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Katie Galanes

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THE CONTRADICTION: ANIMAL ABUSE—ALIVE AND WELL

KATIE GALANES*

I. CONTRADICTIONS

A. *Vick's Big Break from the Eagles—How Fitting?*

After being convicted of dogfighting, Michael Vick, a National Football League quarterback, served eighteen months of a twenty-three month prison sentence.¹ According to Vick's indictment, he and others executed numerous dogs that performed poorly in dogfights by hanging, drowning, electrocuting, and/or slamming their bodies to the ground.² On July 20, 2009, Vick was released from prison and just one month later he signed a contract with the Philadelphia Eagles to play football again.³ Vick's highly publicized case focused attention on animal abuse cases like never before; but society must not forget how serious animal abuse offenses really are and the urgent need to implement proper punishments in *all* cases of animal abuse, regardless of who the violator is.

This Comment will argue that penalties for animal abuse cases should be strictly enforced against all defendants. In Part II, this Comment will initially present a short history of animal law coupled with an explanation of the legal status of animals within the court system. Next, this Comment will discuss recent cases of animal abuse and dogfighting, including some background and distinctive aspects of the Vick case. Additionally, this Comment

* The author received her undergraduate degree at the University of Illinois Urbana-Champaign and is currently a third-year law student at The John Marshall Law School. The author has served as the President of the Animal Law Society at The John Marshall Law School from August 2009 to January 2011.

1. Mark Maske, *Falcons' Vick Indicted in Dogfighting Case*, WASH. POST, July 18, 2007, at E01, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/17/AR2007071701393.html>.

2. *Id.* The abuse an animal suffers as a result of dogfighting not only occurs in the ring, but can also take place after a fight when losing dogs receive beatings from their owners or even face execution. K. Michelle Welch, *Animal Cruelty Cases*, 26 A.B.A. GEN. PRAC. SOLO 64, 67 (2009).

3. *Id.*; see also Ashley Fantz, *Dogfighters Get Creative as Spotlight on Vick Case Fades*, CNN.COM, Aug. 17, 2009, <http://www.cnn.com/2009/CRIME/08/17/us.dog.fighting/index.html> (stating Vick signed a two-year contract to play football with the Philadelphia Eagles, "which reportedly could be worth more than \$6 million").

will relate how past and current legislation have shaped recent cases. In Part III, this Comment will explore some prominent problems prevalent in animal abuse and dogfighting cases. More specifically, this Comment will analyze and compare other animal crimes cases with the Vick case, eventually explaining the significance of this issue. Finally, in Part IV, this Comment will propose proper treatment of animals through harsher penalties and strict enforcement of laws in animal abuse cases toward *all* defendants to preserve justice and the rights of animals.

II. JUST A COUPLE OF DOGS

A. History of Animal Law

Recently, animal law has emerged as a distinct discipline within the law. Over the years, animals have increasingly become an integral part of our society and everyday lives.⁴ As a field, animal law encompasses “a wide array of legal issues that impact the welfare and changing status of nonhuman animals.”⁵ However, animals have always been, and still are, legally regarded as property.⁶ Despite this crude classification, animals still enjoy a unique status.⁷ “While legally treated as property, animals are categorically distinct from [real] property, as they are able to feel pain and form emotional bonds with other animals, including

4. Scott Heiser, Dir. of the Crim. Just. Program, Animal Legal Def. Fund, Speaker at Lewis and Clark Univ. Animal L. Conf.: The People v. Animal Cruelty: Criminal Prosecutions (Oct. 17, 2009). A survey showing that ninety-three percent of pet owners would risk their own life to save a pet is representative of society's interest in the welfare of companion animals. *Id.* Similarly, seventy percent of pet owners consider an animal as part of their family. *Id.*

5. Fran Ortiz, *Animal Law: A New Breed of Practice*, 45 HOUS. LAW. 30, 30 (2008). Animal law addresses issues “relating to companion, exotic, and wild animals,” and has recently been given a great deal of attention and legitimacy after Vick's high-profile case. *Id.* at 31. As a field of law, animal law is combined with a number of other different topics of law including contracts, criminal law, and estate planning issues. *Id.* In order to fully understand animal law, it is important to contrast the theories of animal rights and animal welfare. Rebecca J. Huss, *Why Animal Law Matters: Establishing Animal Law Section in Era of Emerging Issues*, 52 RES GESTAE 37, 37 (2009).

6. Corwin R. Kruse, *Adding a Bit More Bite: Suggestions for Improving Animal-Protection Laws in Minnesota*, 34 WM. MITCHELL L. REV. 1405, 1407 (2008); see also *Brown v. Muhlenberg Tp.*, 269 F.3d 205, 210 (3d Cir. 2001) (holding that summary judgment on the part of the defendant officer was precluded because of plaintiffs' possessory interest in their pet dog). Where a police officer shot plaintiffs' pet dog, the United States Court of Appeals stated the dog owners had an adequate postdeprivation remedy for the police officer's alleged shooting of the dog, and that the plaintiffs' claim for intentional infliction of emotional distress based upon the killing of the dog was recognized by the court. *Id.* at 213-14, 217-19.

7. *Id.*

human beings.”⁸ Without legal protections, abusive owners and “institutions that exploit animals are lawfully allowed to manipulate, to modify, and to destroy their animals as they choose because they own these animals.”⁹

Further complicating the issue, “animals, as property, do not have standing to file suit on their own behalf, and people often are not able to file suit on behalf of the animals needing protection.”¹⁰ Because animals, like humans, are living beings that feel pain, are capable of forming emotion, and are distinctively different from other types of “real property,” a malicious act toward any animal is

8. Kristen Stuber Snyder, *No Cracks in the Wall: The Standing Barrier and the Need for Restructuring Animal Protection Laws*, 57 CLEV. ST. L. REV. 137, 138 (2009). Advocates have argued that animals should be afforded special protection within the court system. *Id.*; see also Taimie L. Bryant, *Similarity or Difference as a Basis for Justice: Must Animals Be Like Humans to Be Legally Protected from Humans?*, 70 LAW & CONTEMP. PROBS. 207, 207-09, 213 (2007) (arguing animals and humans are like entities because they share similar essential characteristics and capacities (such as self-awareness, capacity to suffer, tool-making ability, ability to form complex emotions, and ability to form bonds with other living creatures); as such, justice requires that animals receive some legal protections equivalent to the protections of humans). Although Bryant admits the similarity argument may have its weaknesses when the differences between the animal and human are obvious, the article attempts to illustrate that even if animals are not exactly like humans, animals still deserve to be legally protected. *Id.* at 249. Advocacy within our judicial system should emulate a “society in which the diversity of all participants is anticipated and accommodated.” *Id.* at 228.

9. Taimie L. Bryant, *Trauma, Law, and Advocacy for Animals*, 1 J. ANIMAL L. & ETHICS 63, 76 (2006). While companion animals may have a better chance of being distinguished as more than mere property, “commercial animals remain fully in the realm of an owner’s rights to use them in accordance with industry standards for . . . production.” *Id.* at 76-77. Regardless, any and all animals designated as mere property, without further legal protection, are fully exposed to owner abuse. Under the current laws, broad discretion and rights are given to “private property owners and private business to exclude uninvited people who want to find out how animals are treated.” *Id.* at 77.

10. *Id.* at 138. Standing is “a party’s right to make a legal claim or seek judicial enforcement of a duty or right.” *Id.* at 143. “Under the Constitution, standing may exist where a plaintiff can show (1) an ‘injury-in-fact’, (2) causation, and (3) redressability.” *Id.* Unfortunately, it is not enough to prove an animal has suffered injury in a case involving animal abuse. *Id.* at 144. Because animals are legally considered property, they do not have their own legally protected rights or interests. *Id.* Furthermore, any plaintiff bringing a lawsuit on behalf of an abused or injured animal must prove specifically that “he or she has suffered an actual injury or has some personal stake in the outcome.” *Id.* In addition, some human and animal interests are not mutually exclusive, which leads to a competition of interests. *Id.* at 138. For example, farm animals are subjected to factory farming and are left without any protection at all or are at the mercy of ineffective statutes such as the Humane Methods of Slaughter Act of 1958, as a result of the human interest to eat meat and poultry. *Id.* at 141.

an act of violence toward another living creature.¹¹ Thus, one of the most considerable difficulties in representing the interests and rights of animals is that they are still legally considered “property.”¹² Currently, and perhaps unknown to many, animals are being seriously exploited through practices including puppy mills, factory farming, laboratory testing, and dogfighting.¹³

Recently, a dogfighting operation was raided in Maywood, Illinois after police discovered a child daycare facility was also serving as the base of a dogfighting ring.¹⁴ The Cook County Sheriff’s Department recovered nine dogs and arrested three people.¹⁵ After receiving two complaints about dogs at the home, Kendall Marlowe, a Department of Child and Family Services spokesman, stated that officials had made four visits to the home since 2006 and found no evidence of dogfighting.¹⁶ Following the raid and the discovery of fighting dogs and dogfighting paraphernalia, Charles Sutton, the homeowner, was charged with felony dogfighting.¹⁷ Despite the overwhelming evidence of animal

11. Kirsten E. Brimer, *Justice for Dusty: Implementing Mandatory Minimum Sentences for Animal Abusers*, 113 PENN ST. L. REV. 649, 656 (2008). Crimes against animals range from neglect, which is usually a lesser “offense of cruelty involving the duties of care for the animal,” to cruelty, which includes intentional cruelty cases and neglect to the point of cruelty. Welch, *supra* note 2, at 64-66. Intentional cruelty cases are often harder to prove because there are no witnesses to testify to the torture that occurred. *Id.* at 66. In fact, most dogfighters “violate cruelty statutes by injuring their dogs in a dogfight” and fail to seek “professional treatment for the wounds.” *Id.* In cases where a prosecutor cannot prevail on animal fighting charges or lack sufficient evidence of dogfighting, a defendant can be charged with animal cruelty instead. *Id.* at 67. While the legislative penalties for animal cruelty may not be as serious, the charge may be a useful alternative where there is insufficient evidence to convict a defendant for animal fighting.

12. Ortiz, *supra* note 5, at 31.

13. Wayne Pacelle, *Law and Public Policy: Future Directions for the Animal Protection Movement*, 11 ANIMAL L. 1, 1 (2005).

14. Lauren R. Harrison, *Police Find Dogfighting Operation at Site of Day-Care Facility*, CHI. TRIB., Sept. 24, 2009, http://articles.chicagotribune.com/2009-09-24/news/0909230780_1_dogfighting-day-care-facility-pit-bull. After searching the property, it was apparent that a swing set, where children attending the daycare would play, was merely ten feet away from the garage where the dogs were kept. *Id.* The operator of the daycare claims she was not personally involved in dogfighting and the children attending the daycare were never near the dogs or the dogfighting equipment. *Id.*

15. *Id.* Police discovered one dog with its eye ripped out, another with a twisted leg, and another with “its lower extremities nearly ripped off its body.” *Id.* Along with these dogs, others were rescued and required medical treatment for a variety of injuries. *Id.*

16. *Id.*

17. *Id.* Police stated that the garage where the dogs were kept had bloodstained walls and floors, and during the raid found an aggressive pit bull along with “medication, bite sticks, and harnesses used in dogfights.” *Id.* The garage housed “an 18-month-old pit bull and three four-week-old puppies in a wire cage that was soaked in feces and urine, with no signs of food or water.”

abuse, Martez Anderson, who was also present on the scene, was originally only cited for being a felon in possession of an unneutered or unsprayed dog, which is classified as a misdemeanor.¹⁸

The Maywood dogfighting ring is just a small-scale sample of the innumerable cases dealing with illegal dogfighting. For example, while the Vick case was being tried, Tim Rickey, the director of the animal cruelty task force at the Humane Society of Missouri, was investigating an interstate dogfighting ring.¹⁹ After an eighteen-month-long investigation, Rickey discovered dogfighting rings linked between eight different states.²⁰ Following the investigation, on July 8, 2009, federal, state, and local law enforcement officials arrested twenty-eight people from eight

Id. Police believe that the puppies were already possibly being used as “bait dogs” in dogfights. *Id.* In addition, investigators noticed a dog with a “shredded face through an opening in a next-door neighbor’s fence,” ultimately leading them to a third site where police found two more dogs. *Id.* One of the dogs had fighting wounds that appeared fresh, and the second, a puppy, was emaciated and scarred. *Id.*

18. *Dogfighting Bond \$500,000*, DAILY HERALD, Sept. 25, 2009, <http://www.allbusiness.com/government/government-bodies-officers-regional-local/1307119-1.html>. However, prosecutors added a felony dogfighting charge after police “reviewed his cell phone and found a video showing a man burning a live animal to death.” *Id.* All of the defendants are currently being held at the Cook County jail, where bond has been set at \$500,000. *Id.* Anderson’s cousin, Lance Webb, was another defendant charged with felony dogfighting. Harrison, *supra* note 14, at 14; *see also* United States v. Stevens, 533 F.3d 218 (3d Cir. 2008) (holding, on appeal for violating 18 U.S.C.S. § 48 (2009), that a defendant who distributed videos of dogfighting was not guilty because a federal statute prohibiting depictions of animal cruelty violated his First Amendment rights to freedom of speech; the court vacated the defendant’s conviction). In *Stevens*, a defendant was convicted of knowingly selling depictions of animal cruelty (videos of older and more recent organized dogfights) with the intention of placing those depictions in interstate commerce for commercial gain. *Id.* at 221. The court made a distinction between acts of animal cruelty and the creation, sale, or possession of a depiction of animal cruelty. *Id.* at 223. The court stated that “the fact that the act of cruelty was captured on film in no way exacerbates or prolongs the harm suffered by that animal.” *Id.* at 230. The court failed to see how preventing cruelty to animals could give rise to a compelling government interest; specifically, the court referenced a city ordinance that outlawed animal sacrifice as support for the idea that protecting animals is not a compelling government interest. *Id.* at 226. Next, the court stated that the Supreme Court rarely finds a compelling interest for content-based restrictions; “when it has done so, the interest has—without exception—related to the well-being of human beings, not animals.” *Id.* at 227. In the end, the court reviewed the statute under strict scrutiny and found no compelling government interest, the statute was not narrowly tailored to achieve such an interest, and there were less restrictive means to achieve the government interest. *Id.* at 235.

19. Fantz, *supra* note 3.

20. *Id.*

states and recovered as many as four hundred dogs.²¹ However, despite the fact that this case was exposed to the public through the media, no case has ever seemed to spotlight dogfighting quite like Michael Vick's case.

B. The Michael Vick Case

During the police raid of Vick's property in Surry County, Virginia, police uncovered approximately fifty-four dogs, half of which were chained to car axles just out of reach from one another (a typical arrangement for fighting dogs), a blood-stained fighting area, animal training and breeding equipment (including a "rape stand," where female dogs who were too aggressive to submit to males for breeding were strapped down by their head in a restraint), a "break" or "parting" stick used to open dogs' mouths during fights, assorted paperwork documenting involvement in animal fighting, and performance-enhancing drugs used to increase the fighting potential of dogs.²² Vick and three other defendants were charged with violating federal law 18 U.S.C. § 371 after being indicted by a federal grand jury in the Eastern District of Virginia.²³

After entering a plea of guilty, Vick was sentenced to only twenty-three months in jail; the maximum penalty for the charged felony was a prison sentence of five years.²⁴ While Vick was

21. *Id.* CNN attempted to contact officials involved in the national case to give details regarding the investigation, but failed to retrieve any details. *Id.* Instead, CNN spoke with a number of detectives who have worked on dogfighting cases who revealed some of the atrocities that can be uncovered during an investigation including "dogs with missing ears and patches of skin, animals with teeth shaved down to the bone," and "contraptions . . . that force chained dogs to run or be choked." *Id.* Animal abusers who raise dogs for fighting often use steroids or other medications on the animals in order to enhance performance. *Id.*

22. Animal Legal Def. Fund, *Animal Fighting Case Study: Michael Vick*, <http://www.aldf.org/article.php?id=928> (last visited Mar. 6, 2011).

23. *Id.* Because Vick and others transported fighting dogs across state lines and hosted dogfight participants from other states, the federal court had jurisdiction over an activity that would have otherwise been regulated by the state. *Id.*; see generally *Michael Vick Cops Felony Plea: NFL Star Admits Role in Dog Killings, Pit Bull Fighting Ring*, THE SMOKING GUN (Aug. 24, 2007), <http://www.thesmokinggun.com/archive/years/2007/0824071vick1.html> (detailing the court documents filed by Vick's attorney on August 24, 2007). According to the criminal indictment, the charges against Vick and three other co-defendants included "Conspiracy to Travel in Interstate Commerce in Aid of Unlawful Activities and to Sponsor a Dog in an Animal Fighting Venture." Rebecca J. Huss, *Lessons Learned: Acting as Guardian/Special Master in the Bad Neuz Kennels Case*, 15 ANIMAL L. 69, 71 (2008).

24. Huss, *supra* note 23, at 72. Interestingly enough, at the time, had the prosecution charged Vick and the defendants under the Animal Welfare Act for animal fighting activities in violation of 7 U.S.C. § 2156, the maximum penalty would have been only one year per violation. *Id.*

sentenced to twenty-three months in prison, he also “received three years’ supervised probation during which he cannot buy, sell or own dogs.”²⁵ Furthermore, Vick was ordered to pay \$5,000 in fines and \$928,073 as restitution for the fifty-three dogs that were seized from his property.²⁶

Certain aspects of Vick’s case, both civil and criminal, were quite exceptional and warrant mentioning. First, and most apparent, the public outcry during both cases was overwhelming.²⁷ After Vick’s initial plea of not guilty, media coverage was intense and “protestors holding signs advocating the prosecution of dog fighters” could be found outside the federal courthouse.²⁸ Another unique feature of Vick’s civil case was the court’s appointment of a special master, “a private individual the court appoints to assist it in performing specific functions in a pending action.”²⁹ In the Vick

25. Animal Legal Def. Fund, *supra* note 22.

26. *Id.* One of the other defendants was sentenced to eighteen months in prison; another to twenty-one months. *Id.* The last defendant, who had been the first co-conspirator to plead guilty and had provided details to investigators regarding the dogfighting operation, was sentenced to two months in prison. *Id.*

27. See Audio tape: Brian Whisler, Prosecuting the Michael Vick Case, American Bar Association’s Tort Trial & Insurance Practice Section’s Animal Law Committee Conference (Sept. 19, 2008), <http://www.abavideonews.org/AB/A554/> (stating the prosecutor in the Vick case found public outcry, moral outrage, and media coverage overwhelming throughout the case; prosecutors trying high profile animal abuse cases must be prepared). According to Rebecca Huss, the special master appointed to the Vick case, “nothing prepared [her] for the response from the media and the public,” as she received a number of e-mails and telephone responses from the public regarding the case. Huss, *supra* note 23, at 84. An even greater number of people contacted both the U.S. Attorney’s Office and the judge presiding over the Vick case to share their concerns and say that the dogs “deserved a chance.” *Id.* Huss asserts that public involvement and concern for the dogs “made a significant difference in the outcome of [the Vick] case.” *Id.*

28. *Id.* at 72.

29. Alexis C. Fox, *Using Special Masters to Advance the Goals of Animal Protection Laws*, 15 ANIMAL L. 87, 92 (2008). A special master is occasionally “called a master or referee” within the courtroom. *Id.* Whether a judge appoints a special master depends greatly on whether the parties to the lawsuit consent to the appointment. *Id.* at 94. However, once the parties have consented, a court has a great deal of authority “to order the special master to perform a vast array of tasks.” *Id.* If a party refuses to consent to the use of a special master, a judge can still appoint one to non-jury trial proceedings and pre-trial and post-trial matters. *Id.* Under the Federal Rules of Civil Procedure, special masters can be appointed by federal courts. *Id.* at 93; see generally FED. R. CIV. P. 53. An “exceptional condition” must exist to warrant a judge appointing a special master to perform trial functions, including “hold[ing] trial proceedings and mak[ing] or recommend[ing] findings of fact on issues to be decided without a jury.” Fox, *supra*, at 94-95. In addition, special masters can only be used in pretrial and post trial matters when there is no judge to address the issues in a timely and effective manner. *Id.* at 95. Other limitations on court appointed special masters include: requiring party

case, the Eastern District of Virginia's federal prosecutor called upon Rebecca Huss, a Professor of animal law at Valparaiso University, to serve as a special master.³⁰

During Vick's civil case in *United States v. Approximately 53 Pit Bulldogs*, the Surry County's Sheriff's Department of Virginia seized fifty-three pit bulldogs from Vick's property pursuant to the Animal Welfare Act of 1976.³¹ As a special master in the Vick case, taking care of the animals was first priority for Huss.³² Specifically, the special master's unique task was "to concentrate on the dogs' welfare, work with the rescue organizations, and make recommendations about the disposition of the dogs."³³

C. Case Law

While the *Vick* case represents a major step forward in the field of animal law, other cases have also served to develop today's law.

consent, requiring an extraordinary need for a special master, limiting the type of cases special masters can be appointed for, limiting special masters to non-jury actions, and requiring that certain issues be tried specifically by a jury (excluding the special master). *Id.* at 96. Furthermore, special masters must be qualified before a court can appoint them to perform any judicial duties. *Id.* According to Rule 53 of the Federal Rules of Civil Procedure, a special master must have a meaningful understanding of the law relating to the case. *Id.* Usually, a non-legally trained expert has a specific knowledge or understanding of the case and is familiar with particular problems that may arise throughout the proceeding. *Id.* Last, special masters must not have any conflict of interest or any appearance of bias. *Id.*

30. *Id.* at 101. Special masters are often used in large-scale animal abuse cases. *Id.* at 89. Specifically, special masters are a unique way in animal abuse cases to "bring time, expertise, informality, and humanity to the process of determining the interim care and final disposition of abused animals," without greatly disrupting the court system process. *Id.*

31. *U.S. v. Approximately 53 Pit Bulldogs*, Case No. 3:07CV397 (E.D. Va. July 2, 2007). Government's Motion for Restraining Order available at http://www.valpo.edu/law/faculty/rhuss/vick_documendo/assets/motion_for_restraining_order.pdf (last visited March 7, 2011). Huss, *supra* note 23, at 71. Ultimately, the dogs were "forfeited to the government." *Id.*

32. Audio tape: Rebecca Huss, Lessons Learned as a Special Master/Guardian of the Vick Dogs, American Bar Association's Tort Trial & Insurance Practice Section's Animal Law Committee Conference (Sept. 19, 2008), <http://www.abavideonews.org/ABA554/>. As a special master, Huss agreed to manage the process of caring for the injured dogs. Fox, *supra* note 29, at 101. Throughout the case, Huss had the authority to "take such action as necessary and appropriate to provide for the interim care prior to final permanent disposition of the dogs." *Id.* Huss also was "permit[ted] access to the remaining dogs by organizations, as she deem[ed] appropriate" along with "engag[ing] and employ[ing] any individuals or entities she deem[ed] necessary to assist in her duties." *Id.*

33. Huss, *supra* note 23, at 76. Huss, as special master in the Vick case, had to tackle difficult issues such as "indemnification and insurance requirements that the federal government wanted to make certain were met by any of the organizations that were allowed to take the dogs." *Id.* at 77.

A number of cases involving dogfighting have recently been decided. In *Davis v. State*, the defendant, who allegedly staged a dogfight, owned dogs for fighting purposes, and was in possession of animal fighting paraphernalia, was convicted for animal fighting.³⁴ Likewise, in *State v. Kendrick* and *State v. Lewis*, defendants who closely participated in or organized dogfights or trained fighting dogs were convicted of dogfighting.³⁵ Similarly, in *United States v. Kingrea*, the defendant operated a retail stand near a cockfighting pen and was convicted for conspiracy to sell sharp instruments for use in animal fighting.³⁶ Like the *Vick* case, these four cases have contributed to the development of animal law as it pertains to animal fighting.

D. Legislative Trends

During the *Vick* case, many of the federal statutes that could have been invoked to convict *Vick* were ultimately deemed inadequate, considering the heinous acts that were committed. Prior to recent amendments of the current, primary animal law statute, 7 U.S.C. § 2156, there was a one-year maximum penalty for animal fighting (per violation).³⁷ Another federal statute, 18 U.S.C. § 49, provided either a fine, a three year maximum penalty for animal fighting, or both (per violation).³⁸ As a result, a defendant accused of dogfighting in a federal court would only be facing a fine and/or a three year maximum jail sentence. More recently, a number of statutes, including 18 U.S.C. § 49, have been amended to make sentencing more serious.³⁹

When examining dogfighting legislation throughout the states from a historical context and seeing it applied in cases such as *Vick's*, it is apparent that legislative punishments have increased exponentially over time. After *Vick* pled guilty to federal dogfighting conspiracy charges, the public outcry in Georgia was

34. See generally *Davis v. State of Indiana*, 907 N.E.2d 1043 (Ind. Ct. App. 2009).

35. See generally *State of Ohio v. Kendrick*, No. C-080509, 2009 Ohio App. LEXIS 3346 (Ohio Ct. App. 2009); *State of Ohio v. Lewis*, No. 22726, 2009 Ohio App. LEXIS 122 (Ohio Ct. App. 2009).

36. See generally *U.S. v. Kingrea*, 573 F.3d 186 (4th Cir. 2009). Cockfighting consists of two roosters who fight in contests where each rooster wears sharpened spurs, or gaffs, on their heels. *Id.* at 189.

37. Animal Fighting Venture Prohibition, 7 U.S.C. § 2156(a)(1)(e) (2006), amended by 7 U.S.C. § 2156 (2009) and 18 U.S.C. § 49 (2009). Originally, 7 U.S.C. § 2156 stated, "any person who violates subsection (a), (b), or (c) of this section shall be fined not more than \$15,000 or imprisoned for not more than 1 year, or both, for each such violation." *Id.*

38. Enforcement of Animal Fighting Prohibitions, 18 U.S.C. § 49 (2006).

39. See Enforcement of Animal Fighting Prohibitions, 18 U.S.C. § 49 (2009) (stating anyone who "violates subsection (a), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 5 years, or both, for each violation").

immense.⁴⁰ As the star quarterback of the Atlanta Falcons, Vick became a spectacle of public criticism within the state during the trial.⁴¹ However, Georgia's dogfighting laws were labeled by the country's Humane Society as one of the weakest in the country.⁴² Originally, Georgia's anti-dogfighting statute, as passed in 1982, stated that "anyone convicted of [dogfighting] shall be punished by a mandatory fine of \$5,000.00 or punished by the mandatory fine and imprisonment for not less than one, but not more than five, years."⁴³ Under the earlier statute, "only people caught in the act of allowing a dog to fight another dog for sport, or maintaining or operating any event at which dogs are allowed or encouraged to fight one another can be arrested and prosecuted."⁴⁴ Because the statute failed to guarantee jail time, promised a relatively light fine, and failed to target all those involved in dogfighting, the statute was ineffective at preventing or punishing animal abuse.⁴⁵ Following the *Vick* case, the Georgia legislature, along with a number of other state legislatures, attempted to bolster their state's anti-dogfighting statute by creating a dogfighting offense and classifying it as a felony.⁴⁶

In Illinois, the current dogfighting statute states that a

40. Jason Grier, *General Provisions: Amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, Relating to Gambling Offenses, so as to Change Certain Provisions Relating to Dogfighting; Prohibit Dogfighting and Related Conduct; Provide for Punishments; Define a Term; Provide for Applicability; Amend Title 4 of the Official Code of Georgia Annotated, Relating to Animals, so as to Change Certain Provisions Relating to Definitions Relative to Chapter 8 of Said Title; Change Certain Provisions Relating to Caring for an Impounded Animal; Change Certain Provisions Relating to Failure to Respond, Right to Hearing, Care, and Crime Exception; Change Certain Provision Relating to Filing a Report Regarding Animal Cruelty and Immunity; Provide for Related Matters; To Provide an Effective Date; Repeal Conflicting Laws; And for Other Purposes*, 25 GA. ST. U. L. REV. 31, 31-32 (2008) [hereinafter *General Provisions*].

41. *Id.* at 32. Georgia citizens criticized Vick's deplorable behavior as inhumane and barbaric. *Id.*

42. *Id.* Before the 2008 legislative session, "Georgia was one of only two states in the country where it remained legal to attend a dogfight as a spectator, and one of only three states where it remained legal to own fighting dogs." *Id.* While the public expressed their disgust toward Vick's actions, "due to incredibly weak laws prohibiting dogfighting in the state, this sort of activity has occurred right under the noses of Georgia citizens, and the state has become a haven for dogfighting." *Id.* While other neighboring states have strengthened their dogfighting laws, "Georgia legislation remained unchanged, leading to an influx of dogfighting activity." *Id.*

43. *Id.* at 34.

44. *Id.*

45. *Id.* at 34-35. While some animal abusers had a chance of being punished by Georgia's 1982 dogfighting statute, "spectators attending dogfights, breeders or fighting dogs, and those training dogs for the purposes of fighting could not be prosecuted . . ." *Id.* at 34.

46. *Id.*

person may not own, capture, breed, train, or lease a dog for fighting purposes.⁴⁷ Anyone convicted under this section of the statute is “guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$50,000.”⁴⁸ Under the current law in Illinois, the animal fighting and abuse statute does not necessarily require forfeiture of the animal(s) after a person is suspected of animal abuse or using companion animals for fighting purposes.⁴⁹ Furthermore, upon conviction, a court may order that the defendant, as well as anyone dwelling in the same household, not “own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.”⁵⁰

Currently, legislation is being proposed in order to create harsher legislative punishments for people who directly participate in dogfighting, attend dogfights as spectators, or facilitate dogfighting.⁵¹ While Illinois and other states have

47. 720 ILL. COMP. STAT. 5/26-5(a) (2009). As for owned dogs in Illinois, [n]o person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

Id. Under the current Illinois dogfighting statute,

[n]o person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between two or more dogs or any dog and human, or the intentional killing of any dog.

720 ILL. COMP. STAT. 5/26-5(b) (2009).

In addition,

[n]o person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

720 ILL. COMP. STAT. 5/26-5(c) (2009).

48. 720 ILL. COMP. STAT. 5/26-5(i)(1) (2009).

49. *See* 510 ILL. COMP. STAT. ANN. 70/3.05 (f) (2009) (stating that

Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated).

50. 720 ILL. COMP. STAT. 5/26-5(m) (2009).

51. H.R. 3984, 96th Gen. Assem., 1st Reg. Sess. (Ill. 2009). Penalties for violations of the statute would be increased from a Class 4 felony to a Class 3 felony for a “first violation,” and a Class 3 felony would be increased to a Class 2 felony for a “second or subsequent violation.” *Id.* Moreover, “a person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 2 felony,” instead of only a Class 3 felony. *Id.* Also, a person convicted of violating subsection (d) or (e) of the

adopted statutes making dogfighting illegal, each state varies in how it punishes dogfighting activity, with very few cases being prosecuted. As a result, a majority of criminal defendants and spectators may go unpunished.⁵²

III. THE BUSINESS—OF DOGFIGHTING—IS BOOMING

This section of the Comment will focus on certain obstacles faced by animal advocates within the field of animal law. Next, the *Vick* case will be compared to a number of state and federal animal crimes cases, along with a case where another special master was appointed. This will ultimately highlight the *Vick* case's overall impact. Finally, a discussion on how animal cruelty and abuse transcends beyond animal welfare will demonstrate why such an issue matters to the public as a whole.

A. Problems Faced in Animal Law

Despite some progressive changes in dogfighting penalties, major problems still exist. Although there may be a number of anti-cruelty and anti-dogfighting statutes within every state, not all provide an adequate amount of protection for abused animals.⁵³

statute, which includes "manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use" in dogfighting and any person who owns, possesses, sells or offers "for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with" dogfighting, will be guilty of a Class 4 felony instead of a mere misdemeanor. *Id.*

52. Diane M. Sullivan, Holly Vietzke & Michael L. Coyne, *A Modest Proposal for Advancing Animal Rights*, 71 ALB. L. REV. 1129, 1131 (2008). See also Nancy R. Hoffman & Robin C. McGinnis, *2007-2008 Legislative Review*, 15 ANIMAL L. 265, 276 (2009) (stating all states outlawed dogfighting by 1976). Based on a study ranking the "states in tiers based on the individual state's legal response to dogfighting," states have a number of different legislative ways for dealing with dogfighting. *Id.* at 277. In some states, "participating in dogfighting, being a spectator at a dogfight, and possessing dogs for fighting are all felonies." *Id.* Other state legislatures argue that participating in dogfighting and possessing dogs for fighting are felonies, while being a spectator at a dogfighting event is a mere misdemeanor. *Id.* On the other hand, in three states, participating in dogfighting alone is a felony, whereas possessing dogs for fighting and being a spectator at a dogfighting event are only misdemeanors. *Id.*

53. Bryant, *supra* note 9, at 71-72. When experiencing trauma, specifically the trauma of animal abuse, "groups' and individuals' experience of violence is not validated by the broader society in which they live." *Id.* at 71. There is a substantial gap between the "reality of violence against animals and what most of society will acknowledge about that violence," when discussing advocacy for animals. *Id.* Another gap exists when examining the law that is codified to prevent animal abuse and the "reality of how little legal protection is actually available by way of those laws." *Id.* For example, factory farming still exists today because "anti-cruelty statues do not usually reach institution-

Furthermore, offenders tend to find exceptions or loopholes within state and federal statutes prohibiting animal cruelty and abuse.⁵⁴ Most defendants deny involvement in dogfighting and “claim that his or her dog unintentionally got into a scuffle with another dog.”⁵⁵ Thus, prosecutors are faced with two significant hurdles. First, a prosecutor may encounter a state of mind challenge, having to prove that each defendant intentionally used a dog for fighting purposes.⁵⁶ Second, the prosecutor may come across the problem of light and ineffective sentencing practices.⁵⁷ Additionally, legislative penalties occasionally fail to correlate with the harsh abuse of which the defendant may be guilty.

The most significant issue in dealing with animal cruelty, animal abuse, and dogfighting cases is an overall lack of enforcement. Oftentimes, animal abuse and dogfighting cases are given low priority, and prosecutors may not be willing to pursue such cases.⁵⁸ Law enforcement officials may also lack the desire

based animal exploitation.” *Id.* at 72.

54. Brimer, *supra* note 11, at 664-65. Large exceptions exist when analyzing state anti-cruelty statutes; specifically, anti-cruelty statutes do not regulate the way animals are treated when hunted, used for medical or scientific purposes, or in the production of food. Cass Sunstein, *The Rights of Animals*, 70 U. CHI. L. REV. 387, 391 (2003).

55. Jamey Medlin, *Pit Bull Bans and the Human Factors Affecting Canine Behavior*, 56 DEPAUL L. REV. 1285, 1303 (2007).

56. *Id.* Defendants often avoid the state of mind requirement by making false claims, and prosecutors cannot rely solely on evidence of fighting wounds. *Id.*

57. *Id.* Unfortunately, even if a prosecutor is successful in litigating an animal crimes case, “defendants generally face light punishment that fails to deter their behavior.” *Id.* In one case, a defendant was “arrested on charges of animal cruelty when police discovered evidence of dogfighting materials at his residence.” *Id.* While the prosecution succeeded in prosecuting the case, the defendant’s dog was seized and euthanized and “he was sentenced to only six months of unsupervised probation.” *Id.* Similarly, Vick eventually pleaded guilty to dogfighting and the prosecution successfully tried the case; yet, he received a mere twenty-three month sentence. Maske, *supra* note 1.

58. Kruse, *supra* note 6, at 1424. Many prosecutors may feel overwhelmed by a crushing case load and forget to dedicate the time and effort required for animal abuse, animal cruelty, and dogfighting cases. Heiser, *supra* note 4. Unfortunately, animals cannot be protected legally if prosecutors are unwilling to prosecute cases of animal cruelty or abuse. Brimer, *supra* note 11, at 664. Unlike Michael Vick’s high-profile case, most animal abuse cases, including those cases involving dogfighting, are rarely seen by prosecutors as high priority cases. *Id.* According to Pet-Abuse.com, there are approximately 15,172 cases of animal abuse and only sixteen of those cases have upcoming scheduled court dates (a vast amount never reach the court system). Animal Abuse Crime Database, PETABUSE.COM, <http://www.pet-abuse.com/> (follow “Cruelty Database” hyperlink; then search “Illinois” in the drop-down menu) (last visited Mar. 6, 2011). Of the 1,880 cruelty cases reported in the media in 2007, 64.5% (1,212) involved dogs, 18% (337) involved cats, and 25% (470) involved other animals, *Animal Cruelty Facts, Statistics, and Trends*, THE HUMANE SOCIETY OF THE UNITED STATES(HSUS), <http://www.hsus.org/act/cru>

and training to properly investigate cruelty cases.⁵⁹ Frequently, there is a monetary fear based on the cost factor of caring for animals that are recovered.⁶⁰ Furthermore, most animal abuse cases are trivialized within the court system. Unfortunately, some judges fail to embrace the obligation and moral duty we have as a civilized society to legally protect animals.⁶¹ Moreover, courts may not be receptive to animal abuse cases because of the necessity to use expert witnesses regarding issues, including animal and veterinary sciences.⁶² Even more sinister reasons for not hearing a case could possibly be at play as well; prosecutors must be aware of any personal bias a judge may have toward a defendant.⁶³ Overall, many people fail to appreciate the true threats posed by animal abusers.⁶⁴

Since the *Vick* case, the sport of dogfighting has grown and become even more “underground,” as animal abusers become more inventive at keeping police from discovering dogfights.⁶⁵ As a result, police are having a harder time tracking down, investigating, and prosecuting animal abusers.⁶⁶ Most animal advocates, including detectives, animal welfare professionals, and prosecutors, admit the *Vick* case has brought attention to

elty/publiced/cruelty_facts_statistics_trends.html (last visited Mar. 6, 2011).

59. Kruse, *supra* note 6, at 1424. Cases of animal cruelty, animal abuse, and dogfighting are subject to the exclusionary rule regarding evidence. Heiser, *supra* note 4. Thus, if police fail to collect certain evidence in the proper manner, the evidence could be subject to exclusion based on inappropriate collection. *Id.* In addition, enforcement is made difficult because “police do not investigate an overwhelming majority of the reported crimes of animal abuse.” Brimer, *supra* note 11, at 664.

60. Heiser, *supra* note 4.

61. Snyder, *supra* note 8, at 152.

62. *Id.* at 151. Courts are also concerned that the added cost of using expert witnesses would greatly increase the cost of litigation and burden the overall litigation process. *Id.* at 152. As such, a number of judges believe that allowing animal abuse and dogfighting cases that are not “high-profile” to be heard in court will “clog” the docket. Heiser, *supra* note 4.

63. Heiser, *supra* note 4. Personal bias often plays a role in smaller state courts where judges may not be willing to enforce a harsh sentence (or any sentence at all) in an animal abuse case because they are familiar with the criminal defendant. *Id.*

64. *Id.*

65. Fantz, *supra* note 3. Because animal abusers know not to draw a great deal of attention to their dogfighting operations, it has become more common to see “fights where you’ve got the two handlers, a referee and Web cams everywhere broadcasting the fight on the Internet.” *Id.* Most recently, dogfights have been known to take place on the move in eighteen-wheeler semi-trucks. *Id.*

66. *Id.* After some of the most recent efforts to crack down on dogfighting, and the aftermath of the Michael Vick case, “those betting on fights aren’t likely to get paid on site any more [sic].” *Id.* Instead, money is kept at another location making it much more difficult to make any proper arrests. *Id.*

dogfighting and animal abuse in a positive way.⁶⁷ Despite the fact that people are becoming more inclined to report animal abuse suspicions, dogfighting and animal abuse still remain prevalent.⁶⁸

B. *Vick Versus "Everyone Else"*

In order to fully grasp a comparison between the *Vick* case and other animal crimes cases, recently developed case law is informative in understanding and appreciating some of the sentencing disparities faced by defendants in the state and federal system.

Recently, in *Davis v. State*, the Court of Appeals of Indiana affirmed Davis's convictions; he was charged with promoting or staging an animal fighting contest (a Class D felony), purchasing or possessing an animal for an animal fighting contest (a Class A misdemeanor), and possession of animal fighting paraphernalia (a Class B misdemeanor).⁶⁹ Witnesses observed dogs on Davis's property barking and carrying their empty food pans and, eventually, called police due to their concern about the poor condition of the dogs.⁷⁰ After talking with witnesses, police entered the property and discovered evidence of dogfighting.⁷¹ The court ultimately concluded that there was overwhelming evidence to support Davis's dogfighting conviction; Davis was sentenced to six years imprisonment, yet only two years were actually served.⁷²

67. *Id.*

68. *Id.* Today, it is estimated that 40,000 people are participating in organized dogfighting rings while another 100,000 are participating in informal dogfighting. Hoffman & McGinnis, *supra* note 52, at 276.

69. *Davis*, 907 N.E.2d at 1046.

70. *Id.* There were a total of "thirteen dogs that had many scars, appeared emaciated, and were chained to blue barrels, forcing them to live in their own filth." *Id.* at 1047. None of the dogs appeared to have food or water. *Id.*

71. *Id.* Police noticed a foul odor coming from Davis' property and later discovered the smell coming from a dead animal carcass. *Id.* The dogs appeared malnourished, and a treadmill and a dog collar bolted to the ground were found within Davis's shed. *Id.* Many of the dogs were chained to posts out of each other's reach, but a number of the dogs had markings or injuries on their faces. *Id.* While Davis argued police entered his property unlawfully, the court held that probable cause existed for the officer to enter the property to investigate because the officer had knowledge of facts and circumstances, from the witnesses, that would lead a reasonably prudent person to believe that a crime had been committed on the property. *Id.* at 1049. Despite the officer's illegal search of Davis' property in violation of the Fourth Amendment, the court found that "there was enough valid untainted information in the probable cause affidavit to support the issuance of the search warrant." *Id.* at 1056. Moreover, the search warrant met all of the proper requirements. *Id.* While the trial court abused its discretion by admitting two pieces of evidence against Davis for prior acts of dogfighting, the court stated that this error was harmless in light of the overwhelming evidence against Davis. *Id.*

72. *Id.* at 1048, 1056. Davis was sentenced to an "aggregate of six years imprisonment, suspending two years to probation, and ordering two years

Comparatively, in *State v. Kendrick*, the Court of Appeals of Ohio affirmed Kendrick's convictions for dogfighting.⁷³ An undercover police officer infiltrated Kendrick's dogfighting operation and witnessed a number of organized dogfights.⁷⁴ After obtaining a search warrant, police "recovered a large number of confined dogs, many of which appeared to have suffered fight-related injuries."⁷⁵ In addition, police uncovered an extensive array of dogfighting paraphernalia "commonly used to train dogs for fighting."⁷⁶ In terms of sentencing, Kendrick was found guilty of both dogfighting and a number of drug offenses, and was sentenced to an aggregate prison term of thirteen-and-a-half years by the trial court.⁷⁷

In another Ohio case, *State v. Lewis*, Lewis pled no contest to fourteen counts of dogfighting (fourth degree felonies).⁷⁸ Upon finding Lewis guilty on all charged counts, including possession of criminal tools, the "trial court sentenced him to one year in prison on each count, to be served concurrently, and ordered him to pay restitution of \$50,000 to the Montgomery County Animal Resources and court costs."⁷⁹

Finally, in *United States v. Kingrea*, a federal grand jury in the Western District of Virginia charged Kingrea for involvement in a cockfighting operation.⁸⁰ On appeal, Kingrea was ultimately

served at the Department of Correction and the remaining two years in community corrections." *Id.* at 1048.

73. *Kendrick*, 2009 Ohio App. LEXIS at *15.

74. *Id.* at *4. At a dogfighting event in March 2007, Kendrick "directed his wife to collect the entrance fees, [and] directed his son to walk one of the dogs prior to its fight and to retrieve medical supplies." *Id.* at *5.

75. *Id.* at *6.

76. *Id.*

77. *Id.* at *7.

78. *Lewis*, 2009 Ohio App. LEXIS at **1. In addition, Lewis was convicted of three counts of possession of criminal tools, which are fifth degree felonies. *Id.*

79. *Id.* Police found several crates containing pit bulls, two pit bulls chained to a fence, and an additional dog in Lewis' yard. *Id.* at **2. Thankfully, the officer investigating the dogs recalled a prior conversation with Animal Control about evidence of dogfighting and remembered to look for "hypodermics, scarring on the animals, and a large brass ring on the dogs' collars." *Id.* at **3. Once the officer examined all twenty-five pit bulls, including six puppies, many of the dogs had visible scarring or injuries and one had a large brass ring. *Id.* In addition, the officer discovered a hypodermic syringe in Lewis' vehicle along with "two loaded weapon clips for a firearm and loose ammunition in the pockets of the open rear door." *Id.*

80. *Kingrea*, 573 F.3d at 188-89. The defendant, Kingrea, was arrested when the cockfight he was attending was raided. *Id.* at 189. Kingrea was originally charged with participating "in a conspiracy based on two predicate offenses: first, sponsoring or exhibiting 'an animal fighting venture' in violation of 7 U.S.C. § 2156(a)(1), and second, conducting an illegal gambling business involving cockfighting in violation of Virginia law and 18 U.S.C. § 1955." *Id.* On appeal, the court vacated this count and remanded the case. *Id.*

charged with violating 7 U.S.C. § 2156(e), “conspiracy to ‘sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.”⁸¹ Kingrea was also charged with “the substantive crime of aiding or abetting the sponsoring or exhibiting of ‘an animal fighting venture’ in violation of 7 U.S.C. § 2156(a)(1).”⁸² Following the trial, “the district court sentenced Kingrea to six months of incarceration followed by six months of home confinement and eighteen months of supervised release.”⁸³ Although this case was remanded for resentencing, the case is still an important example of the lenient sentencing criminal defendants face when charged with animal fighting.⁸⁴

These cases are recent examples of the inconsistency convicted criminal defendants face within the state and federal court system for alleged animal fighting or animal cruelty and abuse. Thankfully, some of these criminal defendants were punished with significant jail time; more often, however, defendants receive light sentencing or find ways to escape proper sentencing. Additionally, a number of animal cruelty, abuse, and dogfighting cases do not even make it to trial due to a lack of enforcement, investigation, or prosecution. For example, both Vick and Kingrea were tried in federal court, yet they escaped with only minor prison sentences.⁸⁵ Usually, defendants charged with dogfighting at the federal level have engaged in some type of interstate transportation of the dogs; this might imply more serious involvement in the dogfighting enterprise, yet federal defendants tend to escape with lighter sentences.⁸⁶

at 197. Kingrea argued that the prosecution failed to prove an essential element of the offense “under § 2156(a)(1) of sponsoring or exhibiting ‘an animal in’ an animal fighting event.” *Id.* at 193. Thus, the court held that the “indictment against him was insufficient and that the district court’s subsequent jury instructions could not cure this fatal defect.” *Id.* at 192.

81. *Id.* at 196.

82. *Id.* at 189. Last, Kingrea was charged with violating 18 U.S.C. §§ 2 and 1955 for “unlawfully and knowingly” conducting “an illegal gambling business, . . . involving betting on cockfighting.” *Id.* at 189-90.

83. *Id.* at 189.

84. Even after 7 U.S.C. § 2156 was amended in 2009, a criminal defendant in federal court, like Kingrea, charged with animal fighting can receive a minor sentence of only a few months in prison. *See generally Kingrea*, 573 F.3d 186.

85. Whereas each defendant that was being tried in state court faced a more serious charge and overall sentencing penalty. *See generally Davis*, 907 N.E.2d 1043; *Kendrick*, 2009 Ohio App. LEXIS 3346; *Lewis*, 2009 Ohio App. LEXIS 122. Based on the cited cases (both state and federal), the irony lies in the fact that criminal defendants face harsher sentencing punishments within the state court system than they do within the federal court system.

86. *See generally Davis*, 907 N.E.2d 1043; *Kendrick*, 2009 Ohio App. LEXIS 3346; *Lewis*, 2009 Ohio App. LEXIS 122.

Another interesting aspect of the *Vick* and *Kingrea* cases must be taken into account. Unlike *Vick*, *Kingrea* neither owned nor operated the animal fighting event.⁸⁷ Instead, *Kingrea* sold animal fighting merchandise.⁸⁸ Alternatively, *Vick* housed an entire arena dedicated to fighting dogs, including an actual dogfighting pit, and owned dogfighting paraphernalia.⁸⁹ After examining the strong evidence against *Vick*, this case is more similar to cited state cases, including the *Davis*, *Kendrick* and *Lewis* cases, where defendants faced more serious charges that were accompanied with harsher penalties.⁹⁰ However, *Vick* was perhaps granted a lighter sentence because of his status as a professional athlete.⁹¹

On another note, *Vick*'s civil case specifically drew increased attention to the use of special masters. Similar to the *Vick* case, in *Sarah v. Primarily Primates, Inc.*, the court appointed Charles Jackson as a special master.⁹² Unlike the *Vick* case however, *Primarily Primates, Inc.* later objected to the use of a special master, and the case was dismissed.⁹³ Although the stated case was unsuccessful at employing a special master, the use of a special master helps ensure the protection and care of the animals involved in animal crimes cases and is an incredibly important aspect of the *Vick* case.

C. Impact of the *Vick* Case

With the fallout from the *Vick* case, legislators have been attempting to change and bolster animal fighting statutes. Following the case, the "maximum imprisonment time for violations of the [Animal Welfare Act] . . . increased from one to three years, pursuant to the Animal Fighting Prohibition Enforcement Act."⁹⁴ Additionally, the "Food Conservation and Energy Act," which was passed in 2008, "increased the maximum

87. *Kingrea*, 573 F.3d at 189.

88. *Id.* *Kingrea* was "the proprietor of a makeshift retail stand where he sold various cockfighting supplies, including gaffs, vitamins, medicines, straps, string, adhesives, and knives." *Id.*

89. Animal Legal Def. Fund, *supra* note 22.

90. See generally Animal Legal Def. Fund, *supra* note 22; *Davis*, 907 N.E.2d 1043; *Kendrick*, 2009 Ohio App. LEXIS 3346; *Lewis*, 2009 Ohio App. LEXIS 122.

91. See generally Kadence A. Otto, *Criminal Athletes: An Analysis of Charges, Reduced Charges and Sentences*, 19 J. LEGAL ASPECTS SPORT 67 (2009).

92. Fox, *supra* note 29, at 98. Charles Jackson, a San Antonio attorney, was first appointed by the court to oversee *Primarily Primates, Inc.*'s compliance with a contract to protect and care for retired chimpanzees. *Id.* Comparatively, after being appointed by the court for this purpose, Jackson requested that he be appointed as a special master on behalf of the chimpanzees. *Id.*

93. *Id.* at 100.

94. Huss, *supra* note 23, at 72.

time for imprisonment for dogfighting ventures to five years.”⁹⁵ While these changes may inspire some to breathe a sigh of relief, abuse is still facilitated by allowing many violators, both unpopular and “popular” alike, to be released relatively unpunished within the federal court system. As such, criminal defendants tend to avoid harsh penalties or sentencing at the federal level, despite the fact that animal fighting is illegal. On the other hand, based on the cited cases, all states have made animal fighting a felony and criminal defendants charged with animal fighting have been sentenced due to the passage of appropriate legislation.

D. Not Just an Animal Issue; a Greater Impact

Animals, as living beings, deserve to live a full life that is free from abuse and animal fighting.⁹⁶ Protecting animals from abuse will, in turn, not only help the animals themselves, but also foster greater protection for children and victims of domestic violence. According to the Chicago Police Department, a direct link exists between animal cruelty and domestic violence.⁹⁷ The survey revealed that “65 percent of people charged with animal abuse crimes have committed serious crimes against humans as well.”⁹⁸ During a survey conducted by Professor Frank Ascione, fifty-four percent of victims of intimate partner violence acknowledged that their partner had either hurt, injured, or killed a pet.⁹⁹ In fact, Ascione reinforced his findings by surveying the abusers themselves.¹⁰⁰ Ascione asked men incarcerated for domestic

95. *Id.*

96. The interests of animals are intertwined with that of our own, and “despite their observable differences from humans, [animals] have interests worthy of protection.” Margit Livingston, *Desecrating the Ark: Animal Abuse and the Law’s Role in Prevention*, 87 IOWA L. REV. 1, 16-17 (2001). As sentient beings, animals, like humans, “have the right to be free from needless brutality.” *Id.* at 17. A number of philosophers have argued that animals “are deserving of consideration, if not rights, and that humans, as a result, owe animals certain duties.” *Id.* at 18. Included within these owed duties, is a human duty to protect animals from harm and abuse, preserving animal welfare.

97. Phillip Tobias, *Dogfighting Now a Felony in All 50 States: An Animal Should Not Be a Weapon*, ASSOCIATED CONTENT (Mar. 12, 2008), available at http://www.associatedcontent.com/article/648627/dog_fighting_now_a_felony_in_all_50.html?singlepage=true&cat=17.

98. *Id.*

99. Frank Ascione, Prof. and Am. Humane Endowed Chair, Exec. Dir. at the Inst. for Human-Animal Connection, Univ. of Denver Graduate Sch. of Soc. Work, Speaker at Lewis and Clark Univ. Animal L. Conf.: *The Classic Link: Domestic Violence & Animal Abuse* (Oct. 17, 2009). In a similar study in Australia, 52.9% of victims of intimate partner violence admitted that their partner either hurt, injured, or killed a pet. *Id.*

100. *Id.*

violence or other crimes (but they admitted to domestic violence) if they had hurt, injured, or killed an animal; 55.3% responded they had in fact committed an act of violence against a pet while living with a victimized partner.¹⁰¹ Ascione discovered that batterers use violence toward pets in order to control their victims (both the animal and the partner or family), as well as prevent their partner or family from leaving.¹⁰² Animal abuse is a way of preventing a partner or family from seeking shelter from an abuser.¹⁰³ This kind of physical abuse to the animal and emotional abuse to the observer is a type of symbolic related threat.¹⁰⁴

Effects of animal abuse directly impact children as well.¹⁰⁵ Ascione discovered that 66.7% of children living in homes with animal abuse had either seen or heard the abuse take place, or were purposely made to watch.¹⁰⁶ Of this percentage, fifty-one percent of the children tried to protect the pet, exposing themselves to the violent adult.¹⁰⁷ Children who are exposed to animal abuse at a young age due to domestic violence often become desensitized to the inhumane treatment of animals and are nearly three times more likely to engage in animal cruelty.¹⁰⁸ Similarly,

101. *Id.*

102. Megan Senatori, Partner of DeWitt, Ross & Stevens, S.C., Speaker at Lewis and Clark Univ. Animal L. Conf.: The Classic Link: Domestic Violence & Animal Abuse (Oct. 17, 2009).

103. *Id.* A partner or family may be reluctant to leave an abuser because they cannot ensure the safety of the animal. *Id.*

104. *Id.* The physical abuse that the animal is subjected to is a symbolic threat of what can happen to either the partner or family that is observing the animal abuse. *Id.*

105. According to empirical evidence, children “who are particularly cruel to animals are far more likely to engage in violent behavior toward other children.” Brimer, *supra* note 11, at 654.

106. Ascione, *supra* note 99.

107. *Id.*

108. Allie Phillips, *The Few and the Proud: Prosecutors Who Vigorously Pursue Animal Cruelty*, 42 PROSECUTOR 20, 22 (2008). The HSUS estimates that nearly one million animals per year are abused or killed in connection with domestic violence. The Humane Society, *supra* note 58. Specifically, about 2,168,000 women and men are physically assaulted by a partner annually in the U.S., and of that amount sixty-three percent of the households owned a pet. *Id.* In addition, seventy-one percent of domestic violence victims report that their abuser also targeted their animal. *Id.* In *State of New York v. Degiorgio*, No. 100250, 2007 N.Y. App. Div. LEXIS 229, at *1 (2007), the defendant attacked and killed his girlfriend’s dog and was convicted of “intimidating a victim or witness in the third degree, aggravated harassment in the second degree, [and] aggravated cruelty to animals.” After allegedly attacking and killing the girlfriend’s dog, “a 12-year-old, 18-pound Dachshund,” Degiorgio placed a number of phone calls to his girlfriend threatening to “hunt her down and kill her.” *Id.* at *1, 2. Specifically, Degiorgio “kicked the dog while wearing boots, picked it up by its neck and shook it, banged the dog’s head against a door and threw it down basement stairs onto a cement floor.” *Id.* at *2. Considering these acts “cumulatively

children who partake in animal abuse themselves tend to exhibit a propensity to attack human victims as well.¹⁰⁹

In addition, clear evidence exists indicating that criminals who partake in dogfighting are more likely to commit or be simultaneously involved in other serious crimes.¹¹⁰ For example, as evidenced in *Kendrick*, drugs often play a role in dogfighting.¹¹¹ Most commonly, defendants are in possession of drugs at or during a dogfight.¹¹² Also, possession of a firearm, whether it be lawfully registered or not, is another sign that animal abusers are capable of accessing a weapon of violence.¹¹³ Many defendants resort to the use of firearms to protect their financial investments and interest in dogfighting operations.¹¹⁴ Last, fighting dogs for entertainment purposes has been connected to gang activity as well as illegal gambling.¹¹⁵ Therefore, if law enforcement diligently investigated

under the prevailing circumstances, [the court] conclude[d] that the proof was legally sufficient to satisfy the statutory elements of the charged crime, and further, the conviction was not against the weight of the evidence." *Id.* at *2-3. Based on this case and other available evidence, a link exists between violence toward animals and violence toward humans.

109. Livingston, *supra* note 96, at 42. According to a number of social science studies, "cruelty to animals can be a predictor of later violent crimes against humans." *Id.* Media frequently reports "a childhood history of animal abuse among convicted serial and mass murderers." *Id.* at 43. One example, Albert DeSalvo (the "Boston Strangler"), who later murdered thirteen women from 1962 to 1963, "was known to have trapped dogs and cats in orange crates and to have shot arrows through the boxes" during his youth. *Id.* In comparison, Edmund Kemper, later convicted of murdering eight women, "testified that as a child he had frequently tortured dogs and cats." *Id.* Similarly, another serial murder, Carroll Cole, "recalled that his first childhood act of violence was strangling a puppy." *Id.* at 43-44. In addition, a number of adolescents convicted of school shootings have frequently abused animals before committing acts of violence against others. *Id.* at 44. Before the shootings at Columbine High School in Littleton, Colorado in 1999, the teenagers admitted they mutilated animals. *Id.* In likeness to this example, a fifteen-year-old boy "boasted of having tortured and killed animals before fatally shooting two classmates and wounding twenty-two others in Springfield, Oregon, in 1998." *Id.* When a child who commits acts of animal abuse and "fails to develop empathy for others[,] . . . it is logical to assume that the child, if his behavior goes unchecked and his psychological condition untreated, will progress toward further and more deviant criminal behavior as he gets older." *Id.* at 45. Based upon these examples, childhood or juvenile acts of abuse toward animals can be indicative of a propensity to commit acts of violence against human victims later on in life.

110. People who commit animal cruelty are five times more likely to commit other violent crimes. Heiser, *supra* note 4.

111. *Kendrick*, 2009 Ohio App. LEXIS at *2.

112. *Id.* at *6.

113. *Lewis*, 2009 Ohio App. LEXIS at *1.

114. Heiser, *supra* note 4.

115. Certain people, including dogfighting enthusiasts, gang members, and drug dealers, purposely select, breed, and train dogs to be vicious and partake in fighting for a number of different purposes. Larry Cunningham, *The Case*

dogfighting and animal abuse and these cases were seriously prosecuted, other related violent crimes would diminish proportionately.

In conjunction with their unique role within the judicial system, lawyers have a legal duty to advocate for animals because animals are unable to do so themselves.¹¹⁶ Legislative trends further demonstrate a concern for animal welfare and protection. In 1993, only seven states had felony anti-cruelty legislation on record.¹¹⁷ As of 2009, merely four states are without felony anti-cruelty legislation.¹¹⁸

Animal abuse issues tend to be trivialized in today's society, both legally and socially. However, as a society, people have shown they care about animals even through consumer practices.¹¹⁹ Through a growing industry catering to animal merchandise and increased consumer spending on animals, it is apparent that people care about animal welfare.¹²⁰ Regardless of consumer practice, there is also a more important existing social and moral consequence of allowing animal abuse to go unpunished: results for society as a whole are detrimental.

IV. WHAT MUST BE DONE TODAY

Based upon the overall impact animal crimes have on society, my proposal is complex and multi-faceted combining legislative, executive, and judicial efforts as well as rehabilitative and educational solutions.

A. *An Increase in the Use of Special Masters*

Appointing more special masters for animal abuse cases will ensure the safety and livelihood of animals involved in animal abuse and dogfighting cases.¹²¹ Special masters bring a uniquely

Against Dog Breed Discrimination by Homeowners' Insurance Companies, 11 CONN. INS. L.J. 1, 35-36 (2004-2005). Some purposes for fighting dogs may be "to intimidate rivals (in the case of gangs and drug dealers), to defend illegal drugs (in the case of drug dealers), to make money (in the case of promoters of dogfights)," or as a symbol of status. *Id.* at 36.

116. Animal cruelty and abuse cases are similar to infant abuse cases because the victims of these crimes, animals and infants, cannot speak out on their own behalf. Heidi Moawad, Deputy Dist. Att'y, Multnomah County Dist. Att'y's Off., Speaker at Lewis and Clark Univ. Animal L. Conf.: *The People v. Animal Cruelty: Criminal Prosecutions* (Oct. 17, 2009).

117. Heiser, *supra* note 4.

118. *Id.*

119. *Id.* Spending on pets has increased despite the economic downturn. *Id.* In 2007, people spent a total of \$41.2 billion on their pets. *Id.* In 2008, that amount increased to \$43.2 billion. *Id.* The amount consumers spent on their animals as of October 2009 was \$45.3 billion. *Id.*

120. *Id.*

121. Fox, *supra* note 29, at 87.

humane view to the court room and ensure adequate protection for the animals involved in animal crimes cases.¹²² According to Rebecca Huss, the special master appointed in the *Vick* case, taking care of the animals was first priority.¹²³ Courts must keep the use of special masters in mind when considering dogfighting, animal cruelty, and animal abuse cases dealing with a number of animals.

B. Cooperation

The legislature must enact harsher legislative penalties against animal abusers at the state and federal levels. Based upon the case study performed here, including *Vick* and *Kingrea*, the legislature should place more of an emphasis at the federal level. First, the legislature should not only focus on owners partaking in dogfighting, but also make it a felony for spectators and witnesses to attend these events. In addition, mandatory minimum sentencing may be a solution to light, ineffective sentencing by the court system.¹²⁴ Mandatory minimum sentencing in cases of dogfighting, animal cruelty, and animal abuse would help “create uniform and predictable sentences” while deterring future acts of violence.¹²⁵ Moreover, mandatory minimum sentencing may help

122. *Id.* at 89. Special masters are a unique tool to be employed in animal crimes cases, bringing “time, expertise, informality, and humanity to the process of determining the interim care and final disposition of abused animals.” *Id.* Furthermore, a number of advantages are achieved through the use of special masters, specifically ensuring animals receive proper interim and long-term care, overseeing the actual animal crimes case, inserting a “best-interest-of-the-animal-analysis” into official court proceedings, and encouraging enforcement of animal protection laws. *See generally* Fox, *supra* note 29.

123. *See generally* Huss, *supra* note 23 (explaining the steps taken by the special master to enhance the well being of the defendant’s dogs). As a special master, an appointee must maintain an open mind and keep all options open for the abused animals. Some animals may be resilient enough to handle a shelter environment, whereas it may be more beneficial for others to be put into foster care. *Id.* at 82. Furthermore, veterinary care is imperative to the health and well being of the animals. *Id.* As “property” of the federal government, the dogs in the *Vick* case enjoyed extensive veterinary care. *Id.*

124. Mandatory minimum sentencing could be used by the legislature to deter future offenders from committing similar crimes by sending a clear and harsh message . . . ; provide a longer period of detachment between the offender and the community, thereby protecting the public from the possibility of a repeat offense . . . ; [and] remove discretion from the sentencing process so that similar crimes are punishable by a declared minimum sentence.

Brimer, *supra* note 11, at 656. Mandatory minimum sentencing could be effective in cases of adult and juvenile offenders, specifically as a rehabilitative method. *Id.* at 657.

125. *Id.* Mandatory minimum sentencing would deter future acts of violence by “forewarning the potential offender with certainty that, if apprehended and convicted, he will serve hard time.” *Id.* Animal cruelty/abuse and dogfighting

prevent professional athletes, like Vick, from escaping proper sentencing.

Next, animal fighting and abuse statutes should require immediate forfeiture of the animal(s) after a person is suspected of animal abuse or using companion animals for fighting purposes.¹²⁶ Following further police investigation, the animal or animals should either be returned to the owner after being exonerated of the charges against them or forever relinquished if found guilty at trial. Thus, in order to fully protect animals from abusive owners, measures should be taken through “the convicted abuser’s forfeiture of the abused animal, [and] restrictions on the abuser’s future ownership of animals.”¹²⁷

Providing limitations on ownership of any animal is also a necessity. Creating a minimum three year ban on ownership of any animal against first-time offenders would provide for animal safety while allowing a proper amount of time for rehabilitation.¹²⁸ A lifetime ban on ownership of any animal against repeat animal abusers would likely prevent future acts of violence against animals.¹²⁹

Equally as important, there must be greater efforts to strictly enforce dogfighting and animal abuse legislation. Therefore, the creation of a special task force, in which local police are solely dedicated to investigating cases of animal crimes (including dogfighting, animal cruelty, and animal abuse), should be implemented to verify the use of standard investigatory procedures.¹³⁰ By ensuring proper investigatory procedures, prosecutors will be provided with the evidence necessary to

must be taken seriously and punished appropriately in order to deter future acts of violence against both humans and others within the community. *Id.* at 662.

126. See generally 510 ILL. COMP. STAT. 70/3.0 (2009) (requiring forfeiture of a companion animal or an animal used for fighting if security is not posted to pay for the animal’s care).

127. Livingston, *supra* note 96, at 68-69.

128. Immediate seizure and “forfeiture of the abused or neglected animal assures that the animal will not again be subject to the inhumane treatment.” *Id.* at 69.

129. Accordingly, “restrictions on animal ownership are appropriate in cases where the perpetrator has deliberately tortured an animal or where the perpetrator has had previous convictions of animal abuse.” *Id.* at 70.

130. Orr Shtuhl, *States Tighten Dogfighting Laws*, STATELINE (Sept. 11, 2007), <http://www.stateline.org/live/details/story?contentId=238956>. Typically, police officers and law enforcement officials do not have the resources or training to properly investigate animal crimes cases. Kruse, *supra* note 6, at 1424. States could implement an animal crimes task force by “enlisting members from police, animal control and district attorney’s offices among others to foster better training, enforcement and prosecution of dogfighting cases.” Shtuhl, *supra*. Regardless of whether a special task force for animal crimes is implemented, “law enforcement agencies should encourage officers to take such training.” Kruse, *supra* note 6, at 1424.

properly charge and convict defendants guilty of animal cruelty, animal abuse, and dogfighting. In addition, the specialized knowledge needed to investigate dogfighting cases would not be questioned. Last, law enforcement officers should be encouraged to seize animals that appear to have been abused, neglected, or used for any reason other than as a companion animal.¹³¹

Finally, the judiciary must cooperate with the legislature and law enforcement officials to punish all those who commit acts of cruelty or abuse (both minor and heinous). If a judge has a conflict of interest or refuses to allot the deserved time and attention required for dogfighting and animal abuse cases, a lawyer must act quickly.¹³² Most importantly, it is imperative that prosecutors take animal cruelty, animal abuse, and dogfighting cases seriously and actively administer harsh punishments and adequate sentencing.¹³³ The *Vick* and *Kingrea* cases display a significant disparity in enforcement at the federal level. Federal prosecutors must encourage harsher sentencing at the federal level. Prosecutors should employ a number of creative strategies to ensure conviction and proper sentencing.¹³⁴

C. Sharing Vital Information

Assembling a composite list (to be shared amongst shelters nationwide) of the names of the people who have a history of using dogs for fighting purposes, or present questionable motives for adoption, would assist shelters in avoiding the adoption of animals for the wrong reasons. The database would archive names of defendants convicted of animal cruelty, animal abuse, or animal fighting and would be available to the public.¹³⁵ Animal shelters, neighbors, and prosecutors would be more aware and able to recognize the potential violence that animal abusers, or criminals convicted of dogfighting, are capable of.

131. Fox, *supra* note 29, at 90.

132. *Id.* at 96. Lawyers must become familiar with the procedural process for conflict cases and take the requisite steps to ensure the case gets proper attention and that the case is not dismissed for the wrong reasons.

133. Following *Vick's* guilty plea, the defendant could have faced up to five years in prison after being charged with federal conspiracy; instead, prosecutors recommended a mere twelve to eighteen months in prison. Shtuhl, *supra* note 130.

134. Some techniques include failure to seek medical attention for an animal and intent to deprive an owner of a companion animal. Heiser, *supra* note 4.

135. Similar to the sex offender registry, a list of convicted animal abusers, including offenders convicted of dogfighting, could be created to form a database available to the public. Sex offender statutes "require convicted sex offenders to register with police when moving into a community or changing their address." Abril R. Bedarf, *Examining Sex Offender Community Notification Laws*, 83 CAL. L. REV. 885, 885 (1995). Community notification statutes are just one way to empower citizens and enable them to monitor the activities of convicted sex offenders living within their community. *Id.*

In conjunction with the registry, “requiring veterinarians to report suspected instances of animal cruelty and requiring child welfare agencies to note the condition of animals . . . and alert prosecuting authorities if they observe suspected animal abuse,” would open communication and promote sharing of vital information between veterinarians, child welfare agencies, and prosecutors.¹³⁶ As a result, increased attention combined with cooperative efforts would be established for reported animal crimes cases.

D. Adequate and Proper Rehabilitation

Rehabilitation for children who commit acts of violence against animals, or are unfortunate witnesses of such violence, could help prevent future acts of abuse toward animals and humans alike.¹³⁷ Moreover, proper rehabilitation of defendants convicted of participating in dogfighting or committing acts of abuse toward animals is crucial. Rehabilitation is imperative; not only to prevent defendants from becoming repeat offenders, but also to immobilize the cycle of violence toward animals and others. Another important step to preventing animal abuse and ensuring rehabilitation of domestic abuse victims is the creation of shelters that not only take in battered spouses and children, but their pets

136. Livingston, *supra* note 96, at 62. Imposing a duty to report cases of suspected animal cruelty/abuse and dogfighting on veterinarians and child welfare agencies will allow future cases to be reported and further investigated. *Id.*

137. By analyzing scientific research and evaluations of juveniles by social workers and child psychologists, courts “may be able to identify convicted child and adolescent animal abusers most at risk of progressing to further and more violent criminal activity.” *Id.* at 65-66. According to a number of social science studies, “once conduct disorders and antisocial behaviors develop in a child or adolescent, they are extremely difficult to change.” *Id.* at 66. If a juvenile’s behavior goes unchecked and the psychological condition continues to go untreated, the child will become accustomed to a lack of empathy and future acts of violence will most likely continue. *Id.* at 46. Studies have also suggested that “juvenile animal abuse does not improve with the passage of time alone.” *Id.* at 50. As such, courts and prosecutors must identify juvenile animal abusers early so the abuser can receive the necessary treatment and subsequent rehabilitation. *Id.* at 64.

Treatment strategies include, but are not limited to, “anger management programs, individual psychotherapy, . . . and multisystemic therapy (MST) programs.” *Id.* at 66. MST programs treat both the juvenile and their entire family by encouraging parents to overcome problematic behavior and handle their children in a positive, effective way, along with promoting academic involvement and appropriate extracurricular activity by the juvenile. *Id.* at 66-67. Another treatment method proven to be effective is supervised pet therapy. *Id.* at 67. In the case of juveniles, “the lack of empathy that . . . drove the child to be cruel to animals may be overcome by encouraging the child to develop a bond with a particular animal” and “can lead the child to experience empathetic feelings for others.” *Id.* at 67-68.

as well.¹³⁸

E. Education

Education is an obvious and essential component in preventing further abuse of animals. To fully grasp the seriousness of animal abuse and dogfighting, a person must understand the link between animal cruelty and other forms of violence.¹³⁹ People who commit acts of violence against animals are much more likely to exhibit a propensity for violence and commit future acts of violence against others.¹⁴⁰ If society recognizes the connection between animal abuse and other acts of violence, specifically domestic violence, proper steps can be enacted to recognize, report, and prevent acts of violence against animals, children, and others.

Requiring educational seminars in elementary and secondary schools would enable educators to teach children about recognizing, reporting, and preventing animal cruelty, animal abuse, and animal fighting. Additionally, educational classes should be provided for prosecutors.¹⁴¹ Participation in such classes, specifically geared toward animal crimes cases, would assist attorneys in becoming more comfortable with tackling such complex cases.

F. Public Policy

Sound public policy will be achieved by the enforcement of harsher cruelty, abuse, and dogfighting penalties. By convicting animal abusers and criminals who use animals for fighting purposes, prosecutors can prevent more serious crimes.¹⁴² Not only would this proposal assist animals, but it would help children and

138. *Id.* at 71. In the absence of such an option, “the pet is left behind in the abuse home as the only target of the abuser’s anger or . . . the human victims may decide not to seek refuge in a shelter for fear of abandoning their pet.” *Id.* If pets are allowed to accompany victims of domestic violence to a shelter, a battered spouse and child are more likely to leave an abusive partner. Senatori, *supra* note 102. If for any reason a shelter is unable to accommodate pets, domestic violence shelters “should attempt to coordinate with their local humane shelter to house the victims’ companion animals until the victims can resolve their domestic situation.” Livingston, *supra* note 96, at 71.

139. Heiser, *supra* note 4.

140. *See supra* notes 108-10 (demonstrating a link between violence to animals and violence to people).

141. Kruse, *supra* note 6, at 1424-25.

142. *See supra* notes 110-13 (citing cases where animal abusers were convicted of other serious crimes). Prosecutors can achieve good preventative casework by pursuing animal cruelty, animal abuse, and dogfighting cases. Heiser, *supra* note 4. Psychologists have conducted studies that reveal “cruelty toward animals has been shown to lead to violent acts against humans, including [but not limited to] spousal abuse and sexually aggressive crimes.” Brimer, *supra* note 11, at 653.

other victims of abuse, as well as better society as a whole.

V. IN THE END

In recent years, animal law has emerged as a relatively new field of law serving to represent the legal interests of animals. Animal welfare is an important issue that greatly impacts society as a whole. Since the *Vick* case, case law and legislation have been further developed to help mitigate some apparent problems faced by animal welfare advocates. After analyzing and comparing the *Vick* case with other recently decided animal crimes cases, it becomes apparent that more must be done. The *Vick* case should not be forgotten and must act as a signal for much-needed change. The courts, legislature, and enforcement agencies need to continue their diligence in working hard to implement and enforce proper sentencing as well as punishment in *all* cases of crimes against animals.