embarrassed by the dog’s performance.\(^{\text{40}}\) Even a winning dog may die from the injuries inflicted during a fight or from dehydration, exhaustion or

http://cbs2chicago.com/topstories/dog.fighting.stop.2.338483.html?detectflash=false; see also Dvorak, supra, at B8 (indicating that fighting dogs were "fed live rabbits and chickens to whet their bloodlust before the fight").


\(^{\text{39}}\) See JOE STAHLKUPPE, THE AMERICAN PIT BULL TERRIER HANDBOOK 40 (2000); SEMENCIC, supra note 36, at 276 (noting that “[i]t is common knowledge that in order for the fighting breeds to excel as fighters those dogs that do not perform as well as they should in the eyes of the dogfighters must be culled”).

\(^{\text{40}}\) See, e.g., Mosedale, supra note 26, at 3 (noting dogfighting investigator Keith Streff’s supposition that a photo of a cur “dead from a shotgun blast” was “an act of retribution from an owner embarrassed by his dog’s showing”); Kevin Van Valkenburg, Dogfight Fans Aren’t So Easy to Categorize, Experts Say Interest Tends to Cross Lines of Race, Geography, BALT. SUN, July 29, 2007, at 1D (noting a researcher’s comments that a dogman rationalizes the killing of curs “‘as something they’re doing to save the breed from weakness,’” but that killing the cur is a way for the dogman to “‘save face’”); Ziner, supra note 31, at A (noting that penalties for embarrassing an owner run from “‘divorcing the dog’ and letting it loose on the streets . . . to exacting ‘some sort of retribution on the dog,’” such as shoving dogs in sewers, lighting them on fire, skinning, hanging, or shooting them); see also Rhonda Evans, DeAnn K. Gauthier & Craig J. Forsyth, Dogfighting: Symbolic Expression and Validation of Masculinity, 39 SEX ROLES: A JOURNAL OF RESEARCH 825, 832 (1998) (“The official reason given by the dogfighters for killing cur dogs (to prevent the transmission of bad character through procreation) seems incomplete, as neutering the dog would accomplish the same goal. Symbolically, however, it may be important to execute the curs because this provides an aggressive and violent end to a nonaggressive, nonviolent (or at least not sufficiently aggressive or violent) life. It is a symbolic reinstatement of the (by virtue of his losing dog) fallen man to the masculine ideal.” (emphasis omitted)).
In addition, when confiscated by law enforcement authorities, fighting dogs are often euthanized because of their inability to be placed around other animals. Infection. In addition, when confiscated by law enforcement authorities, fighting dogs are often euthanized because of their inability to be placed around other animals. 42

Aside from cruelty, there are other reasons to pursue prosecution of dogfighting. Dogfights serve as a hub for a wide variety of other social ills. For example, dogfighting has long been associated with gambling, the illegal possession of weapons or banned substances, and even prostitution. Indeed, as in the Vick case, a number of dogfighting rings have been discovered because of a law enforcement investigation based on other grounds. In addition, because dogfights are viewed as social occasions, children are often present and instructed in the ways of the dogfighter, raising issues of child welfare.44

The purpose of this Article is two-fold. First, since Vick’s arrest, a myriad of newspaper articles about dogfighting have been published. However, the articles often tend to skim the surface and give the reader little information regarding the dogfighting world and the dogfighters within it. To provide the researcher with a more accurate picture, this Article sets forth the background and current state of dogfighting, its criminalization, and the reasons that relatively few dogfighters are prosecuted. The Article also presents a detailed picture of the different types

41 See, e.g., Sen. Byrd Condemns Dog Fighting, U.S. FED. NEWS, July 19, 2007, 2007 WLNR 14577606 (reprinting a news release from the office of Sen. Robert C. Byrd, D-W.Va.); see also Mike Homan, A COMPLETE HISTORY OF FIGHTING DOGS 214 (1999) (reprinting an untitled article from The New York Times, dated January 28, 1881, describing the deaths of dogfighting combatants). It is easy to understand why a fighting dog might die from dehydration or exhaustion, as a dogfight lasts until one dog refuses to fight, jumps out of the ring, dies, or its owner calls off the fight. For dogs with deep game, a fight might last up to four to five hours. See Rhonda D. Evans & Craig J. Forsyth, The Social Milieu of Dogmen and Dogfights, 19 DEViant BEHAVIOR 51, 51-65-66 (1998); Kimathi Lewis, Man Faces Multiple Dog-Fighting Charges, Indictment Ends Two-Year Investigation, COLUMBIA STATE, Mar. 20, 1998, at B3, 1998 WLNR 1576738; Fawn Germer & Charles E. Hecker, Dade Owners Dump Dogs in Broward to Skirt Law, MIAMI HERALD, May 16, 1989, at 1, 1989 WLNR 1469243. Severe infections can easily occur because fighting dogs are generally not taken to legitimate veterinarians, but are treated by owners or handlers who are untrained in proper veterinary care. See Gibson, supra note 29.

42 Simmons, supra note 32; see also Carole Rafferty, Population Surge in Once-Popular Breed of Steel-Jawed Dog Results in a 90 Percent Rate of Euthanasia, SAN JOSE MERCURY NEWS, Jan. 3, 2000, at 1B (noting that some rescue shelters destroy 90% of pit bulls they receive because they cannot be placed elsewhere).

43 See, e.g., Anthony Westbury, Drugs, Prostitution, Often Trail Dog Fights, FORT PIERCE TRIB., July 12, 2005, at B1; Gibson, supra note 29.

44 See, e.g., Loh-Harrist, supra note 31, at 21.
of dogfighters, discussing characteristics of dogfighters in general and the differences between each group.

Second, this Article makes the case for an increased focus on dogfighting enforcement because of the sport’s connection to cruelty, child welfare issues, and other criminal activities, such as gambling, gangs, weapons, and drugs. It sets out the basis for additional charges that may be used against dogfighters to assist prosecutors when a dogfighting case cannot be supported. The Article also suggests ways in which enforcement efforts might be improved by offering options to address the obstacles that currently plague law enforcement.

The Article is divided into four main parts. Part I sets forth a brief history of dogfighting in America, detailing the origins of the dogfighting interest, the types of dogfighters, and the current rise in urban dogfighting. Part I ends with a discussion of the current statutory regime for prosecuting dogfighting under both federal and state law. Part II then turns to enforcement problems, detailing the difficulties that law enforcement officers and prosecutors face when attempting to enforce dogfighting laws. Part III addresses the necessity of continued enforcement, identifying other criminal activity associated with dogfighting and additional means of prosecution based on these offenses. Part IV concludes the Article with suggestions for improving enforcement, discussing options available that may help to overcome the biases, costs, and other hurdles that make enforcement so difficult.
I. BACKGROUND

A. History of Dogfighting in America

1. English Origins

Dogfighting as practiced in the United States originated in England. Before it became common, however, dogs were used for the blood sport of bull baiting. In bull baiting, a dog (or more often several dogs) attempted to pin a bull to the ground by attacking it, often trying to cling to its nose or mouth. The bull, chained in the center of the bull ring, would avoid this punishment by goring the dogs, flinging them from its body, or crushing them. Surprisingly, bull baiting was not just a form of entertainment, enjoyed by royalty and commoner alike, but was required by law. Because a bull’s meat was often tough, butchers were required to tenderize the flesh by baiting the bull prior to slaughter. As far as entertainment goes, bull baiting was popular, not just because of the fight, but because of the opportunities it gave to allow the spectators to gamble.

As bull-baiting waned, dogfighting grew in popularity, especially among the working classes. As one historian explains, the appeal of dogfighting was fueled by circumstances:

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47 Elizabeth I was known to be one of the monarchs who enjoyed bull baiting and other types of animal combat. Baiting sports were so popular that a “Master of the Bears and Dogs” was appointed. Rhonda D. Evans & Craig J. Forsyth, Entertainment to Outrage: A Social Historical View of Dog Fighting, 27 INT’L REV. MODERN SOCIOLOGY 59, 61 (1997); Jennings, supra note 45, at 18; Edmund Russell, A Tale of Two Smithfields, UVA TOP NEWS DAILY, Sept. 11, 2007, http://www.virginia.edu/topnews/facultyopinions/2007/russell.html.

48 Evans & Forsyth, supra note 47, at 61; Russell, supra note 47.

49 Russell, supra note 47.
Industrialization and urbanization in the late 18th and early 19th centuries shifted the focus of blood sports from baiting (in which dogs attacked other species) to fighting (in which dogs attacked each other). Rural laborers flocked to cities to become factory hands. They retained their love for blood sports but lacked the space and free days for baits of large animals. Dogfights, on the other hand, could be held indoors, artificial light allowing evening matches, and workers could still go to work the next day.  

“Pit” businesses filled the gap left by the loss of baiting activities, and breeders turned to developing a more aggressive dog (crossbreeding bulldogs and terriers) to better meet dogfighting needs. Dogfighting was eventually abolished in England, along with other blood sports, with enactment of the Cruelty to Animals Act in 1835; however, dogfighting continues underground even today.

2. American Development

As Britons immigrated to America with their fighting dogs, dogfighting came with them. However, Americans enjoyed the bulldog and terrier mix for more than its dogfighting

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50 Id.; see also Rhonda D. Evans & Craig J. Forsyth, The Social Milieu of Dogmen and Dogfights, 19 DEVIANT BEHAVIOR 51, 51-52 (1998) (stating that the “lower visibility” of dogfighting compared to baiting activities added to dogfighting’s popularity).

51 See Russell, supra note 47. The bulldog-terrier mix that resulted is the forbear to the modern-day pit bull. See id.; Jennings, supra note 45, 18.

52 See id.; see also Evans & Forsyth, supra note 47, at 52 (noting that England’s cruelty act was not enacted until the upper class withdrew its support for baiting and dogfighting, although that class did still consider cockfighting a form of entertainment).

53 See, e.g., Jennings, supra note 45, at 18 (discussing the continuing practice of dogfighting and badger baiting); John Mooney, Dogfighters Smuggle Pit Bulls Into South, SUNDAY TIMES, Sept. 2, 2007, at 2, 2007 WLNR 17543560 (discussing a dogfighting operation in Ireland); see also Warner, supra note 45, at 37-40 (describing the failed attempts and eventual success of animal welfare statutes in England).

54 As in England, Americans at one time participated in the baiting sports, with evidence suggesting the existence of this activity as early as 1726. Evans & Forsyth, supra note 50, at 52. It is unclear when dogfighting first arose in the United States, although some have noted that the Staffordshire terrier arrived in the United States in approximately 1817. See, e.g., Gibson, supra note 29.
capabilities, seeking it out as a farm dog, family guardian, and companion. The dog also began to evolve as breeders crossbred the “best of the best” of the British lines, seeking to maximize gameness. The resulting American Pit Bull Terrier (the dog of choice for dogfighting) was recognized as a standard breed by the United Kennel Club (UKC) in 1898 and by the American Dog Breeders Association about a decade later. Shortly thereafter, Chauncy Z. Bennett, the founder of the UKC, wrote a set of rules for dogfighting that “brought organization . . . and a semblance of respectability for the breed, if not for the fighting.”

55 See Medlin, supra note 4, at 1288. The reputation of the pit bull in the early twentieth century was much kinder than it is today, and its image was often used to promote trust in products. Buster Brown shoes and RCA both used pit bull images to convey the quality of the product. See, e.g., id. at 1289 (Buster Brown); Bull & Terrier, Origin & History, http://www.bullandterrier.com/features/ (last visited Aug. 13, 2009) (noting use of the pit bull for advertising the clarity of the RCA phonograph well as “to illustrate American neutrality without fear in 1914, the toughness of Levi jeans, and as a ‘defender of Old Glory’”). Some pit bulls also held celebrity status, while others were the companions for celebrities. See Medlin, supra note 4, at 1288-89 (describing the popularity of the Little Rascal’s Petey, Juneau’s official greeter Patsy Ann, and the World War I hero stubby); see also id. (noting that Helen Keller owned a pit bull); Safia Gray Hussain, Attacking the Dog-Bite Epidemic: Why Breed-Specific Legislation Won’t Solve the Dangerous-Dog Dilemma, 74 FORDHAM L. REV. 2847, 2853-54 (2006) (noting that Theodore Roosevelt owned a pit bull).

56 STAHLKUPPE, supra note 39, at 34.

57 Evans & Forsyth, supra note 47, at 60.

58 The American Kennel Club does not recognize the “American Pit Bull Terrier” as a registered breed. However, it registers and has established standards for the Staffordshire Bull Terrier and the American Staffordshire Terrier, both of which originated from the original bulldog and terrier mixes in England. See American Kennel Club, Staffordshire Bull Terrier History, http://www.akc.org/breeds/staffordshire_bull_terrier/history.cfm (last visited Aug. 9, 2009); American Kennel Club, American Staffordshire Terrier History, http://www.akc.org/breeds/american_staffordshire_terrier/history.cfm (last visited Aug. 9, 2009); see also STAHLKUPPE, supra note 39, at 53-55 (describing the registry issues relating to the various pit bull-type breeds). Interestingly, legislation regulating or banning “pit bulls” often defines the term as including American Pit Bull Terriers, American Staffordshire Terriers, Staffordshire Bull Terriers, and mixes of each. See Amy Cattafi, Breed Specific Legislation: The Gap in Emergency Preparedness Provisions for Household Pets, 32 SETON HALL LEGIS. J. 351, 354-55 (2008) (describing Denver’s breed-specific ordinance). One expert notes that the AKC-registered American Staffordshire Terrier was merely an American Pit Bull Terrier registered under a different name to avoid the “pit connotation.” See STAHLKUPPE, supra note 39, at 54, 58 (noting that the breed was originally registered as the Staffordshire Terrier in 1936, but later changed to the American Staffordshire Terrier in 1972 to distinguish it from the English version of the breed). Although American Pit Bull Terriers and American Staffordshire Terriers may look similar, for the most part, the breeds are now separate with only a few dogs still registered with both the UKC and AKC. See id. at 58-59. Advocates of American Pit Bull Terriers note the loss of gameness in American Staffordshire Terriers as a distinguishing characteristic between the breeds. See id. at 61-62 (“From the perspective of gameness, the APBT and the Amstaff are as far from being the same breed as the Collie and the Border Collie are in sheepherding ability.”).

59 STAHLKUPPE, supra note 39, at 55, 57.

60 Id. at 55.
Dogfighting was a lawful sport for a short period in American history, although not overly popular with those outside the game.\textsuperscript{61} However, as in England, states began outlawing this activity in the latter half of the nineteenth century.\textsuperscript{62} Despite these statutes, dogfighting continued, but moved into secrecy. Although dogfighting was not limited to any particular region of the United States, Louisiana played particular importance as the source for the sport’s “Cajun Rules.” Penned in the 1950’s by G.A. “Gaboon” Trahan, a former Lafayette police chief and successful dogman, Cajun Rules are one of the more popular standards used for regulating dogfights.\textsuperscript{63}

Dogfighting still exists in many parts of the country—indeed, it is a half-billion dollar industry—and some say the activity is on the increase. However, the nature of much of the current fighting has changed, although it is still accompanied by other societal ills. To see this change, it is helpful to have a better understanding of the types of people who engage in the activity, as discussed below.

\textsuperscript{61} Id. at 43 (noting that dogfighting audiences generally consisted of “[d]ogfighters, pit dog breeders, gamblers, and the retinue of hangers-on who preyed on the gamblers—prostitutes, sycophants, muggers, and creditors,” as well as “the morbidly curious, the thrill-seekers, and the sadistic elements of the community”).

\textsuperscript{62} See, e.g., Evans & Forsyth, supra note 50, at 52 (noting a New York statute enacted in 1856 that prohibited dogfighting, cockfighting, and ratting).

\textsuperscript{63} Loh-Harrist, supra note 31. Cajun Rules are not the only rules that dogfighters might use. Other rules that have been used for dogfighting include Al Brown’s Pit Rules and Armitage’s Rules. See SEMENCIC, supra note 36, at 41-46 (reprinting Al Brown’s Pit Rules); ARMITAGE, supra note 34, at 123-33 (reprinting Armitage’s Rules and Regulations to Govern Dogfighting); RICHARD F. STRATTON, THE WORLD OF THE AMERICAN PIT BULL TERRIER 252-54 (1983) (reprinting the English Rules of 1850 and the Police Gazette Rules of 1900); Gibson, supra note 29, at n.5 (reprinting the Cajun Rules).

\textsuperscript{64} For example, a chart of select dogfighting raids prepared by the Animal Legal & Historical Center sets out dogfighting arrests in seventeen different states across the continental United States that occurred between 1996 and 2004. See Dog-Fighting Raids: A Comparative Analysis of Peripheral Criminal Activity and Seizures, Mich. St. U. Coll. Law Animal Legal & Historical Center, http://www.animallaw.info/topics/spusdogfighting.htm (last visited Sept. 17, 2007) (hereinafter Dog-Fighting Raids); see also SEMENCIC, supra note 36, at 39 (“The fact of the matter is that dogfighting is not confined to small pockets of the South but rather that organized fights are being held as a spectator sport throughout the United States, Canada and Mexico. While the average New York City dweller feels closer to bullfights in Madrid than to dogfights in the United States, I have known Bulldog men residing in New York City who own a dozen pit dogs that are fought on a regular basis throughout the country.”).

\textsuperscript{65} Burke, supra note 34.
3. Profiles of the Dogfighter

Dogfighters fall into three categories: professionals, hobbyists, and streetfighters. Although each category is different with regard to the stakes at issue, the dogfighters themselves share similar characteristics. They engage in dogfighting as a show of masculinity, they often have other criminal tendencies, and they tend to rationalize their behavior by anthropomorphizing the dogs.

Masculinity and brotherhood are important in the dogfighting world. During the 1990’s, a team of sociologists—Rhonda Evans, DeAnn Gauthier, and Craig Forsyth—conducted a study on dogfighters in the South to ascertain the motivation behind continued dogfighting despite its criminalization. The researchers concluded through attendance at dogfights and interviews with over thirty dogmen (who were predominately white, male and working-class) that dogfighting, like other sports, represented a way for the dogfighters “to validate their masculine identities while remaining only on the periphery of actual violence.” As the sociologists explained:

Research suggests that men from lower-class backgrounds, who lack opportunities for expression of masculinity through occupational success, tend to rely on more accessible routes of expression which emphasize aggression, violence, and strength. This is evident in the arena of sport where participants in

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66 Interestingly, at least one study suggests that ownership of a high-risk dog (like a pit bull-type dog) may be an indicator of the deviant nature of the owner in terms of aggression and criminal activity. See Jaclyn E. Barnes, Barbara W. Boat, Frank W. Putnam, Harold F. Dates & Andrew R. Mahlman, Ownership of High-Risk (“Vicious”) Dogs as a Marker for Deviant Behaviors: Implications for Risk Assessment, 21 J. INTERPERSONAL VIOLENCE 1616, 1632 (2006) (“[C]hoice of a high-risk dog breed by the owner can reflect the deviant nature of the owner. When a high-risk dog is in the possession of a high-risk citizen, one who has multiple convictions or citations, the dog is drawn into the cycle of deviance. The high-risk dog becomes a deviant possession much like a gun or a stolen vehicle. If a deviant citizen can be identified by the number of deviant possessions, the high-risk status of a dog can be a useful predictor of criminal convictions and aggressive behaviors by its owner.”).

67 Evans, Gauthier & Forsyth, supra note 40, at 827.
boxing, football, and wrestling, are disproportionately drawn from the working-class sectors of society.\textsuperscript{68}

Although dogfighting is not limited to the white male working class—it crosses racial and economic lines\textsuperscript{69}—this view of dogfighting as a representation of masculinity generally holds true throughout dogfighting circles. In fact, the dogmen themselves refer to their circles as fraternities,\textsuperscript{70} and within the fraternity, senior dogmen\textsuperscript{71} are well-respected by young fighters and breeders who strive to emulate them.\textsuperscript{72}

Dogfighters may also have criminal tendencies apart from any dogfighting infractions. Dogfighting and other crimes are closely associated,\textsuperscript{73} and many dogfighters (at least in urban areas) have also been arrested on charges of drugs, guns, and other crimes.\textsuperscript{74} In addition,

\begin{itemize}
  \item \textsuperscript{68} Id. at 829 (citations omitted).
  \item \textsuperscript{69} To some extent, dogfighting crosses gender lines in the form of spectators. See Evans & Forsyth, supra note 50, at 54 (noting that, although women are rarely dog handlers, they participate as spectators who actively participate in gambling). Indeed, the United Kingdom’s National Canine Defence League (established in 1891) described in an early anti-dogfighting booklet the insidious impacts of dogfighting on not only young men, but women as well:

  Young women, future mothers of the race, are being accustomed to find entertainment in some of the filthiest spectacles that have ever been staged. Vampires or ghouls, in a mad twilight of the mind they sit, leaning forward in ecstatic anticipation. Pity, an emotion they can never feel, must move us when we see to what extremes unbalanced humanity can go. And few will not be angry at the thought that every day a new recruit is drawn from the ranks of our cherished youth and maidenhood.

  HOMAN, supra note 41, at 243-44. However, nothing limits women to just the role of spectator. One reporter has noted the activities of a female pit bull breeder who is a well-published scientist, medical researcher, and patent holder with alleged links to a high-level dogman in North Carolina. See Jennifer Strom, Orange Dog Panel Member Quits, INDEPENDENT WKLY., Apr. 25, 2007, at 5, 2007 WLNR 9829931.

  \item \textsuperscript{70} See Evans & Forsyth, supra note 50, at 55 (noting that the term “fraternity” is used in both dogfighting and cockfighting circles).

  \item \textsuperscript{71} According to one study, breeders hold the highest position in dogfighting circles because “[breeding] is the facet on which every other element within the sport is based and without it[,] the sport could not exist.” Id. at 55.

  \item \textsuperscript{72} One young dogfighter described the relationship between senior dogmen and junior dogmen as follows: “The old timers do most of the talking and we just listen. People will think you’re crazy if you go in there [to a pre-fight meeting] talking a lot and you’re just a newcomer. That’s a privilege that has to be earned and the old timers have more than earned it. Someday we’ll be in their position and everybody will listen to what we have to say. We’ll be the teachers instead of the students.” See id. at 62 (quoting an unidentified dogfighter).

  \item \textsuperscript{73} See Part III, supra.

  \item \textsuperscript{74} See Daniel Walsh, Cop Faces 5 Charges of Animal Cruelty, PRESS OF ATLANTIC CITY, Sept. 18, 2007, at A1 (noting an analysis by Chicago Police of a three-year period of dogfighting during which 332 people were arrested for the offense and, of that number, 70% were convicted felons); Mich. St. U. Coll. Law Animal Legal &
dogfighting locations often serve as the venues for commission of other crimes. Indeed, according to the offices of Congressmen Elton Gallegly and Earl Blumenauer, during a period of six months, every reported dogfighting arrest also included arrests for gambling and drug trafficking.

Dogfighters also tend to justify their behavior by placing human emotions on the dogs (i.e., anthropomorphism). Typically, dogmen state that the dogs enjoy fighting and it would be cruel not to allow them to engage in that behavior. This belief exists even though the gameness characteristic has been bred into the fighting dogs by humans and despite the fact that dogs have been placed into the ring specifically to fight and are encouraged to fight even when they may no longer wish to do so. As one authority explained:

[G]ameness involves more than just a desire to fight to the death if need be. It also involves an intense desire to please a master who wants to see the dog continue to attack at all costs. Pit men understand this desire to please on the part...
of the dog and capitalize on it. At any organized pit fight in which two dogs are really going at each other wholeheartedly, one can observe the owner of each dog changing his position at pit-side in order to be in sight of his dog at all times. The owner knows that seeing his master rooting him on will make a dog work all the harder to please its master.79

Thus, it is not merely instinct that makes the dogs fight, but the human factor as well.

a. Professionals

Dogfighters are generally categorized into three types: the professional dogman, the hobbyist, and the streetfighter.80 The Professionals are those dogmen who work at a national and, sometimes, international level and fight at the highest stakes.81 These dogmen are both fighters and breeders who often sell their stock in the thousands of dollars because the animals come from champion bloodlines.82 Fights at the professional level are the most secretive and the most lucrative. Meeting with a professional dogman or attending a professional’s fight usually requires a personal introduction or invitation from a current member of that dogfighting circle,83 and the location of a fight is usually not revealed until hours before the fight.84 Stakes are highest with professional fights, with the winner of some matches taking home $100,000 or

79 SEMENCIC, supra note 36, at 67-68.
80 It is not unknown for a dogfighter to move from one category to another. See, e.g., Mosedale, supra note 26, at 5 (describing a former dogfighter’s move from a streetfighter to a professional based on the performance of his Grand Champion dog and his acquisition of a mentor professional).
81 Gibson, supra note 29.
83 Loh-Harrist, supra note 31.
84 Until revealed, the fight location is generally known only to the actual participating dogfighters and the location owner. Secrecy is required to prevent raids by law enforcement. See Evans & Forsyth, supra note 50, at 59 (suggesting also that a raid will “push those marginal dogmen and spectators out of the sport” and that, since dogfighting has “such a small fraternity[, it] cannot afford to lose any peers”).
more. Professional fighters often set their fights in rural areas, cross state lines, and can drive hundreds of miles for a fight. However, there is a growing national trend to find professional or near-professional operations located just outside major cities, either in the suburbs or bordering rural area.

Professional dogmen are also communication oriented. Although secrecy is the keyword as far as outsiders are concerned, within the circle, professionals keep in touch with the activities of other fighters and breeders. Before professional fights, dogmen bond in long, pre-fight meetings to discuss issues of interest, such as bloodlines, fighting results, or training issues. Professionals also communicate through printed and electronic media. Originally, when dogfighting was legal, newspapers published fighting results, noting the names of the dogs and their owners. When papers stopped printing results, the void was filled by dogfighting journals and magazines that went underground as dogfighting became illegal. The Internet also enables instant communication, with numerous websites providing information on bloodlines, training

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85 Id. at 56; see also Joelton Dog Fighting Bust Gains National Attention, THE CITY PAPER, Oct. 11, 2007, http://www.nashvillecitypaper.com/content/city-news/joelton-dog-fighting-bust-gains-national-attention (hereinafter Joelton Dog Fighting) (“[S]uburban operations with a dozen or fewer dogs can see tens of thousands of dollars change hands every weekend at fights and nearly $50,000 in annual, untaxed revenue from breeding dogs.”).


87 Joelton Dog Fighting, supra note 85.

88 Id. at 60.

89 See, e.g., HOMAN, supra note 41, at 202-23 (reprinting newspaper articles from the 1800’s about dogfights in America). The link between a dog and its owner-trainer or breeder is so close that fighting dogs of superior bloodlines are often known partly by the name of the owner. See, e.g., STAHLKUPPE, supra note 39, at 49; see also HOMAN, supra note 41, at 242-43 (picturing various fighting dogs, including Russell’s Tip, O’Donnell’s Sean, Hall’s Champion Old Swamper, and Snakeman’s Pedro Junior).

tips and fights, and even the Cajun Rules. Some even webcast their fights to allow offshore betting.

b. Hobbyists

According to one breeder, hobbyists are the “bush-leaguers” of the dogfighting world. Hobbyists—or fanciers or enthusiasts as they are sometimes called—are dogfighters who operate at the regional level, tending to stay closer to home. Although hobbyists may participate in fights in rural areas, many hobbyist fights occur within the same group of hobbyists and take place in urban locations, such as abandoned buildings or fields. Unlike professionals, hobbyists tend to own fewer dogs and generally do not engage in large-scale breeding, but they usually show more interest in the care and breeding of their dogs than streetfighters. They participate in dogfights not just as a means of entertainment, but also as a way to supplement their income.

c. Streetfighters

Streetfighters are the third level of dogfighter. They tend to fight in urban locations at the lowest stakes—some fighting merely for street credibility. Although streetfighters may engage

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91 See Gibson, supra note 29 (noting that “cyber-dogmen” websites and message boards appear as legitimate breeding sites and provide disclaimers that the information is provided “for entertainment purposes only”); see also Burke, supra note 34 (noting that dogfighting websites often include notations that dogfighting is not condoned and that descriptions of dogfights are fictional).
92 Burke, supra note 34.
93 Id. (quoting an unnamed pit-bull breeder).
94 Gibson, supra note 29.
95 See Robin Starr, It’s Chilling but the Vick Case Is Not an Isolated Incident, RICHMOND TIMES DISPATCH, Sept. 23, 2007, at E1; Loh-Harrist, supra note 31 (describing fancier activity in New Orleans and noting that, since fancier cannot always make it to rural fights, they hold fights in the city “in apartments and houses, abandoned properties, even business spaces owned for that purpose”).
96 Loh-Harrist, supra note 31.
97 Dog Fighting FAQ, supra note 4.
98 Id.
in arranged fights that involve preparation and training, many streetfighters participate in
impromptu fights, with traditional dogfighting rules often ignored. As one dogman explained:

In the dogfighting game, professional dogmen are akin to the Mafia, bestowing to
the illicit activity a set of generally accepted rules. Using that parallel,
streetfighters can be construed as gangs. They don’t operate under many rules,
and though they’re involved in the same sport, the philosophies of professionals
and streetfighters are, in many ways, miles apart.

The philosophical gap between streetfighters and professionals is most evident in the brutal
twists that urban fights have taken. Some streetfighters, for example, engage in a fight format
called “trunking,” which is “a mobile battle where two dogs are thrown into the trunk of a car
and bets are placed on which dog will emerge alive when the car stops and the lid is lifted.”

Abandoned buildings might also be used for fights to the death. Several years ago, for example,
Baltimore animal control officers discovered a new wrinkle to dogfights “where three dogs
would be locked inside an abandoned rowhouse with nothing but a small bag of food. Only one
dog would emerge victorious.” These forms of dogfights abandon the traditional reasons for
watching a dogfight—to see the display of gameness. Except for gambling on the outcome,
the fights have little resemblance to professional dogfights.

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100 See Russell, supra note 47; Wolff, supra note 99, at F4.
101 See Loh-Harrist, supra note 31; see also STAHLKUPPE, supra note 39 (“‘Equating the gangs and thugs
that fight dogs in alleys and vacant buildings with the true Pit Bull Terrier enthusiasts is like making some
connection between a baseball player who earns his living swinging a bat and a mugger who makes his living
swinging a bat.’” (quoting an unidentified pit bull terrier breeder)).
102 Jim Nesbitt, Urban Dog Fighters Tough to Track, Aug. 12, 2007, at A1, 2007 WLNR 15580882; see
also Pet Pulse, Trunking: The Hidden World of Dog Fighting, Metacafe.com Aug. 26, 2008,
http://www.metacafe.com/watch/1666489/trunking_the_hidden_world_of_dog_fighting/ (explaining trunking and
noting that the activity is also performed by hobbyists).
103 Chuck Amos, Dogfights and the Fight to Stop Them, BALT. DOG MAGAZINE, Winter 2007,
http://baltimoredogmag.com/ (last visited Aug. 9, 2009).
104 As one author explains:
Thousands of dollars are often gambled on the results of these pit fights . . . by people who care far
less about the money involved than they do about the aggression and ability displayed by the dogs.
Streetfighters may also breed their dogs, but often with different visions in mind than the professional. Whereas professionals seek to breed dogs with gameness, streetfighters have been known to breed dogs for size, seeking large, intimidating dogs rather than dogs with fighting tenacity.\(^{105}\) It is this type of breeding that has caused professionals and hobbyists to accuse streetfighters of ruining the pit bull breed, arguing that indiscriminate breeding has resulted in human-aggressive dogs, which has turned the public against the pit bull.\(^{106}\)

Streetfighters often use their dogs for more than fighting. Gangs initially gravitated toward fighting dogs—pit bulls in particular—because they not only served as protection (“four-legged guns”),\(^{107}\) but also provided status: “‘You can’t walk down the street with your 9mm hanging out of your pants, but you can walk down the street with your two-time champion pit bull.’”\(^{108}\)

Vicious or menacing dogs were also used as a way to protect illegal goods, such as drugs or weaponry. For example, drugs could be stashed in a dog’s collar or inside its kennel for

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\(^{105}\) S\(\text{EMENCIC, supra}\) note 36, at 39-40.

\(^{106}\) S\(\text{TAHLKUPPE, supra}\) note 39, at 13 (discussing how streetfighters have bred true American Pit Bull Terriers with other larger aggressive breeds, creating “large and powerful and quite vicious dogs that did share some pit dog genetic heritage”); Gloria Campisi & Leon Taylor, \textit{Dogs of Death Where Life’s the Pits Behind Bars, Fighters Face Death Sentences}, \textit{PHIL. DAILY NEWS}, Aug. 8, 1997, at 3 (noting that streetfighters are cross-breeding in an attempt to get more aggressive characteristics and strength, such as mixes between Rottweilers and Shar-Peis).

\(^{107}\) See, e.g., S\(\text{TAHLKUPPE, supra}\) note 39, at 8-9, 13; Phyllis M. Daugherty, \textit{There’s No Rehabbing L.A.’s Deadly Pit Bulls}, \textit{L.A. DAILY NEWS}, Aug. 19, 2007, at V1. Interestingly, one scholar notes that “[p]roblems with unstable pit bulls only began surfacing in the 1980s,” suggesting “something other than genetics—perhaps human influence—is at work.” Medlin, \textit{supra}\) note 4, at 1295. This modification of the traditional pit bull might be attributable to the increased association of pit bulls and gangs because, according to one report, it was during that time period that pit bulls became popular with gangs. \textit{See Julie Sullivan, Pit Bulls: A Popular Pariah, PORTLAND OREGONIAN}, Aug. 29, 2004, at A01.

protection from thieves or police. This type of use has resulted in the destruction of a greater number of dogs during encounters with police officers.

4. **Rise of the Streetfight**

Although dogfighting has a long history, streetfighting has been on the rise at least for the last twenty-five years. Some argue that increased gang activity helped move dogfighting across the nation and into western urban areas that had not appeared to have dogfighting problems before. Most major urban areas in the United States, of course, suffer from the activity. For example, dogfighting was so rampant in one Detroit neighborhood that postal service had to be temporarily suspended.

According to one source, the popularity of pit bulls and other types of dogs used for fighting appeared to surge during the 1980’s, when gangs “discovered dogfighting.” The ferocity of dogfighting may be, in part, what draws gang members to the activity. As one law enforcement official has noted: “‘There is a marriage between dogfighting and gangs. Dogfighting is violent and that is what gangs like.’”

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109 See, e.g., Lynn Anderson, *Putting a Leash on Dogfighting in Underworld of Drugs and Violence, Pit Bulls Can Be as Menacing as Those Who Own Them*, BALTIMORE SUN, Aug. 26, 2007, at 1A (noting that 45 tubes of cocaine were discovered inside a flashlight and kept near the dogs outside); *See Spot Die: The City Needs Teeth in Its Dog Control Laws or Hundreds More Pups Will Perish*, SYRACUSE NEW TIMES, Aug. 15, 2001, at 10 (hereinafter *See Spot Die*).

110 See, e.g., Amanda Iacone, *Drug House Keepers Add Teeth, Dogs Deter Rival Dealers and Hinder Police, Officers Say*, FORT WAYNE J. GAZETTE, July 31, 2005, at 1C (stating that officers in Fort Wayne encounter dogs in at least two-thirds of police raids and that shooting aggressive dogs is more commonplace).


112 See *id*.

113 Ben Schmitt, *Contests of Cruelty*, DETROIT FREE PRESS, Sept. 7, 2007, 2007 WLNR 17487373 (noting that U.S. mail service was halted for almost two months because daytime dogfights occurred two to three times a week in the neighborhood).


Some credit the hip hop culture with the rise in streetfighting. They argue that the celebration of pit bulls by hip hop performers has generated a greater interest in not only the breed, but in dogfighting as well among the younger generation.\footnote{See, e.g., Inside the Underground World of Dog Fighting, NPR Talk Nation, 2007 WLNR 13889743 (July 19, 2007); Burke, supra note 34; Van Valkenburg, supra note 40 (noting that John Goodwin, investigator for the Humane Society of the United States, is critical of the use of dogfight images in hip hop entertainment); see also Loh-Harrist, supra note 31 (noting a youth’s knowledge of DMX’s participation in dogfighting).} Many songs include reference to pit bulls or dogfighting. DMX, for example, is a well-known pit bull owner and dogfighter accused of glorifying the sport.\footnote{See, e.g., SMOKEY D. FONTAINE, E.A.R.L.: THE AUTOBIOGRAPHY OF DMX 167-71 (2002) (discussing how DMX would fight his dog, Boomer, against cats, raccoons, and other dogs).} His compact disc “Grand Champion,” for example, contains numerous references to dogfighting and tells of the close relationship between the dogfighter and his dog.\footnote{DMX, Dog Intro, on GRAND CHAMP (Def Jam 2003) (“I don’t really trust humans that much these days/****, fact of the matter is, I trust dogs more than I trust humans/****, nothin’ like that dog love I tell you/Not just any dog, gotta be a pit bull/Yeah, that’s the only dog for me/You don’t wanna get caught in a pit with one a them boy/They make good companions, but even worse enemies/It’s all on how you take it.”). Other entertainers who have used pit bulls in their work include Missy Elliott, who features a pit bull on her CD “This Is Not a Test” and Jay-Z who features in his video “99 Problems” dogs in a pit with spectators nearby. See Burke, supra note 34.} Inserts within the disc case delineate the qualities of a “champion” fighting dog\footnote{Humane Soc’y of the United States, DMX’s Pit Bulls Seized, Aug. 31, 2007, http://www.hsus.org/act/news/dmx_pit_bulls.html.} and advertise “Game Dog Professional” dog food.\footnote{See Van Valkenburg, supra note 40, at 1D (quoting John Goodwin, investigator for the Humane Society of the United States).}

Others, however, disagree that hip hop is responsible for increasing interest in streetfighting. Assistant Professor of Urban Education at Temple University, Dr. Marc Lamont Hill, for example, suggests that making superficial connections between dogfighting and the hip hop culture “fails to recognize the larger truth.”\footnote{Id.} As Hill says:

“The world ‘culture’ is secret-agent talk for race in this country. . . . It allows people to mythologize poor people, black people, brown people without being labeled a racist. There’s not a culture of animal abuse in black America or Latino America. Mike Vick’s actions certainly don’t have anything to do with hip-hop
culture. And in reality, hip-hop doesn’t show images of dogfighting that much.

Even when DMX does, I still don’t think young people walk away after listening to his music and think about dogfighting. . . . But the reality of race relations in America is, one black person’s bad acts are paid for by the whole community, at least within the realm of the media.”122

Regardless of the reason, the increase in dogfighting at all levels has raised concern among legislators, resulting in more stringent prohibitions against the activity.

B. Criminalization

Dogfighting is prohibited at both the federal and state levels. Although states began enacting statutes as early as the mid-nineteenth century,123 it took the federal government more than a hundred years to take its first bite at regulation.

1. Federal Legislation

Federal criminalization of dogfighting is important because it provides a system that overlaps state programs, allowing federal charges to be brought in instances where state enforcement is inadequate or nonexistent or where state penalties are low. Federal regulation began in 1976 when Congress amended the Animal Welfare Act124 to prohibit certain forms of

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122 Id. (quoting Dr. Marc Lamont Hill); see also Kathy Rudy, Michael Vick, Dog Fighting and Race, Duke U. Office of News & Comm., Aug. 29, 2007, http://www.dukenews.duke.edu/2007/08/vick_oped.html (stating in an op-ed piece, “I am not saying dog fighting is acceptable, but rather that Vick should be publicly criticized for that activity, not for his participation in hip-hop subculture. Whether or not dogs are fought more by minorities than white people is actually unknown, but the media representations of the last several weeks make it appear that black culture and dog fighting are inextricably intertwined. We need to find ways to condemn dog fighting without denigrating black culture with it.”).

123 The ASPCA notes that its founder, Henry Bergh, wrote the first known animal fighting law in 1867 for New York. Although restrictions in Washington, D.C. and California can be traced back to 1892 and 1905, respectively, the ASPCA notes that most states enacted dogfighting laws in the 1980’s. Dog Fighting FAQ, supra note 4.

animal fighting. These provisions have been amended twice, once in 2002\textsuperscript{125} and most currently with the Animal Fighting Prohibition Enforcement Act of 2007.\textsuperscript{126}

The statute works to eliminate animal fighting in several ways. Section 2156(a)(1) makes it unlawful “for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.”\textsuperscript{127} The statute excludes cockfighting that is otherwise permitted under the law of the state in which the fight occurs, unless the person knows that the bird was knowingly made a part of interstate or foreign commerce in order to participate in the fighting venture.\textsuperscript{128} The statute makes no exemption for dogfighting, and defines “animal fighting venture” as “any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment,” but does not include activities in which hunting is the primary purpose.\textsuperscript{129}

The statute also prohibits the knowing placement of a “dog or other animal” in interstate or foreign commerce if the purpose is to have the animal participate in an animal fighting venture\textsuperscript{130} and using the mail for promoting such ventures.\textsuperscript{131}

When originally enacted, penalty for violation of the provision was a misdemeanor, with violators subject to a maximum of one year imprisonment and/or a $5000 fine.\textsuperscript{132} Although the 2002 amendments increased the monetary penalty to $15,000, the crime remained a

\textsuperscript{128} Id. § 2156(a)(2). This provision was necessary at one time when cockfighting was still legal in a number of states; however, all fifty states and the District of Columbia now have cockfighting statutes in place. Louisiana became the last state to ban the activity when it enacted its cockfighting statute, effective August 2008. Russell McCulley, Louisianato Be Last State to Ban Cockfighting, Reuters, June 28, 2007, http://www.reuters.com/article/domesticNews/idUSN2729513120070628. For a list of state cockfighting laws, see Humane Soc'y of the United States, State Cockfighting Laws, May 2009, http://www.hsus.org/act/fighting/cockfight/state_cockfighting_laws.html.
\textsuperscript{129} 7 U.S.C. § 2156(g) (2006).
\textsuperscript{130} Id. § 2156(b).
\textsuperscript{131} Id. § 2156(c).
misdemeanor. In 2007, Congress made violation of the animal fighting venture provisions a felony, with imprisonment up to three years and/or a $15,000 fine.

The congressional purpose behind increasing the penalty to a felony was to give greater incentive to prosecute animal fighting cases because federal prosecutors had pursued relatively few. As the Committee Report for the 2007 Act indicates:

Since [1976,] Federal authorities have pursued fewer than a half dozen animal fighting cases, despite receiving numerous tips from informants and requests to assist with state and local prosecutions. The animal fighting industry continues to thrive within the United States, despite 50 State laws that ban dogfighting . . . . Numerous nationally circulated animal fighting magazines still promote these cruel practices, and advertise fighting animals and the accouterments of animal fighting. There are also several active websites for animal fighting enthusiasts, and paid lobbyists advocating animal fighters’ interests.

. . . . By increasing penalties to the felony level, H.R. 137 will give prosecutors greater incentive to pursue cases against unlawful animal fighting ventures, and strengthen deterrence against them.

The felony measure passed with a large majority—368 members in the House and unanimous in the Senate. It was also supported by over 400 law enforcement agencies, as well as numerous animal welfare groups and even the poultry industry. Not everyone was interested in raising the penalties, however, believing that dogfighting prosecution should be left

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137 Id.
to the state. Lynn Westmoreland, United States Representative from Georgia, for example, stated in an editorial that he believes federal authority in general should be decreased: “This [dogfighting] issue provides a good example. We don’t need greater federal intervention on dogfighting when it’s already illegal in all 50 states. Leaving the issue to the states allows each legislature to determine how it wishes to punish violators of its animal fighting laws.” United States Representative Scott Garrett from New Jersey agreed; he further argued that federal dollars should be used to pursue crimes requiring federal resources and not duplicate state criminal laws.

Since enactment of the Animal Fighting Prohibition Enforcement Act, several additional bills have been introduced into Congress aimed specifically at dogfighting ventures. These bills would increase the reach of the interstate and foreign commerce provisions to not just the transported animal, but also the animal’s offspring, would increase the penalty to five years imprisonment, and would, like state statutes, impose penalties against spectators who attend the event. In addition, one bill would also ban dog fighting paraphernalia (e.g., training tools, videos and magazines) and create supplemental avenues for prosecution by animal welfare agencies.

139 Scott Garrett, Editorial, *Why I Voted Against the Federal Dog-Fighting Law*, N.J. RECORD, at L07 (“My vote was to stop federal law enforcement from further creeping into state criminal statutes. Regrettably, with each passing year, Congress seems to expand the reach of federal law, overlapping significantly with state law in ways that diminish our ability to marshal federal resources to fight criminal activity. When we allow federal law enforcement to pursue federal crimes and state law enforcement to pursue state crimes, we can take a bigger bite out of crime overall.”).
2. **State Legislation**

State legislation regarding dogfighting generally takes a number of forms. The most common prohibitions include those against the dogfighting act itself, possessing dogs owned for fighting, and being a spectator at a dogfight. As discussed further below, however, inconsistencies between the statutes show the need for an overlapping federal program and improvements in state systems.

All fifty states have enacted legislation prohibiting the fighting of dogs in some form or fashion.\(^{142}\) Currently, all fifty states have elevated dogfighting to the felony level.\(^{143}\) Penalties for violation of the provisions range from as little as four to eight months in North Carolina\(^ {144}\) to

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\[^{142}\] Note, however, that criminalization of dogfighting—that is, fighting between one or more dogs—does not mean that other activities involving a fighting dog are prohibited. For example, some states still allow fights between dogs and feral hogs, although several states have moved to ban this type of activity. See Mark Davis, *Hog-Dog Events Stir Controversy*, ATLANTA J.-CONST., July 30, 2006, at C1 (noting that all Southern states, except Georgia, have banned hog-dog fighting).


\[^{144}\] N.C. GEN. STAT. §§ 14-362.2, 15A-1340.17(c) (Supp. 2006).
as much as ten years in Alabama, Louisiana, and Oklahoma.\textsuperscript{145} Maximum fines range as high as $100,000 in Kansas, $125,000 in Oregon, and $150,000 in Arizona.\textsuperscript{146}

Possession of fighting dogs is also illegal in all fifty states, with forty-six of them considering the crime a felony. The remaining states limit possession to a misdemeanor.\textsuperscript{147} Penalties for violation of the felony provisions are equivalent to the penalties that can be assessed for the act of dogfighting. Misdemeanor penalties range from six months to one year imprisonment and fines range from $300 to $15,000.\textsuperscript{148}

Spectator provisions have been enacted in all but two states—Hawaii and Montana.\textsuperscript{149} Unlike the dogfighting or possession crimes, spectators are generally penalized at a lesser level. Twenty-eight jurisdictions (including the District of Columbia) consider the crime to be a felony on first conviction\textsuperscript{150} or elevate the crime to a felony upon subsequent conviction.\textsuperscript{151}

\begin{itemize}
  \item \textsuperscript{145} See ALA. CODE §§ 3-1-29(a)-(b), 13A-5-6 (2005); LA. REV. STAT. ANN. § 14:102.5(A)(1), (C) (2004); OKLA. STAT. ANN. tit. 21, § 1694, 1699.1(A) (West 2002); LA. REV. STAT. ANN. § 14:102.5(A)(1), (C) (2004). Note, however, that the penalties in each of these states range from one to ten years. Most states provide for a maximum of five years. See Ranking of State Dogfighting Laws, supra note 143.
  \item \textsuperscript{146} See ARIZ. REV. STAT. ANN. §§ 13-801(A), 13-2910.01(B) (2001); KAN. STAT. ANN. §§ 21-4315, 21-4503a(a)(3) (1995); OR. REV. STAT. ANN. § 167.365(2), 161.625(1)(d) (2005).
  \item \textsuperscript{147} Possession of fighting dogs is a misdemeanor in New York, Texas, and West Virginia. See 2009 Nevada Assembly Bill No. 199, 75th Reg. Sess. (May 22, 2009) (adding NEV. REV. STAT. ANN. § 574.070(2)); N.Y. AGRIC. & MKTS. LAW § 351(3) (McKinney Supp. 2007); TEX. PENAL CODE ANN. § 42.10(a)(5), (e) (Vernon 2003); W. VA. CODE ANN. § 61-8-19(a) (Lexis Nexis 2005); WYO. STAT. ANN. § 6-3-203(c)(ii), (e) (2007).
  \item \textsuperscript{148} See N.Y. AG. & MKTS. LAW § 351(3) (McKinney Supp. 2007) (one year and $15,000); W. VA. CODE ANN. § 61-8-19(a) (Lexis Nexis 2005) (six months and $300).
  \item \textsuperscript{149} See Ranking of State Dogfighting Laws, supra note 143. Bills to create spectator provisions were introduced in the 2009 legislative session for both Hawaii and Montana, but none were passed before the close of the regular sessions. See H.B. 730/S.B. 763, 25th Leg. Reg. Sess. (Hi. 2009); H.B. 349, 61st Leg., Reg. Sess. (Mont. 2009). Spectator provisions in animal fighting statutes in a number of states have been upheld despite constitutional attack. See, e.g., Gonzalez v. State, 941 So.2d 1226 (Fla. App. 2006); People v. Cumper, 268 N.W.2d 696 (Mich. 1978); State v. Arnold, 557 S.E.2d 119 (N.C. App. 2001); Commonwealth v. Craven, 817 A.2d 451 (Pa. 2003); State v. Tabor, 678 S.W.2d 45 (Tenn. 1984).
  \item \textsuperscript{150} See ALA. CODE § 3-1-29(a)(b) (1996); ARIZ. REV. STAT. ANN. § 13-2910.02 (2001); COLO. REV. STAT. ANN. § 18-9-204(1)(b)(I), (2) (West 2004); CONN. GEN. STAT. ANN. § 53-247(c) (West 2007); DEL. CODE ANN. tit. 11, § 1326(b) (2001); D.C. CODE § 22-1015(b) (Supp. 2007); FLA. STAT. ANN. § 828.122(3)(h) (2006); GA. CODE ANN. § 16-12-37(c) (2007); LA. REV. STAT. ANN. § 14:102.5(A)(6), (C) (2004); MASS. GEN. LAWS ANN. ch. 272, § 95 (West Supp. 2007); MICH. COMP. LAWS ANN. § 750.49(2)(f), (4) (West Supp. 2007); MISS. CODE ANN. § 97-41-19(2) (2006); Neb. REV. STAT. § 28-1005(3) (2003); N.H. STAT. ANN. § 644:8-a(II) (West 2007); N.J. STAT. ANN. 4:22-24(b) (West 1998); N.M. STAT. § 30-18-9(A)(1), (C) (2004); N.C. GEN. STAT. § 14-362.2(c) (Supp. 2006); OHIO REV. CODE ANN. § 959.16(A)(5)-(6), 959.99(H) (Lexis 1988); OR. REV. STAT. ANN. § 167.370 (2005); 18 PA. CONS. STAT. § 5511(h.1)(6) (West Supp. 2007); R.I. GEN. LAWS. § 4-1-11 (1998); VT. STAT. ANN. tit. 13,
one states continue to classify it as a misdemeanor.\(^{152}\) Penalties vary and run as low as a mere $500 fine with no jail time in Alaska for a first offense.\(^{153}\)

### III. OBSTACLES TO ENFORCEMENT

Unfortunately, despite the proliferation of laws that criminalize dogfighting activity, prosecution of dogfighters is relatively rare in most jurisdictions, and where prosecution does occur, imposed penalties are insignificant.\(^{154}\) The rarity of prosecution comes as no surprise, though, because prosecution rates of cases involving animal cruelty in general tend to be low.\(^{155}\) Indeed, studies have shown a marked disproportion between the number of reports of animal cruelty and the number of prosecutions that result.\(^{156}\) With regard to dogfighting, reasons for the


\[^{153}\text{See ALASKA STAT. § 11.61.145(a)(3), (d)(2) (2006); ARK. CODE ANN. § 5-62-120(b) (2005); CAL. PENAL CODE § 597.5(b) (West 1999); IND. CODE ANN. § 35-46-3-10 (West 2004); KAN. STAT. ANN. § 21-4315(c) (1995); KY. REV. STAT. ANN. § 525.130(1)(a), (4) (Lexis Nexis 1999); ME. REV. STAT. ANN. tit. 17, § 1033(2)-(2-A) (2006); MD. CODE ANN., CRIM. LAW § 10-605(a), (c)(1) (Lexis Nexis Supp. 2006); MINN. STAT. ANN. § 343.31, subd. 1 (West Supp. 2007); MO. ANN. STAT. § 578.025(2) (West 2003); N.Y. AGRIC. & MKTS. LAW § 351(4) (McKinney Supp. 2007); N.D. CENT. CODE. § 36-21.1-07(2) (2004); OKLA. STAT. ANN. tit. 21, § 1698 (West 2002); S.D. CODIFIED LAWS § 40-1-9 (2004); TENN. CODE ANN. § 39-14-203(a)(4), (d) (2006); TEX. PENAL CODE ANN. § 42.10(a)(6), (e) (Vernon 2003); UTAH CODE ANN. § 76-9-301.1(4) (2003); W. VA. CODE ANN. § 61-8-19b (Lexis Nexis 2005); WIS. STAT. ANN. § 951.08(3) (West 2005); WYO. STAT. ANN. § 6-3-203(g) (2007).}\]

\[^{154}\text{See ALASKA STAT. § 11.61.145(a)(3), (d)(2), § 12.55.035(b)(7) (2006).}\]

\[^{155}\text{See, e.g., Jack Leonard, Putting the Hurt on Pet Abusers, L.A. TIMES, Feb. 8, 2009, at 1, 2009 WLNR 2490257 (reporting that defendant Jerome Woods spent only one day in jail for his first dogfighting conviction, 23 days for his second conviction, and was sentenced to five years on his third conviction); Joey Bunch, Prosecution of Dogfighting Cases Is Kept on Short Leash Despite the Blood Sport’s Suspected Popularity in the West, DENVER POST, July 30, 2007, at B01 (stating that “dogfighting cases are time-consuming and expensive, and tend to slip down the priority list because the cases rarely result in punishment that would deter the activity”).}\]

\[^{156}\text{Prosecution rates of animal cruelty and other crimes may be rising, however, in jurisdictions where such cases are assigned to permanent animal cruelty prosecutors rather than to prosecutors on a rotating basis. See Allie Phillips, The Few and the Proud: Prosecutors Who Vigorously Pursue Animal Cruelty Cases, PROSECUTOR, July-Sept. 2008, at 20; see also text and accompanying notes 356-357, infra (recommending designation of dedicated animal cruelty prosecutors).}\]

\[^{156}\text{See Jennifer H. Rackstraw, Reaching for Justice: An Analysis of Self-Help Prosecution for Animal Crimes, 9 ANIMAL L. 243, 246 (2003) (describing various studies showing a prosecution rate of three percent or less); see also Arnold Arluke & Carter Luke, Physical Cruelty Toward Animals in Massachusetts, 1975-1996, 5 SOC’Y & ANIMALS 195, 200 (1997) (examining cases prosecuted over a 21-year period by the Massachusetts Society for the Prevention of Cruelty to Animals and finding that only about half of the cases prosecuted led to a guilty or not guilty verdict and about one-quarter of case were dismissed).}\]
low prosecution rate include the differences in how people value pursuing prosecution, costs involved in investigating cases, and the difficulties of proving the criminal violations.

A. Differing Value of Prosecutorial Worth

One reason that prosecution is rare is that law enforcement officials face biases of various individuals regarding the worth of prosecution, even though the United States population views enforcement of cruelty laws as a priority.\(^{157}\) Despite statutory provisions to the contrary, not all people view dogfighting as a crime worthy of prosecution or steep penalties. These biases occur at all levels—from legislators to the layperson—and have an impact on how seriously law enforcement takes its duties.

1. By Legislatures

Differences in the way states value the prosecution of dogfighting cases is evident in two ways. First, the fact that states are inconsistent in classifying and penalizing dogfighting activity shows that legislators and their constituents differ in how reprehensible they consider the act to be. Even between those states that agree that dogfighting should be a certain category (felony or misdemeanor), criminal sanctions for the activity differ,\(^{158}\) which shows a different value for the crime.

Second, the way individual legislators vote when enacting the statute shows that the legislators (or their constituents) consider the crime to be of differing importance. For example, Congressman Steve King of Iowa voted against the recent upgrades to the federal dogfighting provisions because he believed that the activity should not be criminalized while abortion is still allowed. As he stated, “My vote says that human life needs to be elevated and stay above

\(^{157}\) See American Prosecutors Research Institute, Animal Cruelty Prosecution: Opportunities for Early Response to Crime and Interpersonal Violence 9 (July 2006), http://ricp.uis.edu/ASPCA/AnimalCrueltyProsecutionAPRI.pdf (noting that 67% of 1031 representative households asked “how important is it to you that animals are protected from cruelty and abuse” responded “very important”).

\(^{158}\) See text accompanying notes 142-153, supra.
animal life. And I think it devalues all human life, when you set the life of an animal up above that of a human.”  

The differences in value is understandable when one considers that animals are legally considered property in all jurisdictions. Although some statutes and courts allow compensation for companion animal loss to include such things as emotional distress, most states still allow compensation only for the value of the animal as determined by the market. Views relating to civil liability (i.e., a low societal value placed on animals), therefore, may negatively impact how severe criminal punishment should be for dogfighting or for animal cruelty laws in general.

2. By Law Enforcement

Inconsistency in views of the seriousness of dogfighting is also evident among those who enforce the laws. Police, prosecutors, and judges may each consider the crime to be of differing value, which affects whether or how well the crime is investigated and prosecuted and how harshly the offender will be punished. For example, should a law enforcement officer or prosecutor perceive dogfighting to be of little value to pursue in comparison to his other cases,
prosecution against the dogfighter may be given a low priority.\textsuperscript{164} Similarly, should a judge or jury consider the crime to be less egregious than other crimes, penalties dispensed may be minimal regardless of how intensely the case had been pursued by police or prosecutors.\textsuperscript{165}

Lesser intensity in pursuing prosecution may also occur if law enforcement personnel participate in the sport. Dogfighting, of course, is not limited to any demographic, with participants noted in many segments of society, and it is not unknown for law enforcement officials to engage in the activity.\textsuperscript{166} (Remember, the Cajun Rules were created by a Louisiana police chief, after all.)\textsuperscript{167} Thus, some dogfighting may escape unnoticed as any officers that

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  \item[164] See Gerwin, supra note 162, at 129; Corwin R. Kruse, Baby Steps: Minnesota Raises Certain Forms of Animal Cruelty to Felony Status, 28 WM. MITCHELL L. REV. 1649, 1678 (2002); Rackstraw, supra note 156, at 250-51; see also George Dohrmann, Complex Case: Answering Questions about Vick, Alleged Dogfighting, SL.com, May 31, 2007. http://sportsillustrated.cnn.com/2007/football/nfl/05/31/vick/index.html (noting how prosecutors might be influenced by politics and explaining how the state prosecutor for the Michael Vick case had previously chosen not to prosecute a defendant, even though the investigation ran for months, animal control had seized 33 dogs and a variety of training equipment from the suspect, and animal control officials indicated that the suspect was a “well-known dogfighter”). In addition to a perceived lower value to prosecuting animal crimes, according to one scholar, other rationalizations for the low prosecutorial rate for animal abuse include:

  1) the fact that legislative “overcriminalization” makes certain actions criminal, in contrast to modern societal tolerances; 2) the belief that discretion is necessary to best utilize limited public resources; 3) the perceived need to individualize justice for particular perpetrators; 4) the fact that a victim has expressed a desire that the perpetrator not be prosecuted; 5) the desire to not unduly harm an individual or her reputation for various inconsequential crimes; 6) the fact that an offender could help with the prosecution of another crime; and 7) the fact that the harm resulting from the crime can be corrected by the offender without resorting to prosecution.

  Rackstraw, supra note 156, at 250 (citations omitted). Because of the low prosecutorial rate, some scholars advocate the use of self-help prosecution, in which citizens draw attention to the lack of prosecution in a particular case to force prosecution. See, e.g., Gerwin, supra note 162, at 130-31; Rackstraw, supra note 156, at 245.

  \textsuperscript{165} See Gerwin, supra note 162, at 130-31 (arguing that some jurors may issue low animal abuse penalties because animals are considered property under the law); Kruse, supra note 164, at 1679 (suggesting that judges in rural areas seem “especially prone to lack concern for animal abuse issues because “hunting, trapping, and home slaughtering” is so common). \textsuperscript{166} See, e.g., Bill McKelway, Deputy in Dog Fighting Case Fired: Richmond Sheriff’s Employee Dismissed After Probe Findings, RICHMOND TIMES-DISPATCH, Apr. 30, 2009, at B06, 2009 WLNR 8851637 (reporting the dismissal of a deputy sheriff after he was charged with animal cruelty and dog fighting); Frias, supra note 21, at 1B (indicating that two Palm Beach County Sheriff’s deputies were arrested at a dogfight and were later found discarding a dying pit bull); Six Arrested in N.O. for Dog Fighting, BATON ROUGE ADVOC., Feb. 18, 2004, at 5 (hereinafter Six Arrested) (noting that a sheriff’s deputy was suspended without pay and arrested along with six other people for dogfighting).

  \textsuperscript{167} See text accompanying note 63.
might be involved serve as a warning system for the group or turn a blind eye to the activity.

Enforcement of dogfighting laws is also problematic because of confusion over enforcement authority. In many cities, animal issues are handled by understaffed and underbudgeted animal control departments whose officers have little or no law enforcement authority and are armed only with catch poles. Yet, as one animal control officer explained, police involvement in dogfighting investigations is essential because “animal control officers do not carry guns or wear bulletproof vests” and police surveillance of suspects is required. Part of the problem is that some police officers do not see dogfighting as falling within the realm of traditional policing; instead, they consider the crime to be an issue of animal control. Therefore, response to reports of dogfighting is often ineffective, with suspects and evidence disappearing if police response is not immediate.

In those situations where police do respond, inexperience with investigating dogfighting, or even cruelty cases in general, may lessen the probability of successful prosecution. Officers untrained in recognizing dogfighting paraphernalia, for example, may not understand the

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168 See Six Arrested, supra note 166, at 5 (noting that a sheriff’s deputy told others to flee the scene as police officers arrived at a dogfight); Loh-Harrist, supra note 31, at 21 (“These days, dogfighters will tell you it’s no big deal to see police officers and sheriff’s deputies at illicit dogfights—a presence that’s welcome since they can warn the crowd of approaching cops or possible raids. Some dogfighters rattle off the names of top state and city politicians they claim to have seen at dogfights.”).

169 Brett Nauman, Trained to Kill: Animal Cruelty Investigators Say More Dogs Forced into Blood Sport of Fighting, PANTAGRAPH, July 6, 2006, at A1 (noting that a cruelty investigator in the Chicago area indicated that he has “often run into county sheriffs who don’t consider dog fighting a crime and look the other way”).


171 See Gerwin, supra note 162, at 129.


173 See Gerwin, supra note 162, at 129; Hohmann, supra note 29.
significance of treadmills or weighted collars or might overlook a telling trophy. Similarly, where an investigator is unfamiliar with processing an animal cruelty scene, the value of certain physical evidence might be overlooked or misunderstood. As ASPCA forensic veterinarian Dr. Melinda Merck explains: “Evidence associated with any crime has to be analyzed and interpreted in the proper context. In order to properly identify evidence, analyze it and interpret the findings, you have to know animals and animal behavior.”

Inexperience with prosecuting dogfighting cases can also lead to unfavorable or inconsistent results. Generally, animal cruelty cases are distributed in a prosecutor’s office as they come in, often to the newest lawyers to join the team. This leads to a situation where attorneys with the least experience are asked to present cases for which statutory or evidentiary subtleties may not be understood or where the importance of prosecution for the social good is ignored. Because of the lack of oversight, consistency may be lost, with some cases pursued vigorously and others pursued not at all. Further, the lack of a consistently assigned prosecutor means that neither animal control nor law enforcement officers have a regular contact with whom they can build a relationship; therefore, they may be less likely to take on longer-term investigations such as those required to prosecute hobbyist and professional dogfighters. Rather than taking a proactive approach to enforcing dogfighting laws and reducing the activity, they are left to be reactive, responding to the chance report or fortuitous tip that the activity might be occurring.

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176 See Gerwin, supra note 162, at 129.
B. Investigative and Prosecutorial Costs

The cost of investigating and prosecuting dogfighting cases also hinders prosecution. Dogfighting often receives a low priority because of the sheer number of criminal cases that police and prosecutors face on a daily basis. Crimes against humans in most circumstances are ranked higher than crimes against animals. Therefore, dogfighting investigation may be left to investigation solely by animal welfare organizations which are often underfunded and lack the capacity to do an investigation adequate for prosecutor purposes.

Second, the cost of investigating dogfighting is often greater than the cost for investigating other types of crimes because of the secretive nature of the activity and the difficulty in proving that the act has occurred. Thus, more time may be involved in infiltrating a dogfighting ring, meeting with potential witnesses, or collecting other evidence.

Even more costly, though, is the housing and feeding requirements for the dogs that have been confiscated. In many cases, housing requirements are prohibitively high because the dogs must be caged separately to avoid having them fight each other. Animal shelters, already overwhelmed with strays and other animals, are forced to take many of the dogs even though they may not have the money or space to do so. Although numerous jurisdictions allow confiscated animals to be euthanized in certain circumstances, a hearing is generally required in

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177 See id.
178 See id.
179 Cf. Amos, supra note 103 (discussing the costs and limitations that local agencies encounter when investigating dogfighting).
180 See, e.g., Rex Bowman, Agents Say Site Was Pit Bull “Boot Camp,” RICHMOND TIMES-DISPATCH, Apr. 13, 2000, at B1 (noting a sheriff’s concern that ninety different cages would be required if the pit bulls were taken from the location at which they were found). Some shelters have created a type of security kennel, which secures dangerous dogs from the regular dog population. See, e.g., Dana DiFilippo, S Kennel: Danger Zone, Illegal Dogfighting in Phila. Leads to Heightened Security at PSPCA in Juanita, PHILA. DAILY NEWS, Oct. 1, 2007, at 7, 2007 WLNR 19200993.
181 See, e.g., Gerwin, supra note 162, at 129; see also DiFilippo, supra note 180, at 7 (noting that, in 2006, of the almost 9,000 dogs that were taken in by one of Philadelphia’s animal shelters, 60% were pit bull mixes and 4,700 were euthanized).
order to fulfill the dog owner’s due process rights, and the dogs must be housed and maintained until that time.\(^{182}\)

The costs that shelters incur when holding fighting dogs can mount up. Veterinary costs may jump when a dogfighter’s hoard of dogs is discovered, as many of the animals that come in require treatment for wounds or infections. Dogs confiscated from streetfighters often must be treated for parasites or for gastric problems relating to stress and “training” foods,\(^{183}\) and veterinarians routinely must repair the problems caused by the at-home care provided by the untrained and unskilled dogmen.\(^{184}\) In addition, shelters face costs caused by the dogs themselves as they destroy property deemed indestructible to other dogs, such as metal bowls, watering mechanisms, fencing, or even the kennel walls themselves.\(^{185}\)

Further costs may be incurred from addressing security issues that plague shelters housing fighting dogs. Dogs with game, of course, are highly valued and shelters face burglaries as owners (or others who know of the confiscation) attempt to recover the dogs.\(^{186}\) Such costs might include repair of fencing, kennels, and other shelter property damaged during break-ins,


\(^{183}\) Professional dogmen tend to provide basic veterinary care to their animals to protect their investment, so dogs reflecting poor general health (notwithstanding injuries) generally come from streetfighting backgrounds. See Carrie Allen, Dog Fighting Investigations: When the Victims Come to Stay, ANIMAL SHELTERING, July-Aug. 2006, at 33, available at http://www.animalsheltering.org/publications/magazine/back_issues/. Although unsubstantiated, some dogfighters have also been rumored to feed their dogs gunpowder to increase their viciousness. See, e.g., Leonard Doyle, Fighting Dogs Taken from Gridiron Star’s Kennels Face Death, U.K. INDEPENDENT, Aug. 24, 2007, 2007 WLNR 16520222 (alleging that urban pit bull owners “turn the animals vicious by whipping them, burning them with cigarettes and putting gunpowder and jalapeno in their food”); Tom Droege, Canine Controversy: Breed Lovers Want to Keep Pets, Tulsa World, Feb. 12, 2006, at A1.

\(^{184}\) See Allen, supra note 183, at 34.

\(^{185}\) Id. To relieve the fighting dogs’ boredom, some shelters have provided them indestructible toys for enrichment, such as bowling balls and kibble frozen inside blocks of ice. See Humane Soc’y of the United States, Fighting Takes Toll on Shelters, July 24, 2007, http://www.hsus.org/act/news/fighting_takes_toll_on_shelters.html.

relocation costs for dogs moved to more secure premises, and costs of round-the-clock security where they are not.\footnote{187 See Snelling, supra note 186, at A1.}

\section*{C. Proof Problems}

In addition to the difficulties created by biases and costs, actually proving the violation of dogfighting statutes makes prosecution difficult. Several factors hinder investigation: the secrecy surrounding professional dogfights, the spontaneity of streetfights, unwilling witnesses, and forced reliance on circumstantial evidence.

\subsection*{1. Secrecy of Dogmen}

One of the greatest hurdles that law enforcement faces with regard to enforcing dogfighting provisions is locating the illegal activity. Although as a general rule, most dogfighters tend to be secretive because of the nature of the activity, professional dogmen take that secrecy to a higher level. Strangers to the group are viewed with suspicion and even information given to insiders is provided on a need-to-know basis. When dogmen agree to a fight, usually two to three months before the scheduled fight day, the location of the fight is hidden from spectators until mere hours before.\footnote{188 See Evans & Forsyth, supra note 50, at 59.} At an appointed time, participants and spectators meet at a designated spot and then leave for the fight location at different times so as not to arouse suspicion.\footnote{189 See id.} Sometimes, to ensure secrecy, spectators are taken to two or three different pre-fight locations before eventually arriving at the true location, usually deep in a rural area;\footnote{190 See DiFilippo, supra note 180, at 7.} in others, they may be bused to the location, giving up their car keys and cell phones to join the group.\footnote{191 Dohrmann, supra note 27, at 44.} Once there, posted lookouts notify the crowd of pending raids a few minutes before they occur, often resulting in
police arresting only a few as the others disperse into the night.\textsuperscript{192} Because of this secrecy, arrests of professional dogmen are difficult and cost-prohibitive, and it may take months or years to infiltrate an organization to build a case.

2. \textit{Spontaneity of Streetfights}

Streetfights are even more difficult to detect, not because of any particular pains that the streetfighter takes to hide the fight, but because of the spontaneity of the activity. Although some fights may be scheduled, many streetfights occur when two owners meet by chance and decide to match their dogs. In these circumstances, detection generally occurs only when a law enforcement officer inadvertently discovers the activity or when neighbors report it.\textsuperscript{193} However, even if an officer finds a dogfight in progress, the officer may be unable to arrest more than one or two people, if that, because the participants and spectators quickly flee once the officer is sighted. In addition, because of the potential for violence, animal control officers may be unwilling to enter the scene, thereby frustrating arrests, if all participants have dispersed by the time police arrive.\textsuperscript{194}

Because catching any level of dogfighters or spectators in the act is difficult, officers must seek a willing witness or base its case on circumstantial evidence, such as training equipment discovered at the location. However, as discussed below, these options are also difficult.

3. \textit{Unwilling Witnesses}

Even though there are usually several witnesses to dogfighting activity, garnering one willing to testify for, or even talk to, the prosecution is difficult. Those who watched the fight,

\begin{itemize}
\item \textsuperscript{192} \textit{See} Nauman, \textit{supra} note 169, at A1.
\item \textsuperscript{194} \textit{Cf.} Nesbitt, \textit{supra} note 102, at A1 (stating that hunting streetfighters is “hazardous duty” for unarmed animal control officers and noting that one officer was threatened with a box cutter, another with a golf club, and many had been “cussed out and threatened”).
\end{itemize}
for example, may be unwilling to step forward because of potential prosecution as a spectator, retribution by fellow lawbreakers, or merely a sense of honor among thieves. Neighbors who see a fight occurring or who know of a fight location may also keep quiet because they are intimidated by the participants and fear retaliation.\textsuperscript{195} As one officer noted, this fear may not be unfounded: “Most [dogfighters] are not friendly people. . . . Eighty percent of the people I’ve dealt with have gone on to bigger and better crimes.”\textsuperscript{196} Regardless whether the fear is justified,\textsuperscript{197} fear of involvement makes both investigation and prosecution of dogfighting more difficult as fewer crimes are reported and prosecutors are left with no eyewitness proof of actual dogfighting. Instead, prosecutors must rely on circumstantial evidence to prove the crime, which has problems in its own right.

4. Circumstantial Evidence

Because of the lack of willing witnesses, law enforcement and prosecutors must often rely on indirect evidence to make a case; however, proving a case using circumstantial evidence is not easy. To prove a violation of actual dogfighting, prosecutors must show not just dogs fighting, but also that the defendant was the impetus behind the fight and, sometimes, the reason for the fight (e.g., entertainment purposes or to receive some benefit). California’s statute is typical of many state statutes. It prohibits the defendant from, “[f]or amusement or gain, caus[ing] any dog to fight with another dog, or caus[ing] any dogs to injure each other.”\textsuperscript{198}

\begin{flushleft}

\textsuperscript{196} Judd, \textit{supra} note 195, at D7.

\textsuperscript{197} The fear of retaliation may not be as grounded in fact as it is in people’s minds. Investigators of gang-related crimes in Ventura County, California, for example, “estimate roughly half of non-gang witnesses are influenced by fear, . . . yet gang assaults on ordinary citizens who work with police are few and far between.” Adam Foxman, \textit{Police Say Gangs’ Reputations Silence Would-Be Tipsters: Fear Thwarts Investigations}, VENTURA COUNTY STAR, Feb. 15, 2009, 2009 WLNR 2968062.

\textsuperscript{198} CAL. PENAL CODE § 597.5(a)(2) (West 1999).
\end{flushleft}
Possession statutes generally prohibit ownership, possession or training coupled with intent to use the dog for dogfighting. California’s statute, again typical of most others, requires proof that the defendant “owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.”

Since catching dogfighters in the act of actual dogfighting is rare, prosecutors must rely on indirect evidence to prove the violation. Dead, injured or scarred dogs may be some evidence that a fight between dogs occurred, but it is not necessarily proof that the defendant “caused” the dogfight. Proving violation of a possession statute is equally difficult, not only because it would be rare to catch a defendant in the act of training a dog, but also because of the requirement that the prosecutor prove an intention to fight the dog. Therefore, prosecutors must rely on other physical evidence found at a scene, such as scales or washtubs, training equipment like treadmills or jennies, or even dogfighting journals, to try to convince a jury that a violation has occurred.

One problem with using circumstantial evidence in proving violations of dogfighting statutes is overcoming objections regarding relevance and prior bad acts or being challenged on appeal for sufficiency of the evidence. Even where the evidence is admitted, the jury (or judge in a non-jury trial) may not make the logical connection between the indirect evidence and

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199 Id. § 597.5(a)(1).
200 See Nesbitt, supra note 102, at A1; see also Dohrmann, supra note 27, at 44 (indicating that evidence of dogfighting in the Michael Vick case included a scale, treadmills, a rape stand, syringes, and injectable diuretics and nutrition supplements for dogs); Cynthia Hubert, Stakes Grow in Vicious Underworld of Dogfighting, SACRAMENTO BEE, Jan. 10, 1999, at A1 (noting that, in uncovering a dogfighting operation in California, investigators found 55 scarred pit bulls, treadmills, chains, breaking sticks, weights, a fighting pit, blood spatters where dogs were fought, dogfighting rules, schedules and journals, and championship certificates).
201 See, e.g., Jones v. State, 473 So. 2d 1197, 1201 (Ala. Crim. App. 1985) (reviewing challenge that veterinarian’s testimony regarding dog’s condition was not relevant to appellant’s intent to fight dogs and was merely provided to inflame the passion of the jury).
202 See, e.g., Davis v. State, 907 N.E.2d 1043, 1055 (Ind. App. 2009) (finding that a receipt for trophies and a handwritten paper titled “April Show 2004” were inadmissible where defendant was charged with crime in 2006, but finding that error from introduction was harmless due to other overwhelming evidence against defendant).
203 Fuller v. State, 674 N.E.2d 576, 578-79 (Ind. App. 1996) (reviewing appellant’s claim that evidence was insufficient to sustain convictions for promoting a dog fight and using a dog in a fighting contest).
the offense or may reject the evidence entirely. The case against alleged Louisiana dogman Floyd Boudreaux is a case in point. Boudreaux is a world-renowned breeder of game pit bulls, with some of the puppies from his top stock—the very old Boudreaux bloodline and the newer Eli bloodline—selling for thousands of dollars. A known dogfighter, at least at one time, Boudreaux is now in his seventies and is considered “royalty” by dogfighting circles and has been given such monikers as the “Don of Dogfighting” and the “Godfather.” In 2005, after one of the largest raids in Louisiana history, Boudreaux and his son Guy were arrested and charged with over forty counts of breeding or training a fighting dog, animal cruelty, illegal possession of anabolic steroids, and possession of a sawed-off shotgun. Fifty-seven pit bulls, some with scars, were found chained to broken-down shelters; after confiscation and veterinary evaluation, they were put down. Police also recovered from Boudreaux’s property, among other things, steroids, exercise treadmills, computer records, a video featuring Floyd Boudreaux, dogfighting magazines containing Boudreaux bloodline advertisements, and photos of Boudreaux’s more valuable dogs.

After three years of delays, the Boudreauxs were tried in 2007, with both defendants denying that they had bred or trained fighting dogs. They rejected a trial by jury, seeking sole


205 Id.

206 Duggan, supra note 82, at A01; Humane Soc’y of the United States, Dogfighting Kingpin Toppled in Louisiana Raid, Mar. 23, 2005, http://www.hsus.org/acf/news/pressrel/dogfighting_kingpin_toppled_in_louisiana_raid.html (hereinafter Dogfighting Kingpin). Boudreaux’s reputation was so legendary that a website created to solicit funds for his defense after he was arrested pulled in even international donations. Id.


208 See id.; Dogfighting Kingpin, supra note 206. The Boudreauxs’ defense attorney suggested that the state’s real purpose was to seize the dogs and terminate the bloodlines. See Brown, supra note 204, at B1.


210 Trial Starts, supra note 209, at B1.
resolution by District Judge Kristian Earles. The Louisiana statute required proof that the defendants owned, possessed, kept or trained a dog for dogfighting purposes. The prosecution introduced ninety-five pieces of evidence to produce its case. During cross-examination, the Boudreaux’s defense attorney elicited from witnesses that investigators had not checked whether the seized treadmills worked and showed that only one of the confiscated breaking sticks showed any markings, which were so faint that it was impossible to determine whether they were made by dogs. In addition, although a veterinarian testified that many of the dogs’ wounds were consistent with dogfighting, she admitted they could have had other causes. She also testified that one of the dogs had its teeth removed by a human and was likely used to train other dogs.

The state tried to conclude with testimony from an award-winning animal control superintendent who had worked on the Vick case, but was unable to have her deemed an expert because, among other things, she was not formally educated, had not testified before, and was being paid by the Humane Society of the United States. The state sought a stay in order to appeal the decision, but the stay was denied by the court.

On the third day of trial, the prosecution rested its case, after which the judge directed the verdict, acquitting the defendants for lack of evidence. In seeking the verdict, the defense argued that the prosecution had shown no evidence of intent to fight the dogs and had introduced no witnesses who had ever seen the Boudreauxs conduct or attend a dogfight, even when it was still legal. Although the prosecution argued that the evidence, taken in its entirety, shows that

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211 Perlstein, supra note 204, at 1.
212 Trial Starts, supra note 209, at B1.
214 Trial Starts, supra note 209, at B1.
215 Id.
216 Brown, supra note 204, at B1.
217 Id.
218 Id.
219 Id.
the defendants were breeding fighting dogs, the court disagreed, stating “[t]he state has to come forward with some proof.”

Although the Boudreauxs’ arrest had been hailed as a major victory for dogfighting, the unsatisfactory resolution of the case (from the state’s point of view) demonstrates the problems of trying to use indirect evidence to prove a case. Despite a reputation of breeding game dogs—as one investigator explained, “‘Floyd is sort of like the Adam in the dogfighting world. He’s the standard everybody else judges their dogs by’”—the state was unable to convince the judge to make a connection between the dogs, the paraphernalia and training equipment found on Boudreaux’s property and an intent to fight and he was therefore not convicted.

II. CONNECTION TO OTHER OFFENSES

That a state has criminalized dogfighting should be reason enough to pursue enforcement of the dogfighting laws, but the activity’s connection to other criminal offenses may be more persuasive to those jurisdictions reluctant to expend the time or money involved in investigating and prosecuting dogfighters. As noted above, dogfighting is associated with other social ills, such as cruelty to animals, child welfare and domestic violence issues, and other criminal conduct such as gambling, gangs, weapons and drugs. Outside of the dogfighting-related offenses themselves, then, pursuit of dogfighters is important as a way to expand the net for these other issues. Further, because prosecution of a dogfighting offense may be impossible or impracticable in certain cases, successful prosecution based on periphery offenses ensures the imposition of at least some penalty and recognition of wrongdoing.

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220 Id.
221 Dogfighting Kingpin, supra note 206.
222 Perlstein, supra note 204, at 1 (quoting Kathryn Destreza, director of animal services for the SPCA).
A.  Cruelty

In addition to the cruelty inherent in having one dog fight another, dogs that are kept for dogfighting are often subjected to actions that would constitute cruelty under state animal welfare laws. Although some dogmen may treat their animals relatively well between fights,\(^\text{223}\) many dogfighters subject their dogs to harsh living conditions, providing insufficient food and water\(^\text{224}\) and little socialization.\(^\text{225}\) Some fighters may also provide their dogs with little or inadequate medical treatment after a fight,\(^\text{226}\) or may even kill the dogs that lose, sometimes in horrific fashion.\(^\text{227}\)

Prosecutors can bring claims under animal welfare statutes in addition to, or in lieu of, dogfighting actions, especially where proof of a dogfight or possession of a fighting dog is questionable. All states have animal anti-cruelty statutes, and though differing in the details, each statute does require provision of adequate food, water and medical care or contains a comparable provision that prohibits neglect.\(^\text{228}\)

\(^{223}\)Cf. Loh-Harrist, supra note 31 (comparing conditions of two dogmen in New Orleans).

\(^{224}\)See, e.g., Don Plummer, Two Charged Over Fighting Dogs in Cobb, Third Arrest Made for Gun, ATLANTA J.-CONST., Jan. 28, 2006, at E2 (noting that fifteen pit bulls were found with no food or water, indicating that one dog had eaten “dirt and rocks” and the only water available had been rainwater); Connie Baggett, Pit Bulls Destroyed, MOBILE REG., Apr. 13, 2005, at A1 (noting that most of twenty-six pit bulls “stood exposed to the elements, tethered by logging chains to stakes” and that “[t]he animals were forced to lie in their own excrement, mud and rainwater with only sparse dog food and spoiled milk to eat” with most having no water).

\(^{225}\)A Fighting Dog’s Life: How Illegal Dogfighting Has Stigmatized a Breed Once Considered the All-American Pet, METROLAND, Nov. 8, 2001, at 10 (noting that, because dogfighters do not want to get caught, they keep their dogs “locked up in crates or cages, train them in dank basements and abandoned buildings, and don’t generally take them out where they can be viewed—wounds, scars, poorly cropped ears and all—by suspicious neighbors”).

\(^{226}\)Dogmen often provide their own care for dogs injured in a fight because of the fear that veterinarians will report the fight to authorities. See Loh-Harrist, supra note 31 (noting also that the dogmen “suture wounds, treat infections and illnesses themselves, [and trade] often-erroneous medical advice with their peers”).

\(^{227}\)See Dog Fighting FAQ, supra note 4; see also Vick Indictment, supra note 3, at 5-6, 12, 14, 17 (describing executions of dogs by shooting, drowning, electrocution, and being slammed to the ground); see also Guerrero, supra note 111, at 1 (noting that “dogs that lose fights are often shot, set on fire or left to starve in vacant buildings”).

\(^{228}\)See, e.g., ALA. CODE §§ 13A-11-241(b) (2005); ALASKA STAT. §§ 3.55.100 (2006); ARIZ. REV. STAT. ANN. § 13-2910 (2001); ARK. CODE ANN. § 5-62-101 (2005); CAL. PENAL CODE §§ 597.1, 597a (West 1999); COLO. REV. STAT. ANN. § 18-9-202(a) (West 2004); CONN. GEN. STAT. ANN. § 53-247(a) (West 2007); DEL. CODE ANN. tit. 11, § 1325(a) (2001); D.C. CODE § 22-1001(a) (Supp. 2007); FLA. STAT. ANN. § 828.12(a) (2006); GA. CODE
In addition, in instances where an animal death or injury has occurred, prosecution may be possible under provisions that prohibit killing or harming an animal. For example, Colorado law prohibits a person from knowing, reckless or criminally negligent torture, needless mutilation, or needless killing of an animal. This provision applies regardless whether the animal is owned by the person causing the harm or is owned by another. However, some jurisdictions, although having provisions that prohibit unnecessary or cruel injuries regardless of ownership of the animal, still follow traditional rules that allow an owner to kill his own animal, but not the animal of another. In those cases, and depending on the action at issue, a prosecutor might be hindered rather than helped by the statute.

B. Child Welfare and Domestic Violence

Child welfare issues are also raised by dogfighting. Children attend dogfighting events at all levels, from professional fights where the occasion may be seen as a family event (complete with...
supper provided) to streetfights where children may not only be spectators but actual participants. The number of children who witness these events is startling. One study in Chicago, for example, revealed that more than twenty percent of second to eighth grade students had attended a dogfight. Perhaps more unnerving than the numbers, though, is the children’s view of dogfighting as a commonplace and exciting activity. As one researcher explained:

A [seventh] grader told us a dogfight is the most exciting thing in this neighborhood and that dogfights are the place to meet girls. . . . It is normal entertainment for [neighborhood children]. They don’t have movie theaters; they don’t have cable TV. They don’t need to care whether the media are too violent or cruelty is too much in the Nintendo games. . . . They have the violence for real in their alleys.

1. Link to Development of Violent and Other Criminal Tendencies in Children

Attendance at dogfighting events or being raised in an environment where dogfighting activity occurs is unhealthy for children (if not others as well) because animal abuse negatively impacts childhood development and “forces and influences” whether the children will become

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231 One dogfight raided in San Francisco, for example, revealed that the participants had brought in a cook for the event who served barbecue chicken, potato salad, soda and beer. Jeffrey Mize, Dogfighting Ugly Hunt for Blood Money; Seizure of 21 Pit Bulls in Vancouver Shines Light on Issue, COLUMBIAN, Oct. 21, 2004, at A; see also Steve Tuttle, A Dogfighting Scandal Dogs an NFL Star, NEWSWEEK, July 30, 2007, at 38, 2007 WLNR 14214263 (noting that one location was built specifically for dogfighting, “complete with bleachers and even a concession stand”); Tom Weir, Vick Case Sheds Light on Dark World of Dogfighting, USA TODAY, http://www.usatoday.com/sports/football/nfl/falcons/2007-07-18-vick-cover_N.htm?csp=34 (last visited Sept. 21, 2007) (“At some raids where spectators have fled into the woods as police invaded, . . . abandoned toddler-sized chairs and nearby milk and cookies suggest some people consider dogfighting family entertainment.”); Burke, supra note 34 (noting that, at one time, dogfights were a “Saturday ritual,” drawing 50 to 100 people, and regularly included sellers of refreshments like popcorn and chewing gum).

232 See Melillo, supra note 107, at A3 (describing a neighbor’s inability to stop three teen-aged youths from using a cat to train pit bulls).

233 See Guerrero, supra note 111, at 1; see also Michael Vick Pleads Not Guilty to Dogfighting Charges; How Widespread Is Dogfighting in America? – Part I, CNN News (July 27, 2007), 2007 WLNR 14389661 (noting that preliminary indications of the study show that one in five Chicago children in elementary school participated in dogfighting to the extent that they were “getting the dogs, bringing the dogs, and involved in the fights” (quoting Dr. Gene E. Mueller, Anti-Cruelty Society President)).

234 Guerrero, supra note 111, at 1 (quoting Dr. Gene E. Mueller, Anti-Cruelty Society President); see also Loh-Harrist, supra note 31 (describing the excitement of teenagers as they discuss their enthusiasm of dogfighting).
violent toward humans in the future. As Ramsey County (Minnesota) Attorney Susan Gaertner explains:

[Dogfights] affect children in a number of ways. Not only are they taught to take pleasure in the pain of a creature, but they are taught that their affection for a being is expendable. Very often the parents are taking the family pet . . . into the dog fight, where it will likely be injured or killed. Imagine what that does to a child.

Sadly, statistics show that what that often does is instill violent and criminal tendencies in the child. Animal abuse in general has long been understood to be a predictor of future human violence, and statistics repeatedly show a strong connection between animal abuse and both human violence and the commission of non-violent crimes. One study notes, for example, that “46 percent of sexual homicide perpetrators, 48 percent of all convicted rapists, 60 percent of those who commit aggravated assault, and . . . 100 percent of all serial killers abused animals”}

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237 Interestingly, early eighteenth century woodcuts by William Hogarth entitled “The Four Stages of Cruelty” depict this connection, with the first woodcut showing a child physically abusing a dog with an arrow, the second showing the same child, now an adult, blinding and maiming a horse that he has overloaded, the third showing the same man killing his mistress, and the fourth depicting the man’s hanging. Randall Lockwood, *Animal Cruelty and Violence against Humans: Making the Connection*, 5 ANIMAL L. 81, 82, 86 (1999). In addition, the Federal Bureau of Investigation has used childhood animal abuse as a predictor since the 1970’s. *See id.* at 82-83 (citing Robert K. Ressler, et al., *Murderers Who Rape and Mutilate*, 1 J. INTERPERSONAL VIOLENCE 273 (1986); Randall Lockwood & Ann Church, *Deadly Serious: An FBI Perspective on Animal Cruelty*, in HUMANE SOC’Y NEWS 1 (Fall 1996)).

238 See *Spot Die*, supra note 109, at 10; *see also* Suzanne E. Tallichet & Christopher Hensley, *Exploring the Link between Recurrent Acts of Childhood and Adolescent Animal Cruelty and Subsequent Violent Crime*, 29 CRIM. JUST. REV. 304 (2004) (showing a link between recurring animal cruelty in childhood and adolescence and violent crime as an adult); Coxwell, *supra* note 235, at 190 (discussing other studies showing links between animal abuse and violent crimes against humans).


at some time during their lives. As for non-violent crime, researchers have found a correlation between animal abuse and property crimes, drug-related crimes, and disorderly conduct.

Although no published studies appear to directly link the act of dogfighting with future violence and crime, and one study considers the act to be a “confounding variable” in animal abuse research, at least some researchers consider dogfighting to be within the scope of animal abuse. Other types of animal abuse often accompany dogfighting (e.g., the use of bait animals during training or the killing of a losing animal). Acts of abuse and the fight itself should fall within the general definitions of abuse or cruelty used in this type of research. For example,

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240 See Spot Die, supra note 109, at 10.
241 Arluke, Levin, Luke & Ascione, supra note 239, at 969 (finding that subjects who committed animal abuse were three and a half to four times more likely than the control group to have been arrested for property crimes, drug-related crimes, and disorderly conduct).
242 See LINDA MERZ-PEREZ & KATHLEEN M. HEIDE, ANIMAL CRUELTY: PATHWAY TO VIOLENCE AGAINST PEOPLE 94-96 (2004). In this study, researchers Merz-Perez and Heidi interviewed 45 violent and 45 non-violent offenders at a maximum-security prison in Florida in an attempt to measure past cruelty of the offenders to four types of animal populations: wild, farm, pet and stray animals. Id. at 71-72, 79. The researchers determined that 24% of the violent offenders interviewed committed animal cruelty, while only 7% of the non-violent offenders committed such acts. Id. at 94. The researchers noted, however, that dogfighting was a “confounding variable” because it was the only type of cruelty to pet animals that was reported by non-violent offenders and that cultural factors may have played a role. Id. at 95 (noting the race of the non-violent offenders who engaged in dogfight were African-Americans from urban areas).
243 See, e.g., FRANK R. ASCIONE, CHILDREN & ANIMALS: EXPLORING THE ROOTS OF KINDNESS & CRUELTY 55 (2005) (“Animals are abused when they are directed to become instruments of aggression. Training dogs to engage in dog fights or using a dog to purposely attack another person essentially converts an animal into a weapon. The animal becomes an extension of the antisocial behavior of its owner.”); Alan R. Felthous & Stephen R. Kellert, Psychosocial Aspects of Selecting Animal Species for Physical Abuse, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE: READINGS IN RESEARCH AND APPLICATION 225, 232 (Randall Lockwood & Frank R. Ascione 1998) (hereinafter CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE, reprinted from 32 J. FORENSIC SCIENCES 1713 (1987) (noting that pet dogs were beaten “to foster an aggressive disposition, so they would attack people on command or ferociously battle other dogs”).
244 See, e.g., Stephen R. Kellert & Alan R. Felthous, Childhood Cruelty Toward Animals Among Criminals and Noncriminals, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE, supra note 243, 194, 204, reprinted from 38 HUMAN RELATIONS 1113 (1985) (“Cruelty to animals was sometimes used to express violent, aggressive behaviors toward other people or animals. For example, cruelty occasionally occurred as a device for instilling violent tendencies in an animal, or for attacking other animals or people. One subject inflicted extreme pain on his animal to make it ‘mean’; another fed his dog gunpowder so it would be ‘tough’; still another used his dog to attack and kill other animals without provocation.”).
245 Certainly some activities may fall into the abuse or cruelty category without question. For example, law enforcement easily classified as “major cruelty” an incident where a dog “was allegedly doused with sizzling cooking oil during a brutal dogfight” and burned to such an extent that euthanasia was required. Anderson, supra note 109, at 1A. In addition, some states include dogfighting within the list of actions that can constitute “animal cruelty.” See HAW. REV. STAT. § 711-1109.3 (2007); IND. CODE ANN. § 35-46-3-10 (West 2004); KY. REV. STAT.
Professor Frank Ascione, a noted author of numerous studies and books on the connection between animal abuse and violence and crime, defines animal abuse as "'socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal.'" One might question, of course, whether dogfighting or the acts typically associated with dogfighting constitute socially unacceptable behavior (at least within dogfighting circles, which view the act as a sport) or whether the intent of the actions is to cause pain, suffering or distress. The criminalization of the act, however, suggests that outside dogfighting circles, the actions are socially unacceptable. Further, although the intent may not be to cause harm to the dogfighter’s own dog during the fight, the intent is to cause pain and suffering to the opposing dog in order to win the match and certainly to cause death if a dog is terminated for losing a match.

Even without direct sociological studies, evidence is growing suggesting a connection between dogfighting and other juvenile crimes. Animal control investigations in at least some jurisdictions support such a link, and psychiatrists suggest that dogfighting “could have a disturbing impact on emotionally troubled or vulnerable youths, making them more prone to destructive behavior.” Tulane University School of Medicine professor and psychiatrist Ed

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246 ASCIONE, supra note 243, at 28 (citing Frank R. Ascione, Children Who Are Cruel to Animals: A Review of Research and Implications for Developmental Psychopathology, 6 ANTHROZOÖS 226 (1993)).

247 See MERZ-PEREZ & HEIDE, supra note 242, at 95 (noting that the three non-violent offenders who engaged in past dogfighting “described dogfights as a popular neighborhood activity that, despite its illegality, was attended by both adults and children”); cf. ASCIONE, supra note 243, at 28 (noting that societies differ in their views of acceptable animal welfare standards and comparing the distaste that Americans might feel over including bullfighting as an Olympic event with the less controversial reaction that Spaniards would likely feel).

248 Ascione identifies “intention” as requiring an “understanding that one’s actions can have effects on others and some level of self control such that an individual is free to choose to act or not act.” Id. at 29; see also MERZ-PEREZ & HEIDE, supra note 242, at 95 (noting that the gambling aspect of dogfights was most important to the three non-violent offenders who reported past dogfighting).

249 Anderson, supra note 109, at 1A.

250 Loh-Harrist, supra note 31, at 21 (stating that “disturbed youths gravitate toward violently tinged pastimes”).
Foulks, for example, has stated that dogfighting is “‘a pernicious exercise . . . that causes not only pain in dogs but pain in humans. Violence becomes a nonchalant part of everyday life . . . . Children and adolescents are learning values at these crucial periods of their life [sic], and incorporating a culture that would encourage violent behavior of this kind, even as a spectator . . . .’”\textsuperscript{251}

Because of the links between animal abuse and later violence, more than half of the states now require or permit a judge to order counseling where a juvenile is found engaging in animal cruelty.\textsuperscript{252} Thus, in instances of childhood participation in dogfighting, a court might impose psychological counseling, which could help address the future criminal potential of the child.\textsuperscript{253} In addition, since attendance at dogfighting events exposes children to the peripheral criminal activities that accompany dogfights, prosecutors can turn to child welfare laws (such as those aimed at prohibiting neglect or endangerment of a child) as a basis for prosecution because of the exposure of children to illegal activities. If the child is provided alcohol or controlled substances at the event, for example, a person—even one that is not the parent—could also be prosecuted for contributing to the delinquency of a minor.\textsuperscript{254}

\textsuperscript{251} Id. (quoting Professor Ed Foulks).
\textsuperscript{253} See, e.g., MD. CODE ANN., CRIM. LAW § 10-607(b)(2) (Lexis Nexis Supp. 2006) (allowing a court to impose participation in psychological counseling as a condition of sentencing for a dogfighting violation).
\textsuperscript{254} See, e.g., People v. Jackson, 2008 WL 786526, (Mich. App. 2008) (unpublished opinion) (finding evidence sufficient to show that defendant contributed to delinquency of a minor, despite his argument that he was retrieving his minor children and did not approve of their presence at the fight, where evidence showed defendant had attended fight for at least ten minutes and that defendant had participated in the fight).
2. Link to Domestic Abuse

Animal abuse is also an indicator of domestic abuse, with connections to not only spousal and child abuse, but to elder abuse as well. Studies have shown that a person who abuses a spouse or partner, parent or child is also likely to have abused the victim’s pet. For example, one study found that, of 101 battered women who entered a shelter, fifty-four percent reported that their partners abused their pets, compared to only five percent of 120 non-battered women who reported the same. Although the reasons for animal abuse vary, when connected to domestic abuse, the cruelty is often intended as psychological abuse of the human victim or as a means to

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255 For an argument that animal should be permitted as “specific propensity evidence” in domestic and child abuse trials, see Angela Campbell, The Admissibility of Evidence of Animal Abuse in Criminal Trials for Child and Domestic Abuse, 43 B.C. L. REV. 463 (2002).

256 See, e.g., Coxwell, supra note 235, at 189 (“One study, which used a sample of women affiliated with domestic violence agencies that had experienced domestic violence and had children, found that fifty-seven percent of the children in these environments demonstrated acts of cruelty to animals. In a similar study, [the researcher] surveyed a sample of thirty-eight women in a domestic violence shelter and found that thirty-two percent reported child-inflicted animal cruelty in the family.”); see also Catherine Simmons & Peter Lehmann, Exploring the Link between Pet Abuse and Controlling Behaviors in Violent Relationships, 22 J. INTERPERSONAL VIOLENCE 1211 (2007) (discussing the correlation between animal abuse and certain controlling behaviors exhibited by batterers); Lacroix, supra note 238, at 10 (discussing results of various studies (citing James S. Hutton, Animal Abuse as a Diagnostic Approach in Social Work: A Pilot Study, in NEW PERSPECTIVES ON OUR LIVES WITH COMPANION ANIMALS 444 (Aaron H. Katcher & Alan M. Beck eds., 1983); Janet R. Walker, A Study on the Relationship of Child Abuse and Pet Abuse 1, 5 (May 1980) (unpublished professional project, University of Pennsylvania School of Social Work); Elizabeth Deviney, Jeffrey Dickert & Randall Lockwood, The Care of Pets within Child Abusing Families, 4 INT’L J. STUD. ANIMAL PROBS. 321 (1983)); Frank R. Asione, Claudia V. Weber & David S. Wood, The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women Who Are Battered, 5 SOC’Y & ANIMALS 3 (1997), available at http://www.vachss.com/guest_dispatches/ascione_1.html (discussing the connection between animal abuse and women and children who seek protection in shelters).


258 ASCIONE, supra note 243, at 130-31; see also Joseph G. Sauder, Enacting and Enforcing Felony Animal Cruelty Laws to Prevent Violence Against Humans, 6 ANIMAL L. 1, 11 (2000) (“In a survey of thirty-eight women seeking protection from domestic violence, seventy-one percent of those who owned pets reported that their abusers also harmed or killed their pets.”) (citing Frank R. Asione, Battered Women’s Reports of Their Partners’ and Their Children’s Cruelty to Animals, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE, supra note 243, at 290-91)).
Indeed, many battered women either refuse to leave their abuser or eventually return because of concern for their pet’s welfare. In the above-described study, for instance, one quarter of the battered women put off seeking shelter because of fear for their pet’s safety.  

As for children, those who live in abusive homes in turn may abuse animals themselves. As Professor Joan Schaffner explains the problem:

[C]hildren who are exposed to family abuse are at a greater risk of psychological and behavioral problems. These behavioral problems often include animal cruelty. . . . [C]hildhood animal abuse is, in turn, linked to persistence of antisocial, aggressive behavior into adolescence and adulthood with animal cruelty identified as one of four factors that predict interpersonal violence. Thus, the cycle is complete; children from abusive family settings themselves grow up and abuse their own families.

When it comes to dogfighting, the fact that children see adults engaging in the activity lends a certain aura of permissibility to the event. As with any type of animal cruelty, what has been learned at home is likely to continue as children become dogfighters and spectators later in life.

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260 ASCIONE, supra note 243, at 132.
261 Sauder, supra note 258, at 12-13 (noting a study that showed 30% to 40% of abused children become abusers themselves (citing Barbara Rosen, Watch for Pet Abuse—It Might Save Your Client’s Life, in Cruelty to Animals and Interpersonal Violence, supra note 243, at 340, 341).
263 Cf. Loh-Harrist, supra note 31 (“‘Violence becomes a nonchalant part of everyday life. . . .  Children and adolescents are learning values at these crucial periods of their life, and incorporating a culture that would encourage violent behavior of this kind, even as a spectator, is certainly going to have a lasting impression.’”
As with the connection between dogfighting and violent and non-violent crimes, there are no direct studies indicating that dogfighting is linked to domestic violence. However, the same arguments can be made showing that dogfighting and its accompanying activities would constitute animal abuse as defined in the studies. Anecdotal evidence also supports the connection. Gaertner, for example, notes that dogfighting was exposed only after an investigation was begun for a complaint of domestic violence. As she explains of one case, dogfighting took place in the basement of a home in which a dogfighter, his girlfriend and children lived. The abused girlfriend eventually called for help, which resulted in the police subsequently finding evidence of dogfighting activity and a videotape of a dogfight. As Gaertner describes:

[The] tape, and the dog-fighting operation surrounding it, were found only after his girlfriend fled a terrifying domestic violence at his hands. The spine-chilling complaint describes how he threw her on a bed, choked her, ripped her necklace, hid her purse and keys and pulled the phone out of the wall when she tried to call 911. He told her that if she tried to leave, he would tie her up, duct tape her, and then bury her, and that no one would find her. She was scared to leave because the pit bulls that surrounded the house would bark. In the end, she escaped. When investigators looked into her complaint, they found the dogs, and evidence that they were being fought. But they might never have found it if not for the tip from a domestic violence victim.264

Because of the strong link between domestic and animal abuse, it is worthwhile to at least be aware that where dogfighting occurs, evidence of domestic violence may also exist and be

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264 Gaertner, supra note 200, at 7.
pursued under the domestic violence laws. Further, as in Gaertner’s case, a call on domestic violence may lead to proof of dogfighting. Because of this connection, coordinated activity between child and animal welfare agencies as well as different divisions of the prosecutor’s office could result in greater enforcement against both types of abuse.

C. Related Criminal Activity

Perhaps the most well-known connection with dogfighting is the one that exists with criminal offenses involving gambling, gangs, weapons and drugs. Participants in dogfighting—both dogmen and spectators—often have previous criminal records. A study of dogfighting in Chicago, for example, showed that over a three-year period, “86 percent of the offenders had two previous arrests, 70 percent had previously committed felonies, 59 percent were members of street gangs and 91 percent were male.”265 With these statistics, then, it is unsurprising that prosecutors usually include not only dogfighting charges, but also charges related to other criminal activity that was uncovered along with the dogfighting. Indeed, a collection of peripheral charges associated with thirty-seven dogfighting raids occurring across the nation between 1996 and 2004 shows that, of that number, law enforcement officials seized money in eighteen of the raids, drugs in thirty-three of the raids, and weapons in twenty-four of the raids.266

With such a close connection to these criminal offenses, pursuit of dogfighting is worth expenditure of extra time and money because of the added value that law enforcement receives when a bust is successful. In many circumstances, both state and federal charges are available.

265 See Walsh, supra note 74, at A1.
266 See Dog-Fighting Raids, supra note 64, at 2-4.
1. Gambling, Weapons and Drugs

Gambling, of course, is closely related to dogfighting, especially at the hobbyist and professional levels, which can involve large amounts of money. Generally, one finds two types of bets at these fights—bets between owners and bets between spectators. The bets between owners are what fund the purse for the fight. Each owner finances one-half of the purse, which goes in full to the owner of the winning dog after the fight. The purse in a professional fight can run into the tens of thousands of dollars.

Along with gambling, however, comes all the criminal activity that attaches to it, including guns, drugs and even murder. An investigation in Liberty County, Texas, is illustrative. In August 2006, three men broke into the home of twenty-seven-year-old Thomas Weigner, Jr., an alleged dogman. After restraining Weigner’s parents with tape, one of the men shot Weigner above the knee in front of his wife and two of his young children, allegedly seeking return of a $100,000 wager that had been made on a dogfight in a nearby county. When Weigner bled to death (the gunman hit an artery), the men fled, taking up to $500,000 with them. Investigators arrived shortly thereafter, finding not only the crime scene, but also 285 pit bulls that, based on their bloodlines, were valued at over one million dollars. Ten months later, a suspect in the

268 Id.
269 The purse for one fight at issue in the Vick case, for example, was alleged to be $23,000. See id.
271 See id. One story indicates that the attack might have been partly to retaliate for a drug deal gone wrong, in which $450,000 in drug money was accidentally burned by friction and heat after being placed in a vehicle’s wheels for transport from New York to Texas. Douglas, supra note 270, at 5C.
272 Most of the pit bulls were euthanized based on their aggressiveness; all but one of the remaining dogs died of disease. See Cindy Horswell, Sale of Confiscated Pit Bulls is Canceled, HOUS. CHRON., Jan. 9, 2007, at B4, 2007 WLNR 415758. Interestingly, the remaining dogs (twenty-seven puppies) had been ordered auctioned by a Liberty County judge (as with livestock), but the auction was canceled after the puppies died of Parvo and blood parasites. See id.
shooting was located as a result of an unrelated arrest for his alleged attempt to buy $89,000 in cocaine.\textsuperscript{273} The suspect eventually jumped bail,\textsuperscript{274} but a search of his home uncovered rifles, shotguns, a grenade, ten pit bulls, a variety of illegal drugs, and $4,000 in cash.\textsuperscript{275} In an interesting twist that shows the small world of professional dogfighters, the suspect was also believed to have sold two pit bulls to Vick for $2,000 each.\textsuperscript{276}

As the above example shows, dogfighting is often intimately linked with other types of crime, and pursuit of dogfighters will help law enforcement fight other criminal activities. For instance, all states have gambling laws,\textsuperscript{277} as does the federal government,\textsuperscript{278} which allows pursuit of participants and spectators based on betting activity. Charges under statutory money laundering provisions or for conspiracy might also be appropriate.\textsuperscript{279} Even the federal Racketeer Influenced and Corrupt Organizations Act (RICO)\textsuperscript{280} and analogous state statutes might be used if a pattern of racketeering can be shown.\textsuperscript{281} State and federal criminal laws relating to illegal drugs and weaponry are also important because they will both remove the contraband from the streets and stringently penalize the convicted.\textsuperscript{282}

\begin{footnotes}
\textsuperscript{273} Horswell, supra note 270, at A1.
\textsuperscript{274} Jack Douglas, Jr., Figure’s Whereabouts a Mystery, FT. WORTH STAR-TELEGRAM, Mar. 18, 2008, at B4, 2008 WLNR 5263693.
\textsuperscript{275} Horswell, supra note 270, at A1.
\textsuperscript{276} Douglas, supra note 270, at 5C.
\textsuperscript{277} For a summary of state gambling laws along with links to the related statutory provisions, see Chuck Humphrey, State Gambling Law Summary, Gambling-Law-US.com (last updated Sept. 30, 2007), http://www.gambling-law-us.com/State-Law-Summary/.
\textsuperscript{278} For a summary of federal gambling laws, see Chuck Humphrey, U.S. Federal Gambling Laws, Gambling-Law-US.com (last visited June 28, 2009), http://www.gambling-law-us.com/Federal-Laws/.
\textsuperscript{279} Cf. Jay Stapleton, Dogfighting Ring Trial Begins for Daytona Beach Man, DAYTONA NEWS-J., Feb. 18, 2009, at 01C, 2009 WLNR 3204121 (“The Humane Society of the United States calls dogfighting ‘a highly organized underground movement often involving other crimes, such as drugs, weapons trafficking, prostitution and money laundering.’”). Vick himself plead guilty to a conspiracy-based charge. See supra note 15.
\textsuperscript{281} Id. § 1962; see also Amy A. Breyer, Asset Forfeiture and Animal Cruelty: Making One of the Most Powerful Tools in the Law Work for the Most Powerless Members of Society, 6 ANIMAL L. 203, 227 (2000) (suggesting that a RICO claim based on dogfighting might be possible in the instrumentality context of RICO because the act of dogfighting could constitute a RICO enterprise).
\textsuperscript{282} See, e.g., 18 U.S.C. § 924(c) (2006) (providing for enhanced punishment where both drug trafficking and firearms are involved).
\end{footnotes}
2. Gangs

Gang membership is also linked to dogfighting. According to the National Youth Gang Survey, as of 2007, the United States is home to approximately 27,000 active gangs nationwide (in mostly urban and suburban areas), with total gang membership up to 788,000. Long associated with violent crime and drug trafficking, gang membership shares a similarly close relationship with dogfighting and ownership of aggressive dogs. A survey of Chicago-area dogfighters by the Humane Society of the United States and the University of Chicago Survey Lab indicates that gang members use streetfighting not only as a way to appear tough and gain street credibility, but also as a way to earn money, fight boredom, and work out street or gang conflicts. Further, gang members use their dogs as a means of protection of both themselves and their contraband and as a way to intimidate neighbors and potential witnesses, which can make prosecution of crimes difficult.

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287 See text accompanying note 109, supra.
288 See Allen, supra note 286, at 23 (noting the explanation of Scott Giacoppo, Deputy Director of Advocacy for the Massachusetts SPCA, “If I’m standing on the corner selling my drugs and I need to have the neighborhood intimidated by me so they don’t call the police, I could wave a gun, but someone’s going to call the cops . . . . But if I have a pit bull on the end of a leash, and his ears are cut down to his skull, and he’s all muscular . . . and the only thing separating the residents of the community from certain death by pit bull is this drug dealer holding a leash and whether or not he lets go, that’s intimidating.”).
In the last twenty years, gang activity has engendered such concern that a number of jurisdictions have created anti-gang task forces, and billions of state and federal dollars have gone toward investigating and prosecuting gang-related crimes.\textsuperscript{289} Indeed, as part of the battle against gangs, a number of states and localities have enacted anti-gang statutes and ordinances that are aimed at reducing gang participation and gang crime.\textsuperscript{290} Texas law, for example, enhances criminal penalties if a member of a “criminal street gang” engages in certain offenses, including gambling, promotion of prostitution, money laundering, and certain drug and weapons offenses.\textsuperscript{291} Because of the link between dogfighting and gang activities, use of anti-gang statutes may result in even greater penalties should such activity occur at a dogfight involving gang members. Therefore, from the perspective of reducing gang activity, pursuit of penalties against streetfighting is worthwhile.

IV. RECOMMENDATIONS

As set out in Part II of this Article, two basic obstacles hinder enforcement of dogfighting laws: the low value placed on prosecuting dogfighters and the costs and proof problems that make successful investigation and prosecution of the crime difficult. Because of the close ties between dogfighting and other criminal activities as well as the sociological connection to the development of violent and abusive behaviors in young dogfighters and spectators, efforts should be made to improve enforcement of the dogfighting laws. Recommendations for doing so are set out below and include strengthening the value of prosecution by implementing statutory changes and encouraging cooperation between jurisdictions and between public and private authorities to reduce dogfighting activity and improve enforcement.

\textsuperscript{289} Rebecca Rader Brown, The Gang’s All Here: Evaluating the Need for a National Gang Database, 42 COLUM. J.L. & SOC. PROBS. 293, 293 (2009) (noting that billions of state and federal dollars have spent investigating and prosecuting gang-related crimes).
\textsuperscript{290} See, e.g., GA. CODE ANN. § 16-15-4 (2007); TEX. PENAL CODE § 71.02 (Vernon 2003).
\textsuperscript{291} See TEX. PENAL CODE § 71.02 (Vernon 2003).
A. Statutory Changes

Part of the reason for infrequent enforcement of dogfighting laws is the low value that some states and individuals place on prosecution of the crime and the difficulty that exists for successful prosecution of defendants. Through legislative changes, states can encourage greater enforcement by increasing penalties for dogfighting and related offenses and by streamlining proof requirements so that prosecutors can more efficiently make a case.

1. Increased Penalties

Until just a few years ago, states varied as to whether they classified dogfighting as a misdemeanor or a felony. After Michael Vick was arrested, animal welfare organizations condemned a number of states for their classification of dogfighting as the lower-level offense.\textsuperscript{292} Legislatures responded with a flurry of activity that resulted in felony-level consistency for the act of dogfighting across the nation.\textsuperscript{293} Despite these changes, however, statutory penalties still vary greatly, with some states—North Carolina and Ohio, in particular—having maximum penalties of only a few months for first time offenders.\textsuperscript{294} These low penalties can be interpreted as a general indication of the states’ lower value of the crime (i.e., these states consider the offense less grave than other states). Law enforcement, when faced with limited resources, may therefore tend to ignore enforcement of this crime in favor of enforcement of others. By

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increasing penalties, then, a state may send a stronger message to law enforcement, prosecutors, and dogfighters about the seriousness of dogfighting.

In addition, raising penalties in low-penalty states may also ease the enforcement burden in those states. Substantial differences in the severity of penalties raises the possibility that some offenders (mainly, professional dogmen) could gravitate to lower-penalty states to engage in this activity, making a few states dogfighting hotspots. North Carolina is a prime example. The maximum penalty for dogfighting in each of the five adjoining states—Virginia, Kentucky, Tennessee, South Carolina, and Georgia—is at least five years. By contrast, the maximum penalty for the same act in North Carolina is ten months. Thus, for the cost of a few hours’ drive, dogmen living in the surrounding states can minimize their penalties by holding their fights in North Carolina. If North Carolina police officers spend less time enforcing (having received the message that was conveyed by the legislature through the statute), the citizens of North Carolina suffer, not only because of the dogfighting, but also because of all the other criminal activity that comes with it (e.g., weapons and drugs). Even if the crime is enforced at the same frequency as the surrounding states, if the state has become a hotspot, the citizens still

295 Cf. Burke, supra note 34 (noting that dogfighters from Virginia used to travel to North Carolina to fight because, at the time, misdemeanor penalties applied there); Betsy Z. Russell, Dogfighting Bill Gains Support in Idaho: Vick Case Renews Call for Felony Status, SPOKESMAN-REV., Aug. 22, 2007, at 3B (noting the concerns of Jeff Rosenthal, Idaho veterinarian and director of the Idaho Humane Society, that Idaho might “be seen as some type of haven for this type of behavior” because of the lower penalties provided for dogfighting); D.F. Oliveria, Editorial, The Bottom Line: Supporting Charity Good Reason to Overcome Clothes-Mindedness, SPOKESMAN-REV., Aug. 23, 2007, at 4B (suggesting that Michael Vick would have been better off by dogfighting in Idaho because of the crime’s misdemeanor status); Diane Webber, Iowa: An Animal Fighting Haven No More, HUMANE SOC’Y OF THE UNITED STATES REGIONAL NEWS, Fall 2004, http://www.hsus.org/web-files/PDF/MWRO.pdf (indicating that, at one time, Iowa had gained “the dubious distinction of being a haven for animal fighting” because Iowa’s statute classified animal fighting as only a misdemeanor, whereas all the surrounding states classified the act as a felony).


297 N.C. GEN. STAT. §§ 14-362.2, 15A-1340.17(c) (Supp. 2006) (identifying the range of penalties available for a first time Class H felony offense). Note, however, that penalties can be enhanced to up to twenty months depending on the severity of the offender’s past criminal record.

298 The importance of an overlapping federal system thus becomes evident when viewed in this light because it provides a consistent penalty that crosses states lines.
suffer as the police are faced with a greater group of potential defendants. By increasing the penalty, then, the state can send two messages: first, that dogfighting should be taken seriously as a crime and, second, that out-of-state dogfighters will get no benefit by conducting their criminal activity within North Carolina borders.

States should also raise penalties for status as a spectator at a dogfight. Currently, twenty-seven states classify it as a felony, twenty-one states classify it as a misdemeanor, and two states do not criminalize it at all. Increasing spectator penalties could help cut down on behavior that encourages continued dogfighting. Indeed, part of the lure of dogfighting, especially at the professional and hobbyist level, is the gambling that accompanies the actual fight. Admission fees from spectators and the gambling that occur at a dog fight are the main source of a fight’s profit. As one animal welfare group has explained: “[S]pectators do not merely happen upon a fight; they seek it out. They are willing participants who support a criminal activity through their paid admission and attendance.” For states that wish to make a distinction between spectators at gambling and non-gambling dogfights, states can create tiered penalties as New York has, which elevates spectator fines if gambling is present at the dogfight. By increasing penalties, the state can create a greater deterrent, which may reduce the overall interest in dogfighting activity.

In addition, where states have not already done so, statutes should be amended to include other dogfighting-related activity. All states currently penalize the act of dogfighting and ownership or possession of a fighting dog; however, other activities that have significant

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299 See Where Does Your State Stand?, supra note 293.
300 See MERZ-PEREZ & HEIDE, supra note 242, at 95.
301 Dogfighting Fact Sheet, supra note 38.
302 Id.
303 Compare N.Y. AGRIC. & MKTS. LAW § 351(4) (McKinney Supp. 2007) (imposing jail time up to one year and a fine up to $1,000 for paying an admission fee or placing a bet at a dog fight) with id. § 351(5) (imposing jail time up to one year and a fine up to $500 for “knowing presence as a spectator” at a dogfight).
implications for continued dogfighting should be prohibited. For example, breeding dogs to be used for fighting purposes not only keeps a steady supply of dogs on the market for dogfighters, but also keeps the interest in the activity alive. Training dogs for fighting has a similar impact. In either case, states should penalize the activity because it will allow the state to cast a greater net for offenders and partly relieve the difficult burden that prosecutors face when forced to prove that a defendant has “caused” a dogfight.\footnote{304} States could even go so far as to prohibit ownership or possession of dogfighting equipment, a provision already included in some cockfighting statutes.\footnote{305} Although similar equipment might be used to train dogs for weight pull training competitions, states could limit the scope of the provision by linking it to an intent to use the equipment for dogfighting purposes.\footnote{306}

Increasing statutory penalties or increasing the scope of the law, of course, does not guarantee that greater enforcement will occur or that convicted dogfighters will serve longer sentences. Many states merely set out a range of penalties that are available should a defendant be convicted. A judge or jury may always issue penalties at the lower end of the scale. However, by allowing higher penalties to be issued, the state has at least given a better indication of how serious it deems the crime, and therefore enforcement should become a higher priority to police and prosecutors.

\footnote{304}{Some states have already adopted such provisions. \textit{See, e.g.}, ALA. CODE § 3-1-29(a)(1) (1996) (training); ARIZ. REV. STAT. ANN. § 13-2910.01(A)(1) (2001) (training); CAL. PENAL CODE § 597.5(a)(2) (West 1999) (training); DEL. CODE ANN. tit. 11, § 1326(a) (2001) (training); GA. CODE ANN. § 16-12-37 (2007)(training); 720 ILL. COMP. STAT. ANN. § 5/26-5(a) (West Supp. 2007) (breeding and training); MASS. GEN. LAWS ANN. ch. 272, § 94 (West Supp. 2007) (breeding and training); MICH. COMP. LAWS ANN. § 750.49(2)(g) (West Supp. 2007) (breeding); N.H. STAT. ANN. § 644:8-a(I) (West 2007) (breeding and training); OR. REV. STAT. ANN. § 167.365(1)(a) (2005) (breeding and training).}

\footnote{305}{See, e.g., CAL. PENAL CODE § 597i (West 1999).}

\footnote{306}{See, e.g., OR. REV. STAT. ANN. § 167.372 (2005) (“A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.”).}
2. Proof Requirements

States should also consider clarifying their proof requirements to streamline prosecution of dogfighting cases. In most states, prosecuting the crime of dogfighting generally requires reliance on circumstantial evidence. Direct evidence of dogfighting is rare because it is not often that defendants are caught in the act, especially in the case of spontaneous streetfighting. In many states, the prosecutor must prove that the defendant “caused” the dogs to fight or injure one another. This proof requirement might be relatively easy if there is an eyewitness who can testify that the dogfighters placed their dogs in the dogfighting pit and gave the orders to fight. However, finding an eyewitness is difficult because dogfighters and spectators tend to scatter when law enforcement arrives on the scene, not only because of potential penalties arising from the act of dogfighting, but because of other illegal activities that may be going on (e.g., activities relating to weapons, drugs and gambling).

The use of circumstantial evidence can become problematic for prosecutors, however, if the court deems the evidence irrelevant to proving the crime and excludes it. In such a case, conviction may become impossible because an essential piece of the evidence needed for the jury to infer violation of the charged offense is missing. Prosecutors can also run into problems if, even with all circumstantial evidence presented, the jury does not make the necessary inference either because it is not a natural conclusion or because the jurors are not aware that they are

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308 Carol Biliczky, Group to Battle Dog Fighting, Task Force Formed to Coordinate Battle Against Sport Described as Growing Problem, AKRON BEACON J., Aug. 1, 2001, at D1.

309 Cf. GEORGE E. DIX ET AL., MCCORMICK ON EVIDENCE § 185, at 733 (Kenneth S. Broun ed., 6th ed. 2006) ("Under our system, molded by the tradition of jury trial and predominantly oral proof, a party offers his evidence not en masse, but item by item. An item of evidence, being but a single link in the chain of proof, need not prove conclusively the proposition for which it is offered. It need not even make the proposition appear more probable than not. Whether the entire body of one party’s evidence is sufficient to go to the jury is one question. Whether a particular item of evidence is relevant to the case is quite another . . . . Thus, the common objection that the inference for which the fact is offered ‘does not necessarily follow’ is untenable. It poses a standard of conclusiveness that very few single items of circumstantial evidence ever could meet. A brick is not a wall.” (footnotes omitted)).
permitted to draw the inference.\textsuperscript{310} States can help lower these prosecutorial hurdles by revising statutes to specifically allow the admission of certain types of evidence to prove dogfighting offenses or by creating permissive inferences that will help jurors see appropriate steps in logic.

As to the first, by designating within the statute the types of evidence that are admissible, the prosecutor is saved from battling anew in each case the relevance of certain circumstantial evidence. Some states have already taken this step. Louisiana, for example, specifically provides that the following evidence can be admitted to prove ownership, possession, keeping or training a fighting dog:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.\textsuperscript{311}

The Texas statute also includes an evidentiary provision, stating that a conviction for participating in the earnings of or operating a dogfighting facility or allowing use of the location


\textsuperscript{311} LA. REV. STAT. ANN. § 14:102.5(B) (2004).
where the dogs are fought “may be had upon the uncorroborated testimony of a party to the offense.”

States should also consider amending their dogfighting statutes to create permissive presumptions (better described as “instructed inferences”) that the jury may draw if basic facts like those specified above are proven. Because of the state’s burden to prove every element of a criminal offense beyond a reasonable doubt, the state may not shift the burden of proof to the defendant. However, the state can create a permissive presumption as long as the inference to be drawn is not mandatory. According to the United States Supreme Court, a permissive presumption is one that “allows—but does not require—the trier of fact to infer the elemental fact from proof by the prosecutor of the basic one and which places no burden of any kind on the defendant. In that situation the basic fact may constitute prima facie evidence of the elemental fact.” The use of permissive presumptions is especially appropriate in situations where the defendant has greater access than the government to proof of the crime. This is the situation that arises with dogfighting, because it is rare that police officers come upon a scene of dogs in actual combat or being trained.

312 TEX. PENAL CODE ANN. § 42.10(c) (Vernon 2003).
313 See Graham, supra note 310, at 160.
314 See Court of Ulster County v. Allen, 442 U.S. 140, 157 (1979). Presumptions in the criminal context are therefore misnamed because, by definition, they unconstitutionally shift the burden of producing evidence to the defendant.
316 Id. (citations omitted).
317 See Larkin, supra note 313, at 272 (“Presumptions authorize short-cuts in proof and lessen the government’s evidentiary burden by placing pressure on the defendant as the person with the most knowledge to come forward with an explanation in certain circumstances.”).
Two states—Utah and Minnesota—have created statutory presumptions based on proof similar to that provided for in the Louisiana statute, although Minnesota’s provision has been held unconstitutional because of its mandatory nature. Utah’s statute provides that *prima facie* evidence of a defendant’s violation of causing a dogfight or using live bait animals in training devices exists if the defendant is in possession of both a fighting dog and “any breaking stick, treadmill, hot walker, cat mill, cat walker, jenni, or other paraphernalia” and there is “evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog.”

Minnesota created a presumption of training a fighting dog that was rebuttable by a preponderance of the evidence if the state could show certain actions indicative of training, to wit, “fresh wounds, scarring, or other indications that the dog has been or will be used for fighting” and possession by the defendant of “training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.” Because Minnesota’s statute appeared to create a mandatory presumption that shifted the burden of proof to the defendant, the provision was struck down as unconstitutional by a trial court in 2006.

For a state creating a presumption, the statute should be drafted in a way to pass constitutional muster by ensuring not only that the jury is free to reject the inference created

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318 Utah Code Ann. § 76-9-301.1(2) (2003); see also id. § 76-9-301.1(1)(b)-(c) (making it unlawful to “cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain” or to “tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog”).

319 Minn. Stat. Ann. § 343.31, subd. 2 (West Supp. 2007). An almost identical presumption is created for training birds for cockfights as well. See id. § 343.31, subd. 3.

320 Mosedale, supra note 26, at 4 (noting that the provision was declared unconstitutional in a written opinion issued September 6, 2006, by Hennepin County Judge Kathryn Quaintance). It is unclear whether Utah’s statute could withstand constitutional attack, but because it does not specifically state that the defendant must rebut the presumption, it might do so.

321 The necessity for requiring the inference to be permissive is so that the statute does not shift the burden of proof to the state. Of course, this does not mean that the jury might not expect a rebuttal from the defendant. As Professor Michael Graham explains:

[T]he burden of production may shift in reality with the jury being ready to find each element of the charge proven beyond a reasonable doubt from proof offered by the prosecution, unless the
but also that a rational connection exists between the basic fact proved and the inferred fact. As Professor Michael Graham explains:

Whether sufficient rational connection exists between the basic fact and the fact to be inferred . . . depends not only upon the natural strength of the logical inference but also upon the wording of the particular instruction given. Rational connection also varies depending on whether the fact to be inferred is an element of the offense or negates a defense or whether the fact to be inferred has a lesser effect. . . . [A]t a minimum for an instructed inference to be given the court must determine that the fact to be inferred more probably than not flows from the basic fact. 322

Inferences could possibly be used to help show a defendant’s violation of at least some of the provisions set out above by the Utah and Minnesota statutes. If a prosecutor can prove that the defendant is in possession of both a fighting dog and dogfighting equipment and has intent to use the dog for fighting and the dog has fresh wounds or scarring consistent with dogfighting, there is likely a rational connection between these findings and proof of actual dogfighting, as well as possession and training. 323 Indeed, in cases in which the sufficiency of evidence has been reviewed for dogfighting convictions, courts in several jurisdictions have upheld the juries’

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322 See id. at 162. Professor Graham continues: “The more probably true than not true threshold standard is imposed to prevent the jury from overvaluing the weight to be given to the inference having a lesser probative value simply because the inference is instructed by the court.” Id.

323 By showing an intent to dogfight, prosecutors should overcome a defendant’s possible response that the training equipment was used to lawfully train the dog for strength competitions. Cf. Davis v. State, 907 N.E.2d 1043, 1055 (Ind. App. 2009) (noting that the defendant planned to introduce evidence that she bred dogs, not to dogfight, but for purposes of entering them into “‘weight pulling contests and treadmill races’”).
decisions based on these same types of evidence,\(^{324}\) suggesting that such inferences arise “more probably than not” from the facts proven and that a similar inference should pass constitutional scrutiny. In addition, by allowing the jury to reject the inference (e.g., in those cases where the jury is not quite convinced that the provision was violated), the inference would stay within constitutional bounds since the prosecutor is still bound by the standard to prove the violation beyond a reasonable doubt.

3. Related Social Ills

Because of the detrimental impact that dogfighting can have on childhood development, states should consider statutory provisions that address this issue, either by deterring behavior that may lead to juvenile participation in dogfighting or by addressing the potential impact of the dogfight. As to participation, states might take two approaches. First, states could make it a crime to encourage youths to participate in dogfighting or dogfighting-related activities. Illinois

\(^{324}\) See, e.g., Ware v. State, 949 So. 2d 169, 176 (Ala. Crim. App. 2006) (holding that evidence of 23 freshly wounded and scarred pit bulls located on defendant’s property along with dogfighting equipment was enough for the jury to “reasonably exclude[] every reasonable hypothesis except that [defendant] was engaged in dog fighting”); Jones v. State, 473 So. 2d 1197, 1201 (Ala. Crim. App. 1985) (finding relevant to the issue of “intent to fight” the testimony of a shelter veterinarian and director that the seized dogs were dehydrated and undernourished, had scarring over their entire bodies and faces in varying degrees of healing, escaped their pens and fought other dogs, required placement in reinforced pens, and bit an employee); People v. McCree, 2002 WL 276134, at *3 (Cal. App. 2002) (unpublished opinion) (holding that circumstantial evidence that defendants dogs were “heavily scarred and possessed other physical ailments common to fighting dogs” along with other circumstantial evidence was sufficient to convict defendant for violation of ownership of a dog with intent to fight or causing a dog to fight another dog); Stephens v. State, 545 S.E.2d 325, 327 (Ga. App. 2001) (noting that evidence of bloodstained pit and carpet, bite sticks, first aid kit in pit area, and scarred dogs, among other things, would have supported dogfighting if defendant had been charged with such); Fuller v. State, 674 N.E.2d 576, 578-79 (Ind. App. 1996) (upholding conviction where evidence showed two men held pit bulls about five feet from each other, the dogs had fresh wounds, and several dead pit bulls and heavy chains were found on the property); State v. Schneider, 981 So.2d 107, 110-16 (La. App. 2008) (discussing circumstantial evidence presented and holding that it was sufficient for conviction on dogfighting); State v. Ogletree, 2006 WL 2390255, at *3 (Ohio App. 2006) (unpublished opinion) (finding evidence sufficient to uphold dogfighting conviction where state seized 44 break sticks and livestock antibiotics, veterinarian testified that dogs’ scarring suggested dogfighting, and dog warden testified that blood spatters were consistent with dogfighting); State v. Killion, 2009 WL 1748959 (Tenn. Crim. App. June 22, 2009) (unpublished opinion) (upholding conviction where evidence showed blood spattered walls and blacked out window in basement, a break stick and sprayer, a digital clock with time-keeping capabilities, two pit bulls with fresh and bleeding puncture wounds that veterinarian testified were likely caused by dogfighting); State v. Scott, 2001 WL 846037, at *4 (Tenn. Crim. App. 2001) (unpublished opinion) (noting that, among other things, evidence of dogfighting equipment, scarring and injuries, and “atrocious” conditions in which dogs were kept was sufficient to support appellant’s guilty plea).
takes this approach by specifically prohibiting the solicitation of minors to engage in
dogfighting. Second, states might enhance penalties otherwise authorized for conviction of a
dogfighting offense if the defendant also encouraged a minor to watch or engage in the activity.
Virginia, for example, elevates misdemeanor penalties issued for fighting of animals that are not
dogs to felony level if a person “permits or causes” a minor to attend an animal fight or engage
in certain specified activities, such as training. Taking either approach would not only help
deter juvenile participation, but also would bring dogfighting statutes in line with other statutes
that criminalize actions or enhance penalties for influencing a minor with regard to weapons or
drugs.

Alternatively, or perhaps in addition to penalization, states might address the impacts that
dogfighting has on minors by ordering psychological counseling as part of a sentence for minors
caught engaging in or watching a dogfight. Maryland specifically provides for psychological
counseling of juvenile participants in dogfighting, and a number of other states have
counseling provisions included within or related to the animal cruelty portions of their laws. By requiring counseling, minors can be encouraged to work through issues that cause their
behavior (or at least better understand it) and possibly be re-sensitized to the violence of
dogfighting.

326 VA. CODE ANN. § 3.2-6571(B)(6) (Supp. 2007). The Virginia statute enhances penalties if the animals
that were fighting were dogs. Therefore, if a minor attends a dogfight, the penalty is not enhanced again merely
because of the presence of the minor. See id. § 3.2-6571(B)(1).
327 See, e.g., ARK. CODE ANN. § 5-73-109 (2005); GA. CODE ANN. § 16-13-1 (2007) (prohibiting the sale,
delivery, distribution, display or provision of drug-related objects to a minor); HAW. REV. STAT. § 712-1241(c)
(2007) (classifying distribution of dangerous drugs to a minor as a Class A felony); MASS. GEN. LAWS ANN. ch. 140,
§ 130 (West Supp. 2007) (prohibiting the sale or provision of weapons or ammunition to minors); MONT. CODE
329 ARK. CODE ANN. § 5-62-101(c)(1) (2005); CONN. GEN. STAT. ANN. § 46b-140(c) (West 2007); D.C.
CODE § 22-1001(a)(2)-(3) (Supp. 2007); ME. REV. STAT. ANN. tit. 7, § 4016(1)(D) (2006); NEV. REV. STAT. ANN.
In addition, because of the close connection that dogfighting has to other illegal activities, states might consider additional deterrents. Many states already permit enhancement of penalties for defendants who commit crimes for gang-related offenses\textsuperscript{330} and for crimes committed while in the possession of a weapon.\textsuperscript{331} States might also consider adding dogfighting to the list of activities covered by their organized crime statutes, which would then enhance the penalty for dogfighting-related convictions. Texas, for example, amended its organized crime provision to specifically include any offense listed in the dogfighting section, which covers not only the act of dogfighting but also all related-activities (e.g., training, possession, spectator status, and so on).\textsuperscript{332} The statute’s enhancement thus would elevate a conviction of dogfighting from a state jail felony to a felony in the third degree, while conviction as being a spectator would be enhanced from a misdemeanor to a state jail felony.\textsuperscript{333}

B. Joint Efforts to Reduce Dogfighting and Enforce Laws

In addition to making the statutory changes suggested above, federal, state and local governments must make conviction an obtainable goal. To do so requires joint efforts at three levels: educating enforcement personnel and local citizens, creating local and state task forces, and encouraging public and private cooperation in responding to enforcement.

Education is key in the battle against dogfighting, not only to increase reporting and discovery of dogfighting activity but also to unify communities against the offenders and the offense. Local governments can provide such education through its own efforts or with the assistance of private groups. In 2002, for example, the Chicago Police Department responded to

\textsuperscript{330} For a list of state laws that enhance penalties for gang-related behavior, see National Youth Gang Center, Institute for Intergovernmental Research, Gang-Related Legislation by Subject (last visited July 13, 2009), http://www.iir.com/nygc/gang-legis/enhanced_penalties.htm.

\textsuperscript{331} See, e.g., FLA. STAT. ANN. § 775.087 (2006); HAW. REV. STAT. § 706-660.1 (2007); OKLA. STAT. ANN. tit. 21, § 1287.1 (West 2002).

\textsuperscript{332} 2009 Tex. Sess. Law Serv. ch. 1357 (West) (S.B. 554) (amending TEX. PENAL CODE § 71.02(a)).

\textsuperscript{333} TEX. PENAL CODE ANN. § 71.02(b) (Vernon 2003); see also id. §§ 12.03(a), 12.04(a), 42.10(e) (classifying and showing progression of criminal penalties).
the city’s increase in dogfighting by training patrol officers to recognize signs of dogfighting and abuse, and training continues today through the Department’s cooperation with Chicago Animal Care and Control. Similarly, the Humane Society of the United States (“HSUS”) offers dogfighting and cruelty training programs nationwide to all criminal justice personnel, including police and animal control officers. Such training programs allow law enforcement agencies to use their officers more effectively. By recognizing the behavior and paraphernalia associated with dogfighting, even officers who respond to calls unrelated to a dogfighting disturbance can assist in identifying suspects of dogfighting offenses.

Local governments might also increase reporting by offering similar training to those who routinely gain lawful access to private property. Meter readers, postal carriers, utility repairman and the like have been known to report suspected animal cruelty seen in the course of their duties, and proper training in recognizing the signs of dogfighting may prove helpful in garnering more reports. Pilots and spotters in police helicopters and traffic choppers could also be trained because of their unique vantage point. Large-scale operations often show evidence of

334 See Tom McCann, Police Take Aim at Dogfighting, 10,000 Officers Train to Curb It, CHI. TRIB., July 19, 2002, at 1, 2002 WLNR 12643567.
337 Signs of dogfighting include numerous unsocialized and chained pit bulls in a single location, scarred dogs (especially those with scars on the face, front legs and stifle area), dogfighting equipment like treadmills, break sticks, flirt poles or tires, heavy collars and chains, and foot traffic at the location that arrives at unusual hours. Humane Soc’y of the United States, Taking Action to End Dogfighting: How to Spot the Signs and What You Can Do, http://www.hsus.org/acf/fighting/dogfight/what_you_can_do.html (updated May 2009).
dogfighting activity that, although not visible from the street, is clearly visible by aerial surveillance. A flyover above the home of alleged professional dogfighter Floyd J. Boudreaux, for example, resulted in a search warrant after a Louisiana state trooper spotted treadmills and a fighting pit on Boudreaux’s property.339

Similarly, aerial surveillance340 can usually pinpoint possession of fighting dogs because of the way they are maintained, especially when there are large numbers.341 Dogfighting expert Mark Kumpf was reported as stating that aerial surveillance is an easy way to locate dogfighting activity. In his words, “If you’re flying over you look for blue plastic barrels. They use them as shelters for the dogs because they’re inexpensive and rugged. They are the housing of choice.”342 Although such evidence may not be enough to convict, it could pave the way for further investigation.

Educating the populace, on the other hand, requires greater effort than merely offering a local training program because individuals must be encouraged to overcome the fear of becoming involved at the expense of retribution. Particular efforts must be made to reach the

339 See Trial Starts, supra note 209, at B1. Boudreaux was later arrested and charged, along with his son Guy, of 48 counts of dogfighting. See id. The two were subsequently acquitted on directed verdict based on insubstantial evidence. Brown, supra note 204, at B1; see also text and accompanying notes 204-220, supra (providing a more extensive discussion of the Boudreaux case).

340 In some instances, an actual flight may be unnecessary. Where an address of a suspected dogfighter is known, law enforcement personnel (or even curious neighbors) can get an aerial view of the property (although possibly several years out of date) by using readily obtainable satellite imaging software such as Google Earth or Yahoo! Maps, which presents a viewer with images of property that are generally close enough to see the typical signs of a large-scale breeder. See Google Earth, http://earth.google.com/ (last visited Aug. 9, 2009) (offering a free or pay version of a downloadable satellite imaging program); Yahoo! Local Maps, http://earth.google.com/ (last visited Aug. 9, 2009) (allowing map searches with a satellite view option). Indeed, use of such software was the basis for a legal claim of ownership for a shipwreck allegedly found in Refugio, Texas, by a California man. See Nathan Smith v. The Abandoned Vessel, Findings of Fact & Conclusions of Law, Civ. Action No. H-07-784 (S.D. Tex. Apr. 27, 2009), available at http://news.justia.com/cases/featured/texas/txsdce/4:2007cv00784/495362/.

341 Owners of fighting dogs often use heavy chains to tether the dogs near makeshift shelters, around which the dogs have worn down circular dirt paths. Dogs are often placed close enough to another dog to maintain aggression, but far enough away that the dogs cannot physically fight.

342 Alexi Howk, Cruelty May Link to Dog Fighting, TCPALM, July 29, 2007, http://www.tcpalm.com/news/2007/jul/29/cruelty-may-link-dog-fighting/ (quoting Mark Kumpf); see also Linda Spice, Takes Five John Goodwin, Ending Animal Fighting, and Other Crime Too, MILWAUKEE J. & SENTINEL, Oct. 12, 2005, at A2 (noting that blue barrels are also used by cockfighters to house roosters). Blue barrels, of course, are not always used by dogfighters, but generally the dogs are tethered separately to individual shelters.
targeted audiences, namely, the dogfighters and spectators themselves and their communities, because often people are unaware of the signs of dogfighting or that the activity is illegal or they may feel that not reporting the crime is the status quo. HSUS efforts provide a good example of an education program, as the organization has started “End Dogfighting” campaigns in several problem urban areas, including Chicago, Atlanta, and Charlotte, North Carolina. The campaigns take a comprehensive approach, providing education to both law enforcement and the communities plagued with dogfighting. As for the communities, the campaigns are multi-pronged, aimed at education, community building and behavior modification. Because of the particular impact of dogfighting on children, HSUS developed an eight-week middle-school curriculum targeted at reshaping current views of dogfighting. Community building is accomplished through various HSUS events aimed at creating trust, including vaccination clinics, rallies, and involvement of religious leaders. The dogfighters themselves are targeted through the use of “anti-dogfighting advocates” (young men from the community) who intervene

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344 A program based on a similar theory called Training Wheels® was created by animal trainer Sue Sternberg. See Training Wheels® Urban Solutions, http://www.suesternberg.com/03programs/03trainwheelsurban.html (last visited July 22, 2009).

345 See Urban Dogfighting, supra note 343.

346 See id. As an example of the improved morale that residents of Chicago’s South Side have against dogfighting, more than 50 people rallied in the area to honor the two-year anniversary of the death of Julius Birdine, a 26-year-old who was killed when he refused to fight his two pit bulls. See Erica L. Green, Dogfighting Puts Everyone’s Life on the Line, HSUS Animal Cruelty & Fighting Campaign, July 8, 2008, http://www.hsus.org/acf/news/julius_birdine_shot_defending_pit_bulls_070808.html.

Other means could also be used to unify communities against dogfighting, including participation in National Night Out, an event sponsored by the National Association of Town Watch designed to make communities more aware of and encourage participation in crime and drug prevention programs. See National Night Out, What Is National Night Out?, http://www.nationaltownwatch.org/nno/about.html (last visited Aug. 10, 2009).
in dogfights and mediate disputes,347 while those in danger of becoming dogfighters are encouraged to join “pit bull training teams” that provide alternatives to dogfighting and create stronger bonds between the dogs and their owners.348 Public service announcements featuring sports figures or celebrities might also be used to modify behavior by making visible role models who discourage dogfighting.349

To encourage reporting, telephone tip lines are important, especially where the report can be anonymous and rewarded. A number of jurisdictions have teamed up with Crime Stoppers programs—now made easier with the elevation of dog fighting to felony status350—to reward informants who provide information leading to an arrest.351 HSUS also offers awards up to $5,000 for reports of dogfighting and other animal-related crimes.352 Despite concern that even

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349 Several public figures have already made public service announcements discouraging dogfighting, including hip-hop mogul Russell Simmons and the Ohio and South Carolina attorneys general working with HSUS and UFC champions Tito Ortiz and Andrei Arlovski, along with a number of other athletes, working with For Pit Sakes, Inc.’s Knock Out Dog Fighting program. See Humane Soc’y of the United States, Dogfighting Public Service Announcements, http://www.hsus.org/acf/news/dogfighting_psa.html (last visited Aug. 10, 2009); Knock Out Dog Fighting, PSAs, http://www.knockoutdogfighting.org/psas.html (last visited Aug. 10, 2009).


anonymous reporting might have repercussions, at least where gangs are concerned,\textsuperscript{353} telephone tip lines are proving successful.\textsuperscript{354}

Jurisdictions can also take a more proactive approach to dogfighting by using other methods to uncover the activity. Because streetfighting generally does not cross jurisdictional boundaries and occurs on an unplanned basis, local task forces can be formed to create an overall approach to attack the problem.\textsuperscript{355} One goal, for example, might be to create an understanding of the problems that each authority faces when attempting to enforce dogfighting laws and to try to work them out. For example, animal control and law enforcement authorities might cooperate regarding misunderstood jurisdictional issues by dedicating an armed officer to assist animal control officers on dangerous calls, such as dogfighting. Similarly, the prosecutor’s office could appoint a single prosecutor to oversee case management of all animal-related cases to promote consistency of prosecution and to reduce the learning curve.\textsuperscript{356} By creating a better integrated team that responds to and prosecutes dogfighting (as well as other animal-related crimes), jurisdictions should see a reduction in the impacts caused by inexperience and enforcement and prosecutorial bias.\textsuperscript{357}

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\item[353] Foxman, supra note 197.
\item[354] See, e.g., Houston Crime Stoppers, \textit{Dog Fighting Fugitives}, http://www.crime-stoppers.org/DogFighting/Dogfighting.html (last visited July 22, 2009) (indicating that one out of the four dogfighting fugitives sought was apprehended based on a hotline tip).
\item[355] HSUS recommends that membership of local task forces should include representatives from the district attorney’s office, local law enforcement authorities and animal control, the mayor’s office, local shelters and veterinary associations, and local anti-violence organizations. Humane Soc’y of the United States, \textit{How to Create an Animal Fighting Task Force}, http://www.hsus.org/acf/news/create_an_animal_fighting_task_force.html (last visited July 22, 2009).
\item[356] Several district attorneys offices have begun centralizing animal cruelty cases in a single prosecutor, and Harris County has officially created an Animal Cruelty Division within its District Attorney’s Office. See Phillips, supra note 155, at 20; Leonard, supra note 154, at 1; Bill Murphy, \textit{Dogfight Unit Now Part of DA Office, Lykos Targets the Owners Who Dump Dead Dogs}, HOUS. CHRON., Jan. 27, 2009, at A1, 2009 WLNR 1578259; Kimberly Matas, \textit{Pinal County Is Going After Pet Abusers}, ARIZ. DAILY STAR, Jan. 20, 2005, at H, 2005 WLNR 1092391.
\item[357] Some jurisdictions have already begun forming cruelty teams or task forces. See, e.g., Leonard, supra note 154, at 1; supra note 31 and sources cited therein.
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The task force might also be used to open avenues of communication between and within departments to aid in effective enforcement. Prosecutors, for instance, might detail the types of evidence that investigators should look for to ensure a well-presented case and caution police officers of common evidentiary snags. Similarly, sharing information between police divisions (e.g., passing on tips from the narcotics division or vice squad to animal cruelty officers) or between Child Protective Services and the police department (e.g., information regarding items spotted during a home visit) may help in identifying additional dogfighting suspects. Similarly, by training animal control officers to recognize domestic abuse issues, they can return the favor and report child or adult protective issues when they make animal cruelty calls.

Local task forces could also identify areas that require targeted programs and implement them. For example, animal control and/or law enforcement could increase their presence in areas known for dogfighting to monitor and discourage the activity. Additionally, educational or behavioral modification programs such as those discussed above could also be implemented in at-risk neighborhoods to reduce the number of dogfights.

State-level task forces may be useful in creating a comprehensive approach to combating dogfighting statewide. Such task forces might review the overall dogfighting situation in the state to determine the gravity of the problem and prioritize areas requiring special need. State level task forces might also review current laws and make recommendations to close loopholes in statutes and create incentives for greater enforcement.

358 For example, one prosecutor’s case would have been seriously injured had the defendant not pleaded guilty because the 30 pit bulls found on the defendant’s property were stolen before the police could seize them as evidence. See Idaho Man Convicted of Dog Fighting, KTVB.com, Nov. 30, 2007, http://www.ktvb.com/news/crime/stories/ktvbn-nov3007-dog_fighting.5544c52a.html; Malad Couple Face Dogfighting Charges, DESERET MORNING NEWS, Sept. 1, 2007, at B06, 2007 WLNR 25840705 (noting that the dogs were not initially seized because there was question over whether seizure was allowed where the dogs did not show outward signs of being fought).
Finally, a cooperative public and private response is essential to enforcement, especially for investigation at the hobbyist and professional levels. Cooperation between law enforcement authorities, animal control, and local humane shelters often occurs already for street level fighting because of insufficient public resources. Many local humane shelters work closely with law enforcement and prosecutors in dogfighting and cruelty cases, serving as initial investigators, providing veterinary care and shelter for seized animals, and testifying in court. This partnership—as well as coordination with other local, state, and federal authorities—is essential for investigating and prosecuting hobbyist and professional dogfighting because such fights generally cross jurisdictional lines, involve the arrest and prosecution of numerous defendants, and in many cases result in the seizure, evaluation and possible destruction of overwhelming numbers of fighting dogs and bait animals.\footnote{One of the largest dogfighting raids in the United States to date illustrates these points. The raid—known as Operation Dead Game—occurred on November 14, 2008, in and near Houston, Texas, spanned five counties, and resulted in criminal charges issued against 55 defendants, with possible charges against 35 more still pending. Charges included dogfighting-related charges, as well as charges for drugs, gambling, and theft. The investigation into the ring took 17 months, during which time two undercover agents, working with an informant, slowly worked their way into a hobbyist-level ring where bets ranged from the thousands to the tens of thousands of dollars and spectators numbered up to 100 at a time. The ring itself had links to organized dogfighting in other states as well as in Mexico, and spectators came from as far away as the Czech Republic. The investigation and raid required the cooperation and coordination of a number of federal, state and local agencies, including three divisions of the Texas Department of Public Safety (the Criminal Intelligence Service, Texas Highway Patrol, and DPS Aircraft), the Harris County District Attorney’s Office, the Harris County Sheriff’s Office, the United States Department of Agriculture (“USDA”) and the United States Marshal’s Office. The Veterinary Public Health Division of Harris County’s Public Health & Environmental Services coordinated with the Houston Humane Society and the Houston SPCA to handle the 187 dogs that were seized. See CIS Busts Major Dog-Fighting Ring, DPS CHAPARRAL (Tex. Dep’t of Public Safety), Dec. 2008, at 2, available at http://www.txdps.state.tx.us/director_staff/public_information/publications/chaparral/chap1208.pdf (hereinafter CIS Bust); James C. McKinley, Jr., Dogfighting Subculture, Illegal and Secretive, Is Taking Hold in Texas, N.Y. TIMES, Dec. 7, 2008, at A30; Animal Abuse Case Details: Dog-Fighting—187 Dogs Seized, Pet-Abuse.Com (last update June 10, 2009), http://www.pet-abuse.com/pages/cruelty_laws.php. In a more recent year-long investigation led by federal authorities, over 400 dogs were seized in a raid that covered eight states—Arkansas, Illinois, Iowa, Mississippi, Missouri, Nebraska, Oklahoma, and Texas. Because of the extensive reach of the investigation and raid, numerous federal, state and local agencies were involved, including the USDA, the Missouri State Highway Patrol, and the Federal Bureau of Investigation. See Information Issued by U.S. Attorney’s Office for Western District of Missouri on July 8: Seven Defendants from Three States Indicted for Dog Fighting, U.S. FED. NEWS (July 14, 2009), 2009 WLNR 13369870; ASPCA, Record-Breaking Dog Fighting Raid Leads to Nearly 500 Rescues, July 17, 2009, http://www.aspca.org/news/national/07-17-09.html#1; Humane Soc’y of Missouri, Humane Society of Missouri Animal Cruelty Task Force Works with State and Federal Agencies}
Investigation into hobbyist and professional dogfighting rings is long-term, requiring gradual infiltration into the upper levels of dogfighting circles, and is usually done by state or federal authorities because of cost and jurisdictional limitations of local agencies. Investigators generally work undercover, and the investigations suffer from the same problems borne by other covert criminal operations (i.e., finding and paying for informants and surveillance, placing the lives of law enforcement officers in danger, risking the creation of entrapment defenses, creating bad publicity, and so on). Because of these issues, it is essential that the agencies most responsible for the investigation are committed to the project. Although garnering this commitment might be difficult in situations where individuals value enforcement of the offense less than local authorities, commitment may be more easily granted where costs are shared and there is promise of a higher payout in terms of the numbers of defendants caught, the types of crimes covered, and the possibility of higher penalties.

Cost-sharing is important because of the high cost of investigation, particularly where the size of the dogfighting ring is large and the organization widespread and complex. Although local funds are few for assisting large-scale investigations, state and federal authorities can agree to share these costs, especially where both state and federal charges are possible. The brunt of prosecution costs, of course, lies at the local level, as do the enormous costs related to

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360 Investigators in Operation Dead Game, for example, were Texas Department of Public Safety officers, whereas the eight-state raid was led by federal authorities. See supra note 349.

361 The size and complexity of organized dogfighting, remember, allows law enforcement to broaden its reach and take down larger numbers of fighters and spectators. Defendants might also face higher penalties in situations where state or federal dogfighting penalties are enhanced because of commission of a related crime at the time of the fight (e.g., gambling).

362 See Amos, supra note 103 (“Well-funded organizations like the Humane Society and the ASPCA have infiltrated dogfights in the past, but it’s a rare occurrence that is difficult for a local animal welfare agency to recreate. Baltimore City’s animal control department has 16 officers when fully staffed, and because of their heavy presence on the streets, their faces are immediately recognizable to members of the dogfighting community. Additionally, it takes a large amount of money to successfully coordinate and execute an undercover operation, money that isn’t normally available to local agencies.”).
animal management (housing, feeding, etc.), which are often shared between public and private shelters. Because dozens or even hundreds of dogs might be seized during a raid, local animal control resources are usually overwhelmed, and private humane shelters must assist to ensure a successful raid and prosecution. The total costs are not insignificant and, despite statutory provisions allowing reimbursement, are rarely recovered, which affects the shelter’s ability to pursue other cruelty cases in the future. Prosecutors can assist cost recovery by insisting upon, as a measure of cooperation, a reasonable reimbursement share to be paid by each defendant seeking a plea bargain. In this way, shelters may find defendants digging deeper into their resources to pay their fair share.

V. CONCLUSION

Since Michael Vick’s arrest and conviction, national attention has focused on dogfighting, resulting in revision to a number of statutory provisions relating to the offense and an increase in prosecution of the crime. Despite this step forward, more work needs to be done. Many states and localities, and even the federal government, still resist spending time or money on enforcement of dogfighting laws, even though dogfighting has strong ties to other criminal acts, such as gambling, drugs, weapons possession, and gang membership. Prosecution of the crime is also made difficult by the secrecy of hobbyist and professional dogfighting, the spontaneity of streetfighting, the unwillingness of many witnesses to come forward, and the necessity of using indirect evidence to prove most cases. To weaken resistance to enforcing the laws, states should amend their statutes to strengthen penalties for dogfighting and related offenses, allow enhancement of dogfighting penalties for commission of related crimes at a dogfight, and streamline evidentiary requirements by specifically designating indirect evidence

as relevant proof and creating permissible statutory inferences. In addition, by creating state and local task forces, enforcement can be improved through coordination of investigation and by local efforts at education. Costs can also be shared between various agencies as well as public and private animal welfare groups to decrease the impacts of investigation and prosecution.