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Protecting Our Pups at All Costs: Why Dogfighting Cases Require a Mandatory Restitution Assessment

Ayah Ighneim
Cleveland State University College of Law

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Protecting Our Pups at All Costs: Why Dogfighting Cases Require a Mandatory Restitution Assessment

AYAH IGHNEIM*

ABSTRACT

This Note recommends that Congress acknowledge the dangers behind dogfighting by updating the federal mandatory restitution statute to include “animals” within the definition of a “victim” eligible to receive restitution and by updating federal animal-cruelty laws. This recommendation stems from the popularization of dogfighting in the twenty-first century. Specifically, this Note articulates the link between the prevalence of dogfighting in America and the lack of deterrence targeted toward dogfighting in America. This Note then argues that this lack of deterrence is a result of the lack of Congressional guidance within both the federal restitution statute and within federal animal-cruelty laws. By recommending an update to the federal restitution statute and federal animal-cruelty laws, this Note aims to increase these laws’ enforcement power and, ultimately, both deter dogfighting and make it easier for animals who have been harmed in a dogfighting venture to be taken care of and, hopefully, heal.

* Juris Doctor Candidate 2024, Cleveland State University College of Law. My thanks go to the *Cleveland State Law Review* for selecting this Note, and to each member of *CSLR* for their time, effort, and attention. I would also like to thank Professor Brandon Stump for his extensive guidance as I wrote this Note. Finally, I am extraordinarily grateful to my support system who encouraged me throughout the many versions of this Note: to my parents, Runa and Hayyal, for their endless support in my academic endeavors; my sister, Sabreena, for constantly cheering me on; my partner, Michael, for all of the pep talks while writing this Note and for the reminders to take a break from writing; and to my rescue dog, Blu, who inspired me to write about the importance of protecting our pups.

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I. INTRODUCTION

Following a months-long manhunt, the United States Marshals Service finally tracked down the individual responsible for a monstrous dogfighting operation in Akron, Ohio.¹ The lead prosecutors on the case appeared before a federal judge, requesting the defendant’s incarceration and an order of restitution to fund the care of the dogs.² Litigation on the issue of restitution lasted months.³ Meanwhile, the rescued dogs sat in kennels, waiting to see if they would be rehomed or approved for surgeries they desperately needed after being forced to participate in dogfighting rings.⁴ Finally,

¹ *Akron Man Charged with Dog Fighting, Drug Trafficking, and Illegal Possession of Firearms*, U.S. DEP’T OF JUST. (July 13, 2022), <https://www.justice.gov/usao-ndoh/pr/akron-man-charged-dog-fighting-drug-trafficking-and-illegal-possession-firearms>; *see also* Sentencing Transcript at 13, *United States v. Ronald Smith*, No. 5:22-CR-00277-JRA (N.D. Ohio May 25, 2022), ECF No. 39 (stating that Defendant’s first encounter with law enforcement occurred on March 25, 2022); Arrest Warrant at 1, *Smith*, No. 5:22-CR-00277-JRA (N.D. Ohio May 25, 2022), ECF No. 5 (showing that Defendant was not arrested until July 12, 2022 in connection with the dogfighting crimes).

² Change of Plea Hearing Transcript at 14–15, 23, *Smith*, No. 5:22-CR-00277-JRA (N.D. Ohio May 25, 2022), ECF No. 38.

³ Compare Indictment at 1, *Smith*, No. 5:22-CR-00277-JRA (N.D. Ohio May 25, 2022), ECF No. 1 (initiating litigation in this case in May 2022), with Judgment at 1, *Smith*, No. 5:22-CR-00277-JRA (N.D. Ohio May 25, 2022), ECF No. 30 (ending litigation in this case in January 2023).

⁴ *See* Adam Ferrise, *Akron Man Arrested on Dog-Fighting Charges After Feds Seized 15 PitBulls From Two Homes*, CLEVELAND.COM (July 12, 2022), <https://www.cleveland.com/news/2022/07/akron-man-arrested-on-dog-fighting-charges-after-feds-seized-15-pit-bulls-from-two-homes.html>.

months later, the court issued the order for restitution—but several dogs died while waiting for the litigation to end.⁵

Had there been a mandatory restitution clause to support the prosecution’s claim that the court should order the defendant to pay financial compensation for the harm he caused, the dog’s surgeries and rehoming would have been expedited significantly.

This startling true story from Akron, Ohio is a case-in-point for why a mandatory restitution clause is necessary in dogfighting cases.⁶ The reality is that dogfighting is an ongoing practice throughout the United States and has been since the 1750s.⁷ Although laws have been passed specifically prohibiting dogfighting,⁸ criminals continue to participate. Because of the substantial financial assets that criminal dogfight offenders (“dogfighters”) obtain from hosting these fighting ventures, the cruel practice has yet to stop.⁹

As the prevalence of dogfighting throughout the country grows,¹⁰ Congress has acknowledged its danger and has developed numerous laws aimed to remedy the issue.¹¹ Specifically, Congress defined the term “animal fighting venture” to protect animals, including dogs, from being subjected to these cruel practices.¹² Congress

⁵ See Kristi Keck, *Fighting Dogs Face Grim Future*, CNN (Aug. 23, 2007), <https://www.cnn.com/2007/US/08/23/dog.fighting/index.html>; While externing at the United States Attorney’s Office during law school, I saw firsthand footage and images of the cruelty that the dogs in this case were subject to—some of their injuries resulting in death.

⁶ *Akron Man Charged with Dog Fighting*, *supra* note 1 (“[T]he indictment charges Smith with 15 counts of possession and training of dogs for the purposes of an animal fighting venture [T]he indictment states that Smith possessed items used to train and prepare dogs for participation in dog fighting In addition, the indictment states that authorities recovered eight pit bull-type dogs from the Fultz Street residence and seven pit bull-type dogs from the Herman Avenue residence.”).

⁷ *A Closer Look at Dogfighting*, ASPCA, <https://www.aspc.org/investigations-rescue/dogfighting/closer-look-dogfighting> (last visited Feb. 22, 2024) (stating that historical accounts or organized dogfighting date back to the 1750s).

⁸ 7 U.S.C. § 2156.

⁹ *A Closer Look at Dogfighting*, *supra* note 7 (“There are many reasons people are drawn to dogfighting. The most basic is greed. Major dogfight raids have resulted in seizures of more than \$500,000, and it is not unusual for \$20,000–\$30,000 to change hands in a single fight. Stud fees and the sale of pups from promising bloodlines can also bring in thousands of dollars.”).

¹⁰ Milica Stojanovic, *16 Scary Dog Fighting Statistics in 2023*, PETPEDIA, <https://petpedia.co/dog-fighting-statistics/> (Mar. 2, 2022).

¹¹ *Bill to Help Victims of Animal Fighting Reintroduced in U.S. House*, ASPCA (Mar. 19, 2021), <https://www.aspc.org/news/bill-help-victims-animal-fighting-reintroduced-us-house> (explaining the reintroduction of the HEART Act “to ensure that victims of animal fighting are able to receive the care and rehabilitation that they deserve When terrible dog fighting rings are broken up, trials and legal proceedings can take months or years, during which rescued dogs must be cared for by the government”).

¹² 7 U.S.C. § 2156(f)(1) (“[T]he term ‘animal fighting venture’ means any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted

carefully defined an “animal fighting venture” with the goal of eradicating animal fighting.¹³ Further, Congress enacted the Animal Welfare Act (“A.W.A.”) to regulate commercial animal practices and to improve the welfare of animals as a whole,¹⁴ as well as the Protection Against Preventing Animal Cruelty and Torture Act (“PACT Act”) to define egregious “offenses” against animals for the purpose of imposing criminal sanctions.¹⁵

These laws have created meaningful criminal penalties for those participating in an animal fighting venture.¹⁶ While these efforts are imperative in moving the needle and indicate Congress’s intent to eradicate dogfighting, Congress has yet to codify any mandatory restitution requirement. Further, Congress limited many of the penalties under these federal statutes to commercial practices only.¹⁷ But dogfighting is not covered because it is a *crime*—not a commercial practice. Thus, these federal laws contain no provision requiring the defendant to pay any financial costs gained from their participation in dogfighting to aid with the care of the dogs going forward. Consequently, these laws do not get at the heart of what makes dogfighting such a booming phenomenon among criminals: money.¹⁸

This Note contends that the current lack of guidance from Congress regarding assessment of restitution costs for dogfighters creates numerous problems, including: (1) a lack of deterrence for criminal dogfight offenders, (2) restitution policies that are inconsistent with the legislative intent behind the current, mandatory restitution statute, (3) a lack of uniformity in federal sentences for dogfighting across courts—

between at least 2 animals for purposes of sport, wagering, or entertainment, except that the term ‘animal fighting venture’ shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal.”).

¹³ The legislative history suggests that Congress is concerned with the popularity of animal fighting ventures being spread through websites and magazines to spread news of animal fighting. H.R. Rep. No. 110-27(I), at 2 (2007) (“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.”).

¹⁴ Animal Welfare Act, 7 U.S.C. § 2131 (finding the authority to regulate this practice because “animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce”).

¹⁵ Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151, (2019).

¹⁶ 18 U.S.C. § 49; 7 U.S.C. § 2156(e).

¹⁷ 7 U.S.C. § 2156(e) (instituting criminal penalties for only those engaged in “interstate or foreign commerce”); 18 U.S.C. § 2149 (assessing civil penalties only to those who were given a license from the Secretary of Agriculture).

¹⁸ See *Pitbull Fighting and Horse Abuse—What Every Officer Should Know: In the Line of Duty, Volume 13* (June 13, 2013) (downloaded from the Cleveland State University College of Law Library) (explaining that individuals invest large amounts of money into dogfights).

both on the issue of restitution assessment and standing to receive restitution—and (4) federal court’s lack of power to enforce the current animal-cruelty statutes. This Note recommends Congress correct this lack of guidance on restitution for dogfighting cases by (1) changing the definition of “victim” to include “animals” within the mandatory restitution clause, 18 U.S.C. § 3663, such that individuals convicted of dogfighting are subject to paying restitution costs for the seized dogs and (2) updating the current federal law surrounding animal-cruelty to codify restitution clauses within all laws surrounding dogfighting.

Part II of this Note explains: (1) the prevalence of dogfighting, (2) the lack of mandatory restitution sanctions assigned to dogfighters within sentencing guidelines, (3) the ability for advocates to assert standing to obtain restitution costs on behalf of dogs and (4) the current federal animal-cruelty laws. The prevalence of dogfighting is key to understanding why current restitution sanctions and current federal animal-cruelty laws are not harsh enough. Further, understanding how dogfighting persists is essential to reasoning why courts allow advocates to obtain restitution costs on behalf of injured dogs.

Part III analyzes the consequences of the current lack of guidance on restitution sanctions for dogfighting, including: (1) a lack of deterrence, (2) current policy gaps in the restitution statute, (3) the current lack of judicial uniformity on the issue of standing to receive restitution costs and restitution assessment generally, and (4) a discussion of the lack of enforcement within the current “symbolic” federal animal-cruelty statutes. This Note posits that the prevalence of dogfighting is explained by the current lack of statutory and judicial deterrence on the matter.

Finally, Part IV offers a two-pronged solution with a recommendation to the legislature entailing: (1) a mandatory restitution clause within Federal Sentencing Guidelines for dogfighting and (2) an update to the current federal animal-cruelty laws to give courts more enforcement power. Both aspects of this solution are essential to deterring the cruel practice of dogfighting.

II. BACKGROUND

A. *Dogfighting: Prevalence in the United States and Why Criminals Participate*

Records indicate that early dogfighting rings date back to the 1750s.¹⁹ But, despite the age-old practices of dogfighting, the crime continues to thrive. With, on average, one single dog in a dogfight generating \$100,000 in profit, the crime thrives on the greed of dogfighters.²⁰ Today, criminal offenders who facilitate dogfights may be prosecuted on the federal level as codified by 7 U.S.C. § 2156, commonly referred to

¹⁹ Randall Lockwood, *Dogfighting: A Guide for Community Action*, ASPCA 6 (Nov. 2012), <https://portal.cops.usdoj.gov/resourcecenter/ric/Publications/cops-w0682-pub.pdf> (“Although there are historical accounts of dogfights involving mastiffs or other larger breeds going back to the 1750s, widespread activity really emerged after the Civil War, with professional pits proliferating in the 1860s, mainly in the Northeast.”).

²⁰ *Dogfighting*, PETA, <https://www.peta.org/issues/animals-in-entertainment/cruel-sports/dogfighting/> (last visited Feb. 22, 2024) (“One dog who was described as a particularly successful fighter generated \$100,000 . . . in a single year.”).

as the Animal Welfare Act.²¹ Under the Animal Welfare Act, penalties for sponsoring, exhibiting, or attending a dogfight include a fine payable to the United States Government and/or up to five years in prison.²² And although Congress codified dogfighting as a crime in the last fifteen years, it remains prevalent.²³ So, why do criminals facilitate dogfighting despite the current law and the potential penalties? The answer is simple: money.²⁴

Dogfighters facilitating these ventures now face a higher risk with the passage of statutes prohibiting the crime.²⁵ Yet, with the high profits generated,²⁶ dogfighters continue to facilitate these ventures with no real deterrent addressing the profit side of the operation.²⁷ While convicted dogfighters are charged with a felony, the most commonly instituted penalty is one year in prison—typically, no fine is assessed.²⁸

²¹ 7 U.S.C. § 2156. When dogs are subject to dogfighting rings, they fall under the meaning of an “animal” in an “animal fighting venture” for the purposes of 7 U.S.C. § 2156(f), and thus, they may be seized. *Id.* (stating Congressional definition of “animal” as “any live mammal, except man” and defining an “animal fighting venture” as “any event . . . that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment”).

²² 18 U.S.C. § 49(a).

²³ EDWARD F. DOLAN, JR., *ANIMAL RIGHTS* 114 (Franklin Watts ed., 1986) (“Though outlawed in various areas of the United States, countless pit bulldog fights and cockfights still take place, with the spectators gathering in rural barns and city basements to see the battles, which are usually fought to the death.”).

²⁴ ABIGAIL PERDUE & RANDALL LOCKWOOD, *ANIMAL CRUELTY AND FREEDOM OF SPEECH: WHEN WORLDS COLLIDE* 13 (2014) (describing the motivation behind dogfighting as “the sense of power and control . . . as well as the potential financial gain”); *see also* Hanna Gibson, *Detailed Discussion of Dog Fighting*, *ANIMAL LEGAL & HIST. CTR.* (2005), <https://www.animallaw.info/article/detailed-discussion-dog-fighting> (“Dogfighting is an incredible source of income for gangs and drug traffickers. In fact, the average dog fight could easily net more money than an armed robbery, or a series of isolated drug transactions.”).

²⁵ *See* 7 U.S.C. § 2156; *see also* Animal Welfare Act, 7 U.S.C. § 2131; Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019).

²⁶ Nancy Lawson, *The Costs of Dogfighting*, *ANIMAL SHELTERING* 38 (Nov./Dec. 2007), https://www.lb7.uscourts.gov/documents/costs_of_dogfighting.pdf (“Pit bulls are a kind of currency in the dogfighting world, their value assessed by how much cash their jaws or genes will earn. Peddling puppies can prove as lucrative as dealing drugs; one Ohio dogfighter traded selling cocaine for breeding pit bulls, recalls Franklin County deputy dog warden Rob Lambert, because the profits were higher.”).

²⁷ GARY L. FRANCIONE, *ANIMALS, PROPERTY AND THE LAW* 120 (1995) (describing the \$500 fine imposed on an individual subjecting a dog to cruel conduct as “a fine so small [that it] would probably not have any deterrent impact on those who exploit or abuse animals”).

²⁸ Nicole Cosgrove, *10 Shocking Dog Fighting Facts & Statistics in 2024*, *HEPPER*, <https://www.hepper.com/dog-fighting-statistics/> (Feb. 1, 2024) (“As of 2009, participating in dog fighting is a felony in all 50 states and every U.S. territory. The penalties will vary from state to state, but anyone convicted of such acts will face a minimum of one year in prison . . .”).

Accordingly, imposing restitution on dogfighters, and thus requiring them to use their criminal profits to reconcile the damage they have caused to the dogs, draws profits out of dogfighting rings and is crucial to ending this serious crime.

B. The Lack of Guidance for Mandatory Restitution in the Federal Sentencing Guidelines for Dogfighting Cases

Restitution is “a court order for a person who committed a crime (defendant) to financially compensate the victim of that crime.”²⁹ The concept of restitution is governed by principles of restoration and well-being and is intended to heal those harmed in the commission of a crime.³⁰

Guidance from Congress and federal case law surrounding restitution in animal-cruelty cases conflict with one another. Although Congress imposes mandatory restitution as a condition within sentencing for convicted criminals who harm *persons*, they have yet to expand that sanction for those who harm *animals*.³¹ Despite there being no mandatory restitution provision, courts are willing to impose discretionary restitution for animals absent a mandatory restitution instruction from Congress.³² With Congress and federal courts clashing in their approach to granting restitution, it is necessary to explore restitution within sentencing guidelines for violent criminal cases to better understand why dogfighting warrants what the courts are granting—and why Congress should follow suit.

1. Overview of 18 U.S.C. § 3663: Mandatory and Discretionary Restitution for Federal Sentencing

In 1992, Congress granted federal courts the ability to impose financial sanctions upon criminal defendants to aid the victims whom they have affected.³³ As codified by Congress, 18 U.S.C. § 3663 sets out the standard for both discretionary and mandatory restitution and defines the necessary terms for imposing restitution.³⁴

²⁹ *What is Restitution*, BLACK’S LAW DICTIONARY, <https://thelawdictionary.org/article/restitution-law/> (last visited Feb. 22, 2024).

³⁰ *United States v. Webb*, 30 F.3d 687, 690 (6th Cir. 1994).

³¹ 18 U.S.C. § 3663.

³² *See United States v. Davis*, 685 F. App’x 483, 484 (7th Cir. 2017) (affirming that a discretionary restitution order of \$40,000 is an appropriate addition to prison time for a dogfighting conviction); *see also United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *1 (M.D. Ga. Dec. 10, 2015) (affirming an order of restitution to the Humane Society for caring for defendant’s injured dogs after dogfighting venture).

³³ Catharine M. Goodwin, *The Imposition of Restitution in Federal Criminal Cases*, 62 FED. PROB. J. 95, 95 (1998) (“Congress wanted to give courts authority to impose restitution other than merely as a condition of probation and passed the Victim Witness Protection Act of 1982 (VWPA), now codified at 18 U.S.C. §§ 3663–3664. The VWPA, as amended, is the primary statutory source for restitution as a separate component of a federal sentence. This is confirmed by the sentencing guidelines, which provide that the court is to ‘enter a restitution order if such order is authorized under 18 U.S.C. §§ 3663–3664.’”).

³⁴ 18 U.S.C. § 3663(a)(1)(A).

Mandatory restitution is an automatic instruction where an individual commits a particular act, whereas discretionary restitution is up to the individual judge's determination.³⁵ Specifically, when assessing discretionary restitution, a judge may consider "not only the harm to the victim(s), but also the defendant's present and future ability to pay the restitution"³⁶ And although imposing restitution on a criminal defendant is a seemingly straightforward task, determining *who* is entitled to receive restitution can be a litigious practice.³⁷ The litigious nature of negotiating restitution is apparent within federal dogfighting cases—especially those that go to trial.³⁸

2. 18 U.S.C. § 3663: Who is Considered a "Victim"

One of the most litigated issues involving restitution in violent criminal cases is whether there is an identifiable "victim" for purposes of the statute.³⁹ A "victim" who is entitled to mandatory restitution under 18 U.S.C. § 3663(a) is "a *person* directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered"⁴⁰ Because the statute does not include animals within the meaning of a "victim," courts cannot attach mandatory restitution to federal criminal sentences for animal-cruelty cases.⁴¹

Although this certainly makes for a more litigious practice, courts and parties involved are not out of avenues to obtain restitution. In fact, courts have imposed discretionary restitution in select animal-cruelty cases instead of mandatory restitution.⁴² For example, the court in the infamous ex-NFL player Michael Vick's

³⁵ See 18 U.S.C. § 3663(a)(1)(A) ("may order"); 18 U.S.C. § 3663A(a)(1) ("shall order"); see also Charles Doyle, *Restitution in Federal Criminal Cases: A Sketch*, CONG. RSCH. SERV. REP. 4 (Oct. 15, 2019), https://www.everycrsreport.com/files/20191015_RS22708_f52936ae717d471c22ed4a2f8376f7cc1c5b3c64.pdf ("Section 3663 permits restitution when the defendant has been convicted of a crime proscribed under title 18 of the United States Code for which restitution is not mandatory Elsewhere, the court may order restitution following conviction pursuant to a plea bargain or as a condition of either probation or supervised release.").

³⁶ Goodwin, *supra* note 33.

³⁷ *Id.* ("Restitution requires a different analysis than other sentencing considerations under the guidelines, with which courts have more frequent experience. This, combined with the many changes to the restitution statutes, has led to much litigation and numerous reversals of restitution orders.").

³⁸ See *State v. Steward*, 2015-Ohio-3081, 2015 WL 4600478, at *14 (holding that "the trial court erred by ordering \$12,030 in restitution to the Lucas County Dog Warden for the dogs' boarding and medical expenses").

³⁹ See § 3663(a)(2).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See *United States v. Robinson*, No. 2:17-cr-0073, 2017 U.S. Dist. LEXIS 154176, at *1 n.1 (S.D. Ohio Sept. 21, 2017) (showing an instruction by the court that the defendant is to pay discretionary restitution pursuant to a plea agreement); see also *United States v. Davis*, 685 F.

case imposed a sentence that included \$928,073 in restitution costs for the fifty-three dogs seized from Vick's dogfighting operation.⁴³ Though this is one well-known illustration, courts have done the same in numerous other cases.⁴⁴

3. Standing for Animals in the Context of Criminal Sentencing

Criminal cases involving restitution require not only an identifiable "victim," but, in addition, that victim must also have standing.⁴⁵ Standing refers to the right of a party to challenge another party in court based on a sustained injury.⁴⁶ In cases where animals are injured, animal advocates may litigate on behalf of an animal's interests when advocates meet the requirements of standing.⁴⁷ Courts have allowed shelters and animal advocates who take care of animals after they have been harmed to assert standing to assist with the costly nature of rehabilitating and healing animals.⁴⁸ These judicial decisions are significant: the ability of an organization or advocate to assert standing on behalf of an animal—such as a dog rescued from a dogfight—is vital to the financial maintenance of that organization and the recovery of the animal.⁴⁹

4. The Purpose of Restitution: Well-Being and Restoration

Federal Sentencing Guidelines authorize courts to impose either mandatory or discretionary restitution within criminal sentences for violent cases with a "victim."⁵⁰ In accord, the Sixth Circuit's decision in *United States v. Webb* sets out the purpose for attaching restitution to these sentences:

App'x 483, 484 (7th Cir. 2017); *United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *11 (M.D. Ga. Dec. 10, 2015).

⁴³ See *United States v. Vick*, No. 3:07CR274, 2007 U.S. Dist. LEXIS 119099, at *1 (E.D. Va. Nov. 16, 2007); see also *Case Study: Animal Fighting—Michael Vick*, ANIMAL LEGAL DEF. FUND (Dec. 15, 2010), <https://aldf.org/case/case-study-animal-fighting-michael-vick/>.

⁴⁴ See *Robinson*, 2017 U.S. Dist. LEXIS 154176, at *1; *Davis*, 685 F. App'x at 484; *Hendrix*, 2015 U.S. Dist. LEXIS 165290, at *11.

⁴⁵ Joyce Tischler, Founding Dir., Animal Legal Def. Fund, Panel on Legal Standing for Animals and Advocates, at 63–64 (Dec. 14, 2006).

⁴⁶ *Standing*, THELAWDICTIONARY.ORG, <https://thelawdictionary.org/standing/> (last visited Feb. 22, 2024).

⁴⁷ Tischler, *supra* note 45, at 61 ("In order to litigate on behalf of an animal's interests in federal court, the advocate must first establish standing by meeting three requirements: (1) the plaintiff must have suffered an injury in fact, (2) the injury must be causally connected to the act about which the plaintiff is complaining, and (3) the court must be able to redress the injury.").

⁴⁸ See *Hendrix*, 2015 U.S. Dist. LEXIS 165290, at *8, 10–11; see also *State v. Johnson*, 2015-0434 (La. App. 1 Cir. 04/15/16); 2016 La. App. Unpub. LEXIS 107, at *1 (affirming a sentence for dogfighting including "a fine of \$1,000.00 and costs, [and] restitution of \$4,933.90 to animal services").

⁴⁹ Tischler, *supra* note 45, at 85 ("It is very expensive to care for and house hundreds of animals for years while a case winds its way through the courts . . .").

⁵⁰ 18 U.S.C. § 3663(a)(1)(A); see also 18 U.S.C. § 3663A(a)(1).

The principle of restitution is an integral part of virtually every formal system of criminal justice, of every culture and every time. It holds that, whatever else the sanctioning power of society does to punish its wrongdoers, it should also [e]nsure that the wrongdoer is required to the degree possible to restore the victim to his or her prior state of well-being.⁵¹

This premise is key to understanding why restitution is vital to those harmed by violent criminal offenders. And it echoes why a proper application of restitution as a sanction is critical to the criminal justice system—no matter the species of victim.

C. *The Attachment of Discretionary Restitution in Federal Animal-Cruelty Cases: Where Courts Derive and Apply this Authority*

While not mandated, some courts have granted discretionary restitution in criminal cases where animals—such as dogs in dogfights—are harmed by a criminal offender.⁵² In 1994, Congress codified 18 U.S.C. §§ 3663(a)(2) and (c) as the governing statutes for courts ordering such discretionary restitution.⁵³ The statute authorizes discretion to federal courts to order restitution in dogfighting cases either as a plea agreement or as an imposed sentence condition.⁵⁴

By applying § 3663(a)(2) and (c), courts are increasingly attaching discretionary restitution in cases where public policy warrants it—including dogfighting cases.⁵⁵ And this result is in accord with congressional intent. Congress emphasized the importance of the public policy behind restitution sanctions by stating within the statute that public harm was a central consideration when passing this legislation.⁵⁶ And animal-cruelty *is* a public harm.

1. Recent Claims Litigating Discretionary Restitution in Dogfighting Cases

Throughout the country, federal courts are grappling with the issue of whether to grant discretionary restitution to animal shelters and veterinary hospitals that care for

⁵¹ *United States v. Webb*, 30 F.3d 687, 690 (6th Cir. 1994).

⁵² *See United States v. Robinson*, No. 2:17-cr-0073, 2017 U.S. Dist. LEXIS 154176, at *1 n.1 (S.D. Ohio Sept. 21, 2017).

⁵³ 18 U.S.C. §§ 3663(a)(2), (c).

⁵⁴ 18 U.S.C. §§ 3663(a)(1)–(3), 3663(a)(1)(A) (noting that although the word “victim,” in the context of this statute refers to a “person” rather than an “animal,” the restitution sought on behalf of dogs involved and injured in dogfighting rings may still be designated to a person “other than the victim of the offense”); *see also* 18 U.S.C. § 3663(c) (stating that in cases where “there is no identifiable victim, the court may order that the defendant make restitution”).

⁵⁵ *See Robinson*, 2017 U.S. Dist. LEXIS 154176, at *1, n.1.

⁵⁶ 18 U.S.C. § 3663(c)(2)(A) (“An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.”).

dogs seized from dogfighting rings. This issue follows in the wake of the popularization of dogfights among criminals across the country.⁵⁷

And throughout the country, courts vary in their application of discretionary restitution for the dogs injured. Some courts recognize discretionary restitution as appropriate in plea deals, while others are reluctant to order it after trial.⁵⁸

2. Where Courts Stand Currently: Reluctance to Create a Bright-Line Rule

As a starting point, federal courts may order restitution, through 18 U.S.C. § 3663, for dogs harmed in dogfighting cases pursuant to a plea agreement.⁵⁹ Courts have established that discretionary restitution requested pursuant to a plea agreement may be granted for “housing, upkeep[,] [and] medical care of the animals” where the government can provide evidence of costs incurred by a facility that cares for the offender’s animals.⁶⁰ These discretionary restitution orders evidence that courts are evolving to recognize the positive work that animal shelters and veterinary hospitals are doing to rescue these animals.

Further, restitution orders for dogfighting cases follow courts’ recognition of the level of cruelty the crime necessitates. Moreover, courts have established that the current Federal Sentencing Guidelines do not adequately address the seriousness of dogfighting.⁶¹ For instance, in *United States v. Anderson*, the court commented on “the extreme cruelty committed [by the defendant] both due to dog fighting and the conditions in which these dogs were forced to live” and followed that “the federal

⁵⁷ *Dogfighting: How to Spot It and How to Get \$5,000 for Reporting It*, HUMANE SOC’Y OF THE U.S. 1 (2001), <https://www.humanesociety.org/sites/default/files/docs/dogfighting-how-to-identify-report.pdf> (estimating more than 40,000 people participate in organized dogfighting in the United States per year).

⁵⁸ *Compare Robinson*, 2017 U.S. Dist. LEXIS 154176, at *1, n.1, *adopting Report and Recommendation*, 2017 U.S. Dist. LEXIS 165835 (entering judgment that affirms restitution may be assessed through a plea at an amount agreed to by the defendant prior to sentencing), *with State v. Bybee*, 134 Ohio App.3d 395, 731 N.E.2d 232 (1st Dist. 1999) (reversing the order from the trial court to pay restitution as a condition of sentencing after trial).

⁵⁹ *See Allie Phillips & Randall Lockwood, Investigating & Prosecuting Animal Abuse: A Guidebook on Safer Communities, Safer Families & Being an Effective Voice for Animal Victims*, NAT’L DIST. ATT’YS ASS’N 54 (2013), <https://www.sheriffs.org/publications/NDAA-Link-Monograph.pdf> (advising in dogfighting cases that plaintiffs “[u]se caution when dealing with the traditional restitution model, where a failure to secure an agreement for all costs can result in the defendant only being required to pay for the counts subject to the plea agreement”); *see also* 18 U.S.C. § 3663.

⁶⁰ *See United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *8 (M.D. Ga. Dec. 10, 2015) (affirming that restitution payable to animal services after a dogfighting operation should be imposed as a special condition where costs are itemized and presented as having a “causal connection” with the defendant’s actions and considered reasonable for the appropriate amount of time); *id.* at *8–9 (discussing such a decision also being reached in a case titled *United States v. Jackson* out of the Middle District of Georgia, Albany Division); *State v. Johnson*, 2015-0434 (La. App. 1 Cir. 04/15/16).

⁶¹ *See United States v. Anderson*, No. 3:15-mc-3713-WKW-WC (M.D. Ala. Jun. 15, 2016); *see also Four Plead Guilty to Multi-State Dogfighting Conspiracy*, U.S. DEP’T OF JUST. (June 1, 2021), <https://www.justice.gov/opa/pr/four-plead-guilty-multi-state-dogfighting-conspiracy>.

sentencing guidelines for dog fighting are wholly inadequate to address the seriousness of the crime.”⁶² Following these statements, the *Anderson* court ordered the defendant’s plea agreement contain a condition within sentencing to “pay a record \$2 million in restitution for their animals’ care . . . the largest restitution amount ever ordered by a federal judge in a dogfighting case.”⁶³ The defendants in *Anderson* were given the largest financial penalty in the history of any dogfighting case, and the court’s order served as an important reminder of the conditions and aftermath of this crime.⁶⁴

Although this case reflects a willingness by federal courts to order discretionary restitution pursuant to a plea agreement, the line is less clear when it comes to dogfighters that go to trial. In cases where courts order dogfighters to pay restitution after trial, and they appeal, the dogfighters are often relieved of their imposition to pay discretionary restitution.⁶⁵ Overall, courts are reluctant to create a bright-line rule regarding restitution orders in federal criminal sentences for dogfighting. Although there is a tendency for courts to accept restitution sanctions imposed within plea deals, the application is inconsistent at trial. This creates a scenario where defendants are picking and choosing (and, ultimately, avoiding) sentences which include restitution by opting to go to trial. The reluctance to create a bright-line rule, in turn, creates gaps throughout the country in federal sentencing for dogfighters.

D. *Current Federal Animal-Cruelty Laws: The Animal Welfare Act and the Preventing Animal Cruelty and Torture Act*

Current federal animal-cruelty laws point to well-intentioned policies by Congress to prohibit dogfighting. First, the Animal Welfare Act (A.W.A.) reflects a Congressional concern over the safety of animals in the context of commercial practice only.⁶⁶ Second, the Preventing Animal Cruelty and Torture Act (PACT Act) is a

⁶² *Strong Sentences Handed Down by Alabama Court in Historic Dog Fighting Case*, U.S. DEP’T OF JUST. (Nov. 12, 2014), <https://www.justice.gov/usao-mdal/pr/strong-sentences-handed-down-alabama-court-historic-dog-fighting-case>.

⁶³ Phillip Rawls, *Adel Man Sentenced in Federal Court Case, Gets Probation, Restitution for Role in Dogfighting Ring*, VALDOSTA DAILY TIMES (Jan. 16, 2015), https://www.valdostadailytimes.com/news/local_news/adel-man-sentenced-in-federal-court-case/article_49525b68-9df4-11e4-b49b-0ff73cb7a4b0.html.

⁶⁴ *Id.*

⁶⁵ See *State v. Bybee*, 134 Ohio App.3d 395, 397, 731 N.E.2d 232 (1st Dist. 1999) (holding that the trial court erred by ordering the defendant pay restitution in an animal cruelty case); see also *State v. Walker*, 164 Ohio App.3d 114, 2005-Ohio-5592, 841 N.E.2d 376, ¶ 49–50 (2d Dist.) (holding the same).

⁶⁶ Animal Welfare Act, 7 U.S.C. § 2131 (“The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—(1) to [e]nsure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) to assure the humane treatment of animals during transportation in commerce . . .”).

Congressional effort to define the most egregious animal-cruelty “offenses” for criminal sanctions.⁶⁷ Both the A.W.A. and the PACT Act reflect Congressional effort to eliminate animal-cruelty—but both acts are, for lack of a better term, toothless.

1. The Animal Welfare Act: Regulation of Commercial Cruelty and Silence on Non-Commercial Cruelty

Codified by 7 U.S.C. § 2131, the A.W.A. reflects Congressional concern that animals were being abused and mishandled in commercial activity.⁶⁸ Specifically, the A.W.A. addresses Congressional concern “for dogs and cats used in research” and has been amended several times since its establishment following Congressional concern for dog safety.⁶⁹ To that extent, the statute’s purpose is to ensure humane treatment in commercial practices involving animals.⁷⁰

As a result, the statute recognizes animal-cruelty as punishable in its commercial capacity and, specifically, commercial practices within the world of dog breed protection.⁷¹ To Congress’s credit, this regulation has created a safer commercial world for dogs within breeding rings and clearly indicates congressional intent to aid the welfare of dogs.⁷² But the regulation ends at commercial practices—leaving no protection for dogs exposed to dogfights.⁷³ Because dogfighting is a criminal offense, it is not a commercial activity under the A.W.A.; rather, dogfighting is a domestic consideration that is not regulated by the Act at all, as the statute does not regulate domestic cruelty.⁷⁴

This leads to a policy gap for dogfighting: the A.W.A. neither regulates it because it is not a commercial practice nor regulates it because it falls under the category of domestic animal-cruelty. And with the A.W.A. being one of the only federal animal-

⁶⁷ See Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019).

⁶⁸ Animal Welfare Act, 7 U.S.C. § 2131.

⁶⁹ *Explanation of the Animal Welfare Act*, NAVS (2022), <https://navs.org/learn-more/explanation-of-the-animal-welfare-act/> (“The Animal Welfare Act, 7 U.S.C. 54, originally called the Laboratory Animal Welfare Act, was established in 1966 in response to growing concern for dogs and cats used in research . . .”); see, e.g., Animal Fighting Prohibition Enforcement Act of 2007, H.R. 137, 110th Cong. (2007).

⁷⁰ *Explanation of the Animal Welfare Act*, *supra* note 69 (“The U.S. Secretary of Agriculture was directed by Congress to set up a regulatory program to license dealers in dogs and cats, to register animal research facilities, and to establish humane care provisions and a system of inspections.”).

⁷¹ *Id.*; see also Joshua E. Gardner, *At the Intersection of Constitutional Standing, Congressional Citizen-Suits, and the Humane Treatment of Animals: Proposals to Strengthen the Animal Welfare Act*, 68 GEO. WASH. L. REV. 330, 333 (2000) (explaining the initial purpose of the statute before the Animal Welfare Act’s amendment as protection of dogs from dog breeding practices of unauthorized dealers).

⁷² *Explanation of the Animal Welfare Act*, *supra* note 69.

⁷³ *Id.*

⁷⁴ See Animal Welfare Act, 7 U.S.C. § 2131 (regulating only “interstate commerce”).

cruelty statutes regulating dog cruelty, prosecutors cannot use the A.W.A. to enforce criminal sanctions against dogfighters.

2. The Preventing Animal Cruelty and Torture Act: Defining Egregious “Offenses” of Animal-Cruelty

Similar to the A.W.A., in the wake of an increase of particularly cruel practices against animals, Congress passed the PACT Act.⁷⁵ The PACT Act imposes criminal sanctions for particularly egregious “offenses”—especially those which involve causing serious bodily injury to an animal.⁷⁶ These “offenses” include “animal crushing,”⁷⁷ “creation of animal crush videos,” and “distribution of animal crush videos” affecting interstate or foreign commerce.⁷⁸ Because Congress has already defined these “offenses,” any depiction and distribution of dogfighting videos—which show animal crushing—is against federal law.⁷⁹ While Congress clearly defines the criminal practices within the PACT Act, it is silent on restitution for the animals affected by these criminal practices.

III. ANALYSIS

Restitution costs are a necessary sanction for dogfighting because the crime is predicated on the money derived from participation. The lack of guidance for restitution in animal-cruelty cases—and, specifically dogfighting cases—creates dire consequences for the dogs involved. Thus, this Note proposes three primary suggestions: First, the lack of guidance surrounding restitution in dogfighting cases creates a severe lack of deterrence. Thus, to deter dogfighting, the law must address and drain the immense profits collected by the practice. Second, sentencing for dogfighters should include a mandatory restitution order as a condition on both a statutory and judicial level. This is justified by the fact that discretionary restitution assessment creates policy gaps where it is only applied sparsely; whereas mandatory restitution assessment creates uniformity and positive public policy. Third, the current federal animal-cruelty statutes are merely symbolic, as they do not adequately address the seriousness of dogfighting. Accordingly, Congress must expand these statutes so that they have more enforcement power. This expansion is necessary for current federal animal-cruelty statutes to be reconciled with their original legislative purposes and to achieve deterrence. These recommendations will impact not only the litigation surrounding restitution assessments, but aid in rescuing countless affected dogs.

⁷⁵ Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019); *see also Preventing Animal Cruelty and Torture (PACT) Act*, ANIMAL WELFARE INST. (2019), <https://awionline.org/content/preventing-animal-cruelty-and-torture-pact-act>.

⁷⁶ Preventing Animal Cruelty and Torture Act § 48.

⁷⁷ *Id.* (“[T]he term ‘animal crushing’ means actual conduct in which one or more living non-human mammals . . . is purposely crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury . . .”).

⁷⁸ *Id.*

⁷⁹ *See id.*; *see also Preventing Animal Cruelty and Torture (PACT) Act*, *supra* note 75.

A. *The Staggering Level of Dogfighting in America Stems from a Lack of Deterrence*

Humans have facilitated and participated in dogfighting ventures for centuries.⁸⁰ The activity is prohibited, yet the phenomenon continues because of the earnings and profits dogfighters gain from facilitating these ventures.⁸¹ Moreover, scholars have explicitly recognized the profits amassed as a primary reason that individuals facilitate dogfighting.⁸²

Yet, Congressional efforts to prohibit dogfighting say nothing about taking the profits out of the crime. And without addressing and draining the profits that dogfighters amass, there is little deterrent power in any dogfighting law. Specifically, dogfighters know that if they continue to run their operations, they will continue to make money that, in turn, they can use to fund their legal defenses, if needed, and keep for their own gain.⁸³ For this reason, to adequately deter dogfighters from engaging in a crime where money is a motivating factor, the consequences should address the profits amassed. Otherwise, offenders *will* recidivate.⁸⁴

For example, Angelo McCoy, an individual from Ohio, facilitated three independent dogfights—each after being sanctioned.⁸⁵ Police first arrested McCoy for dogfighting following a dogfight in 2014, where he made \$30,000.⁸⁶ Not long after being sentenced to a year of probation, McCoy violated his probation conditions by facilitating yet another dogfight.⁸⁷ Following his second violation, the judge ordered that he was not allowed to own any more dogs, but police caught McCoy a third time.⁸⁸

⁸⁰ *A Closer Look at Dogfighting*, *supra* note 7; Orhan Yilmaz et al., *History of Dog Fighting in the World*, 5 J. OF ANIMAL SCI. ADVANCES 1234, 1235 (2015) (discussing the rise of dogfighting in the 1800s).

⁸¹ Gibson, *supra* note 24 (describing the profits earned through dogfighting as cash, vehicles, property titles, weapons, jewelry, and other expensive valuables).

⁸² *Id.* (“For many, dogfighting is a lucrative money making enterprise, but the price that the victims of the bloody sport must pay is simply too high to be ignored.”); *see also A Closer Look at Dogfighting*, *supra* note 7.

⁸³ *See A Closer Look at Dogfighting*, *supra* note 7.

⁸⁴ *State v. McCoy*, 2017 Ohio App. LEXIS 2212, 2017-Ohio-4163, ¶ 3–4 (9th Dist.) (describing defendant reoffending after being charged and found guilty of dogfighting multiple times); *see also United States v. Davis*, 685 F. App’x 483, 484 (7th Cir. 2017) (same).

⁸⁵ *McCoy*, at ¶ 3–5.

⁸⁶ *Id.* at ¶ 24. Aside from the \$30,000 collected in that event, McCoy was also caught with \$52,000 on the ground where the dogfight took place. *Id.*; *see also Convicted Dogfighter Charged After Police Find Dead Dog, 11 Other Dogs Injured in Backyard of Cleveland Home*, CLEVELAND.COM (Feb. 4, 2020), <https://www.cleveland.com/metro/2020/02/convicted-dogfighter-charged-after-police-find-dead-dog-11-other-dogs-injured-in-backyard-of-cleveland-home.html>.

⁸⁷ *See McCoy* at ¶ 2–4, 24; *see also Convicted Dogfighter Charged After Police Find Dead Dog*, *supra* note 86.

⁸⁸ *See Convicted Dogfighter Charged After Police Find Dead Dog*, *supra* note 86.

The court allowed McCoy out on a \$25,000 bond and he paid his bond with the money he amassed through facilitating dogfights.⁸⁹ Here, in just one case, an individual recidivated *two* separate times (not counting the original dogfight) and was still able to walk away because of the profits he amassed hosting dogfights. *McCoy* illustrates that there is currently no adequate deterrent for dogfighters that addresses money as the motivating factor.

B. *Restitution Should Be Assessed on a Mandatory Basis in Violent Criminal Cases*

With these massive profits coupled with the lack of meaningful consequences addressing the root of the issue, it is no wonder that offenders are returning to these practices. And although prison time may serve as a deterrent, it does not get at the heart of what makes dogfighting such a dangerous crime to begin with: the money.

Financial sanctions in the form of restitution should be assessed on a mandatory basis for all violent criminal cases, regardless of whether the victim is a person or animal. Specifically, restitution should be assessed as a mandatory condition with the mandatory authority deriving from *both* a statutory and judicial basis. A mandatory instruction by Congress will create fewer policy gaps that stray from the legislative purpose of restitution assessment, more uniformity among courts, and better public policy.

1. *Statutory Authority: The Definition of “Victim” Should be Changed to Apply to Dogs in Dogfighting Rings*

The statutory provision governing the assessment of restitution for criminal cases protects only people⁹⁰ as the statute defines a “victim” as a person.⁹¹ Yet, in actuality, there is no real necessity that a victim be a “person” to suffer actual harm as a result of a criminal’s actions—as is evident in dogfighting cases.⁹² Thus, rather than turning on the ability to identify a “person,” restitution should turn on the restoration and well-being of the injured party—no matter the party. Arguably, the requirement that a victim is a person falls directly out of line with the purposes of restitution set out in *United States v. Webb*.⁹³ In fact, under *Webb*, restitution should be assessed where a “wrongdoer [is] required to the degree possible to restore the victim to his or her prior state of well-being.”⁹⁴ While *Webb* uses the same “victim” language, it is clear that the principles behind restitution are restoration and well-being.⁹⁵ In accordance with these principles, Congress should change the provision defining a “victim” to any

⁸⁹ *See id.*

⁹⁰ 18 U.S.C. § 3663(a)(2).

⁹¹ *Id.*

⁹² *See id.*; *see also* EMILY STEWART LEAVITT, ANIMALS AND THEIR LEGAL RIGHTS 110 (2d ed. 1970) (explaining the “pain and fear” that dogs subjected to dogfights experience).

⁹³ *United States v. Webb*, 30 F.3d 687, 690 (6th Cir. 1994).

⁹⁴ *Id.*

⁹⁵ *Id.*

being harmed by the defendant's act—specifically “persons or animals” to include dogs.

2. Standing Authority: Ordering Restitution for Dogs Through Advocates

Federal criminal cases involving dogfighting are often met with the argument—from the defendant—that “pets are property” and thus, the argument goes, the injured animals cannot possibly obtain restitution because of their status as property.⁹⁶ And though these claims are right that pets are technically property in the United States,⁹⁷ that is not the end of the analysis.

As an aside, most Americans would agree that dogs should not be considered property to begin with.⁹⁸ It is no secret that pets, namely dogs, hold an emotional space in the hearts of many Americans,⁹⁹ with many considering their dogs to be a part of their family due to the cognitive and emotional support they provide.¹⁰⁰ In fact, commentators have suggested that the law should evolve to take into account dogs' cognitive abilities and conditions of living, which clearly distinguish dogs from property.¹⁰¹

But these characteristics aside, it is entirely unnecessary that animals be granted “personhood status”¹⁰² to obtain the benefits of restitution, because caretakers—including organizations and advocates—may be rewarded restitution costs on the animal's behalf.¹⁰³ Animal shelters, veterinary hospitals, and advocacy centers

⁹⁶ See *State v. Crew*, 868 S.E.2d 351, 357 (N.C. App. 2022) (reversing the trial court's judgment for the defendant to pay restitution for dogfighting).

⁹⁷ Sande L. Buhai, *Pets as Property: Signs of Change in the Law of Judgment Collections*, 26 ANIMAL L. 171, 172 (2020) (“As a matter of law, pets are still property—in most contexts, no different from a house, a car, or the brooch you inherited from your grandmother. To you and your children, your pet—even if only a rescue—may be an integral part of the family, one for whom you might willingly spend thousands of dollars on vet bills if he were sick or injured.”).

⁹⁸ See generally *The Case FOR Animal Personhood*, FAMOUS TRIALS, <https://famous-trials.com/animalrights/2600-the-case-for-animal-personhood> (last visited Feb. 22, 2024).

⁹⁹ See Buhai, *supra* note 97 (“Some Americans form personal connections with their pets as profound as those they form with the human beings in their lives. Pets often even fill the void once occupied by children. As a matter of sociological fact, pets have become companions. They are no longer ‘things.’ The law follows culture, even if only slowly.”).

¹⁰⁰ Jamie Ballard, *Most Pet Owners Say Their Pets are Part of the Family*, YOUNG (Dec. 13, 2019, 12:15 PM), <https://today.yougov.com/society/articles/26905-how-americas-pet-owners-feel-about-their-furry-fri> (“And it seems these dogs . . . are quite well-loved: 88% of American pet owners say they consider their pets to be members of their family. Two-thirds (66%) have allowed their pet to sleep in bed with them, while over half (54%) of pet owners will be buying a gift for their furry (or feathered) friends this holiday season.”).

¹⁰¹ See *id.*

¹⁰² Kelsey Kobil, *When It Comes to Standing, Two Legs are Better than Four*, 120 DICK. L. REV. 621, 623 (2015) (“Legal personhood status would provide animals with fundamental rights that are equal to humans' fundamental rights.”).

¹⁰³ *Id.* at 641.

undertake the virtuous (and healing when successful) but nonetheless difficult task of providing guardianship to injured animals.¹⁰⁴ Specifically, animal shelters and advocacy centers dedicated to rehoming, retraining, and rehabilitating dogs seized from dogfights exist to remedy the damage done by dogfighters.¹⁰⁵

However, by doing so, these organizations incur costly expenses, both financially and emotionally,¹⁰⁶ as a consequence of the damage inflicted upon dogs exposed to dogfighting.¹⁰⁷ For example, pit bulls seized from a dogfighting ring on a *single* property cost one shelter over \$130,000.¹⁰⁸ These expenses include the cost of housing those dogs exposed to dogfighting, hard plastic beds for the recovering dogs, walls to stop the dogs from fighting one another while in the shelter, and in the worst cases, euthanasia.¹⁰⁹ Not only are shelters incurring these costs, but, in some jurisdictions, taxpayers are suffering the financial consequences, as well.¹¹⁰ And of course, the dogs themselves are paying the price of being in solitary conditions while they are retrained during the process.¹¹¹ Ultimately, everyone *but* the defendant is incurring the costs associated with healing the seized dogs.

Courts understand that these shelters and advocates incur significant costs, and as such, allow shelters to receive discretionary restitution assessed in dogfighting cases on behalf of the dogs.¹¹² Allowing rescuers to act as parties, in turn, cures the standing

¹⁰⁴ Lawson, *supra* note 26, at 35.

¹⁰⁵ See *United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *3–5 (M.D. Ga. Dec. 10, 2015); see also *id.* at *6–7 (discussing the dogfighting case of *United States v. Jackson*, where the Tift County Animal Shelter and Hello Bully rescue agency took in and rehabilitated the dogs rescued from a dogfighting operation); *State v. Johnson*, 2015-0434 p. 2–3 (La. App. 1 Cir. 4/15/16).

¹⁰⁶ Lawson, *supra* note 26, at 35 (“More often than not, [the dogs] end up being euthanized by the very same people who have dedicated a year or more of their lives to taking care of them.”).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* (“Holding them safely and humanely comes at a high price: Last year, the Houston Humane Society in Texas spent \$133,000 to care for pit bulls seized from a single property.”).

¹⁰⁹ *Id.*

¹¹⁰ *Id.* (“Taxpayers in Franklin County have footed a nearly \$520,000 bill to house dogfighting victims since 2002.”).

¹¹¹ *Id.* (“The greatest cost is to the animals themselves. Though shelter workers provide exercise and toys, dogs living in solitary conditions eventually deteriorate. Long-term housing is hard on any animal, but even more so on those born and raised in environments designed to increase their anxiety and aggression.”).

¹¹² See *United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *9–10 (M.D. Ga. Dec. 10, 2015); see also *id.* at *6–7 (discussing the dogfighting case of *United States v. Jackson*, where the Tift County Animal Shelter and Hello Bully rescue agency took in and rehabilitated the dogs rescued from a dogfighting operation); *State v. Johnson*, 2015-0434, p. 2 (La. App. 1 Cir. 04/15/2016).

issue.¹¹³ Further, courts have the option to choose animal advocates for cases where they find them necessary.¹¹⁴

In whole, courts that allow shelters the legal status of standing in place of the dogs illustrates the importance of care for the seized dogs, and the courts' recognition of that importance. And it helps rescuers to operate their shelters effectively, and thus, provide a better life for the dogs.¹¹⁵ Further, consistent assessment of restitution costs coupled with consistent application of advocates being permitted to assert standing will serve as a deterrent—and hopefully, dogfighters will think twice about subjecting dogs to dogfighting and ultimately eliminate the need for these advocates to step in in the first place.

3. Judicial Authority: Federal Courts Are Discussing Restitution for Dogfighting—But Lack Uniformity in Their Decision-Making Process

While some courts are heading in the right direction by imposing restitution in dogfighting cases, there is virtually no uniformity in the decision-making process. The lack of uniformity, in turn, creates a procedural issue. As the previously mentioned cases iterate, a convicted dogfighter is *more* likely to be assessed discretionary restitution if they accept a plea deal than if they were to go to trial.¹¹⁶

Although the bargaining nature of plea agreements is noted, this creates an issue. Specifically, it leads to individuals convicted of the same offense having two entirely different punishments.¹¹⁷ This procedural issue sends the message to those indicted for dogfighting that the court will reward them if they go to trial rather than accepting a plea deal. It sends the message: dogfighters who opt to go to trial will be able to keep the profits they gained through their criminal dogfighting ventures. This lack of uniformity creates a dangerous precedent and a serious procedural issue.

4. Policy Justification: Discretionary Restitution Leads to Policy Gaps Whereas Mandatory Restitution Creates Uniformity and Positive Public Policy

Assessing discretionary restitution in dogfighting cases inevitably creates a policy gap. Specifically, only assessing restitution in select dogfighting cases goes directly

¹¹³ See *Hendrix*, 2015 U.S. Dist. LEXIS 165290, at *6; *Johnson*, 2015-0434, at 7.

¹¹⁴ Tamara Winkler, *Protecting Our Pets: Courtroom Advocate or Special Prosecutor: A Critical Comparison Between Two Approaches to Providing Animals Better Protection in the Courtroom*, 31 ST. THOMAS L. REV. 245, 247 (2019) (“A judge has discretion in appointing an animal advocate, but the advocate can also be requested by prosecutors or defense attorneys.”).

¹¹⁵ ALLIE PHILLIPS, *DEFENDING THE DEFENSELESS: A GUIDE TO PROTECTING AND ADVOCATING FOR PETS* 129 (2011) (“When an animal shelter or organization is involved in a large-scale . . . situation, it can financially devastate the shelter as well as take up valuable space, thus displacing other animals in need. You can help by donating money or supplies to help with the effort . . .”).

¹¹⁶ See *supra* notes 58, 65 and accompanying text.

¹¹⁷ See *State v. Bybee*, 731 N.E.2d 232 (1st Dist. 1999) (overturning the trial court's restitution order that defendant pay restitution in an animal cruelty case). *But see* *United States v. Anderson*, 2013 WL 10509976 (holding that a discretionary restitution order pursuant to a plea agreement was appropriate for dogfighting); Amended Judgment, *United States v. Anderson* (M.D. Ala. Feb. 3, 2015), ECF No. 681.

against the purpose of the restitution statute—national uniformity of restoration and well-being.¹¹⁸ And while assessment of discretionary restitution in some cases is a notable effort by courts to enforce the law, the discretionary nature of its application leads to some cases where restitution is applied and some cases where it is not, based on virtually the same facts.¹¹⁹ To be sure, the cases where courts assess discretionary restitution warrant it, but the many others do, as well.

On the other hand, assessing restitution on a mandatory basis would create a uniform and positive public policy that aligns with congressional intent: restoring the victim back to a state of well-being. A uniform mandatory assessment would establish positive public policy for society as a whole as we seek to protect animals¹²⁰ and deter dogfighters from engaging in the crime. Further, a mandatory assessment is consistent with congressional intent, as Congress has passed numerous laws to address the issue of dogfighting.¹²¹ Thus, in accord with public policy and congressional intent, consistent assessment of mandatory restitution for dogfighting cases should be authorized both statutorily and judicially.

Regarding statutory authority, Congress should redefine the term “victim” within the 18 U.S.C. § 3663 such that it may be squared with the fact that restitution turns on restoration and well-being—not personhood. Only then will the principles of restitution, as stated in *Webb*, be applied appropriately to all violent criminal cases.¹²²

Regarding judicial authority, a uniform policy of assessing mandatory restitution across all dogfighting cases will create positive public policy that does not leave a *loophole* which encourages dogfighters to go to trial. And a uniform sentencing guideline assessing mandatory restitution to each defendant convicted of dogfighting is squarely in line with congressional intent.

C. *Symbolic Legislation: Current Federal Animal-Cruelty Laws Lack Specific Guidelines for Dogfighting and Thus Lack Enforcement*

Although current federal animal-cruelty laws generally touch on dogfighting, these laws lack the necessary mechanisms to enforce the central aspect of dogfighting.

¹¹⁸ *United States v. Webb*, 30 F.3d 687, 690 (6th Cir. 1994).

¹¹⁹ *Compare* *United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *2–3, 11 (M.D. Ga. Dec. 10, 2015) (ordering that defendants pay restitution pursuant to a plea agreement for housing, upkeep, and medical care of dogs seized from large dogfighting ring), *with* *State v. Walker*, 164 Ohio App.3d 114, 2005-Ohio-5592, 841 N.E.2d 376, ¶ 99 (2d Dist.) (stating that the trial court erred when ordering the defendant “to pay restitution for the upkeep and care of animals”).

¹²⁰ *Dog Fighting Fact Sheet*, PAWS FOR LIFE USA, <https://animalsdeservebetter.org/education/dog-fighting-fact-sheet/> (Aug. 24, 2007) (explaining the other risks associated with dogfighting: “Dogs used for fighting have been bred for many generations to be dangerously aggressive toward other animals. The presence of these dogs in a community increases the risk of attacks not only on other animals but also on people. Children are especially at risk, because their small size may cause a fighting dog to perceive a child as another animal.”).

¹²¹ *See* Animal Welfare Act, 7 U.S.C. § 2131; Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019); *see also* 7 U.S.C. § 2156.

¹²² *Webb*, 30 F.3d at 690.

Specifically, the penalties are not specific enough to create any meaningful change for dogfighting cases because they do not address the money collected by offenders. Consequently, critics refer to these statutes as merely “symbolic legislation,” meaning that it speaks to an overarching public policy concern but does little to actually effectuate its intended goals.¹²³

1. The Animal Welfare Act Protects Commercial Practice Only

While the A.W.A.’s efforts in regulating commercial activity are a step in the right direction, there is virtually no protection for any other animal-cruelty practices—dogfighting included.¹²⁴ If Congress is concerned with the welfare of animals, as the legislative history of the A.W.A. suggests, it should not be limited to commercial practices only.¹²⁵ This holds especially true for such a blatantly cruel practice. And dogfighting may be arguably more egregious and require more regulation than most commercial practices.

These differing standards of regulation between commercial and non-commercial activity serve little to no purpose for the public policy objective of protecting animals. For example, a commercial breeder who forgot to renew their license but took humane care of the dogs in their possession would be assessed restitution costs under the A.W.A., whereas a person who facilitates a dogfighting venture will not have to pay out *any* restitution.¹²⁶

Further, because the A.W.A. does not regulate dogfighting ventures as a commercial activity or as a domestic violation, courts are left to consider dogfighting ventures on a case-by-case basis.¹²⁷ Therefore, under the A.W.A., there is no uniform enforcement by which courts can assess a financial penalty for convicted dogfighters—reiterating the criticism that the A.W.A. is simply “symbolic legislation.”

2. The Preventing Animal Cruelty and Torture Act (PACT Act) Defines Egregious “Offenses” Without Specifying Restitution Solutions

The PACT Act, another federal statute regulating animal-cruelty practices, lacks enforcement and, like the A.W.A., is critiqued as being “symbolic legislation.”¹²⁸ As previously discussed, Congress established this statute to set out clear practices prohibited under federal law and even went so far as to define those “offenses” that are particularly egregious—warranting the federal sentence that comes with the

¹²³ FRANCIONE, *supra* note 27, at 208 (“[T]he AWA may be considered to be ‘symbolic,’ as opposed to ‘functional,’ legislation . . . because ‘the legislature has failed to address the administrative and political constraints that will block implementation of the statute’ . . .”).

¹²⁴ *See* 7 U.S.C. § 2131.

¹²⁵ *See Explanation of the Animal Welfare Act, supra* note 69.

¹²⁶ *See Horton v. U.S. Dept. of Agric.*, 559 F. App’x 528 (6th Cir. 2014) (affirming petitioner who sold dogs without an Animal Welfare Act dealer license warranted an order to pay \$191,200 in penalties).

¹²⁷ *See Animal Welfare Act*, 7 U.S.C. § 2131.

¹²⁸ FRANCIONE, *supra* note 27, at 65.

crime.¹²⁹ Although congressional efforts to limit these offenses are undoubtedly necessary, there is no provision in this Act that addresses the monetary aspect of the offenses defined. Congress went so far as to define these particularly egregious “offenses” to protect animals from cruelty but failed to include any enforcement mechanism for the profits accrued during those offenses.¹³⁰

Congress’s silence on restitution is harmful to the fundamental reason that the statute was put into place and, like the A.W.A., reinforces the idea of the PACT Act as “symbolic legislation.” For this reason, Congress should add a restitution provision to give the statute the proper enforcement power it needs.

IV. A DETERRENCE-BASED SOLUTION: A RECOMMENDATION TO IMPROVE FEDERAL ANIMAL-CRUELTY LAWS BY (1) INCLUDING “ANIMALS” WITHIN THE DEFINITION OF “VICTIM” IN THE CURRENT RESTITUTION STATUTE AND (2) ADDING A MANDATORY RESTITUTION INSTRUCTION

Assessment of restitution on a mandatory basis within sentencing for dogfighters is central to deterring this serious crime and providing clear guidance so that courts do not hesitate to impose time-sensitive sanctions that lead to life-saving measures. These critical goals can be accomplished by (1) altering the current restitution statute to give courts the power to assess restitution to aid dogs injured by dogfighting on a mandatory basis (2) changing current federal animal-cruelty laws to include mandatory restitution provisions.

First, to pursue this goal, Congress should implement a change to the general restitution provision that defines a “victim” for the purposes of restitution, such that “animals” are included as a party that can receive restitution. Then, courts may uniformly assess mandatory restitution as a term of the Felony Sentencing Guidelines for dogfighters. And in turn, animal advocates, shelters, and veterinary hospitals can put the restitution towards their rescue efforts.

Second, Congress should update current federal animal-cruelty laws—specifically the A.W.A. and the PACT Act—to include restitution so that these laws have an enforcement mechanism that serves their general purpose. Finding an adequate legal solution to reconcile the injuries suffered by dogs as a result of dogfighting is essential to the dogs’ healing process.

A. *Congress Should Implement a Mandatory Restitution Clause Within 18 U.S.C. § 3663 for Dogs Rescued from Dogfighters*

1. Congress Should Redefine the Term “Victim” for Purposes of Restitution

Congress has the sole authority to amend current legislation to improve its effectiveness.¹³¹ Accordingly, Congress should reconsider the purpose of the general federal restitution provision, and, in line with that purpose, change the definition of

¹²⁹ Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019) (setting out the forms of abuse that the PACT Act defines as “egregious forms of abuse” including “[b]an[ning] the creation and distribution of [crush] videos”).

¹³⁰ 18 U.S.C. § 48.

¹³¹ U.S. CONST. amend. XIV, § 1.

“victim.”¹³² Congress currently only includes “persons” harmed as a result of the defendant’s conduct as grounds for assessing restitution in a federal criminal sentence.¹³³ Instead, Congress should reconsider 18 U.S.C. § 3663 to redefine “victim” to “persons and animals” affected by the defendant’s conduct. Because criminals who engage in dogfighting ventures are more likely to be deterred where there is a financial penalty attached,¹³⁴ Congress must act in a way that addresses the monetary aspect of the crime.¹³⁵ Further, this solution is in line with the principles of restitution surrounding restoration and well-being, as set out in *Webb*.¹³⁶

2. Practical Implementation of Mandatory Restitution by Courts is Already Being Achieved

In addition to the statutory change discussed, courts should implement restitution as a mandatory condition within federal sentences for dogfights. If Congress changes the definition of a “victim” to include “animals” within the federal restitution statute, this solution can be easily implemented, as courts can simply follow Congress’s direction.¹³⁷ Then, courts should assign the restitution received to the appropriate parties that facilitate the rehoming, training, and veterinary care of the dogs injured by the defendant’s acts.¹³⁸ In fact, a few courts are already doing this, but a uniform approach is necessary to achieve the goal of deterrence.¹³⁹ Not only will this solution aid the dogs seized in their recovery—but it will also uniformly deter dogfighters from engaging in the crime again.

3. Addressing the Standing Issue of “Pets as Property”

Of course, the concept of standing is a relevant discussion when conveying restitution to animals. While some argue that animals have no standing—usually through a “pets are property” aligned argument—that is an evasion of the next step in the analysis: it is entirely unnecessary that the “victim” receiving the benefits of restitution is the one who has standing to receive such restitution.¹⁴⁰ Rather, as a few courts have already expressly indicated in their rulings on these cases, animal shelters

¹³² 18 U.S.C. § 3663(a)(2).

¹³³ *Id.*

¹³⁴ See *The Facts About Dogfighting*, HUMANE SOC’Y OF THE U.S., <https://www.humanesociety.org/dogfighting> (last visited Nov. 19, 2023).

¹³⁵ See discussion *supra* Part III.A.

¹³⁶ *United States v. Webb*, 30 F.3d 687, 690 (6th Cir. 1994).

¹³⁷ U.S. CONST. art. III, § 2, cl. 1 (“[J]udicial Power shall extend to all Cases . . . arising under . . . the Laws of the United States . . .”).

¹³⁸ See *supra* note 112 and accompanying text.

¹³⁹ See discussion *supra* Part II.A.

¹⁴⁰ FRANCIONE, *supra* note 27, at 65 (“If animals have any legal rights, they will, of course, be incapable of articulating them on their own behalf. Rather, someone who, at least ideally, is acting in the best interests of the animals must articulate those interests.”).

and caretakers *do* have standing to receive the restitution costs.¹⁴¹ In turn, they can use this money to provide adequate veterinary care, rehoming, and retraining of the affected dogs. This serves as a deterrent and helps create positive public policy in maintaining the shelters so they can stay open.

B. Fixing the Current Symbolic Legislation: An Update to the Federal Animal-Cruelty Laws

The second solution calls for an update to the current federal animal-cruelty laws, such that these laws are no longer “symbolic legislation.”¹⁴² Specifically, current federal animal-cruelty laws lack adequate enforcement mechanisms to effectuate the statutes. For this reason, Congress should update these laws to incorporate restitution provisions. An update to these laws will deter future dogfighters by aiming to seize the profits collected by dogfighting.

1. An Update to the Animal Welfare Act to Include (1) Non-Commercial Animal-Cruelty Sanctions and (2) a Restitution Clause

To be effective, Congress should update the A.W.A. such that it has enforcement power. To achieve this, the A.W.A. should incorporate non-commercial animal-cruelty sanctions rather than strictly regulating commercial practices.¹⁴³ A non-commercial clause would close the loophole that allows dogfighters to go unpunished under the A.W.A. The proper statutory framework is already in place to achieve such a goal; Congress should simply add to what already exists. Practically, this would result in all-around regulation of animal-cruelty, regardless of whether the industry is dog breeding or dogfighting.

Additionally, the A.W.A. should be updated to include a restitution clause that addresses both commercial and non-commercial animal-cruelty practices. This clause should regulate non-commercial cruelty in the same manner as commercial cruelty—with fines and criminal sanctions.¹⁴⁴ With the incorporation of this clause, dogfighters would now have to pay for their crimes under the A.W.A. Only then will practical sentencing that addresses the lack of enforcement the A.W.A. currently possesses be achievable. This solution would create more deterrence and remedy the issue of the A.W.A. being merely “symbolic legislation.”¹⁴⁵

¹⁴¹ See *United States v. Hendrix*, No. 7:14-CR-51, 2015 U.S. Dist. LEXIS 165290, at *9–11 (M.D. Ga. Dec. 10, 2015); see also *id.* at *6–7 (discussing *United States v. Jackson*, a dogfighting case where the Tift County Animal Shelter and Hello Bully Rescue Agency rehabilitated the rescued dogs); *State v. Johnson*, 2015-0434 p. 2 (La. App. 1 Cir. 4/15/16).

¹⁴² FRANCIONE, *supra* note 27, at 65 (“If animals have any legal rights, they will, of course, be incapable of articulating them on their own behalf. Rather, someone who, at least ideally, is acting in the best interest of the animals must articulate those interests.”).

¹⁴³ See Animal Welfare Act, 7 U.S.C. § 2131.

¹⁴⁴ 7 U.S.C. § 2156; 7 U.S.C. § 2149.

¹⁴⁵ FRANCIONE, *supra* note 27, at 208.

2. An Update to the Preventing Animal Cruelty and Torture Act to Include the Incorporation of a Restitution Clause to Seize Profits from Video Recordings of Dogfights

The PACT Act requires an equally powerful update to increase its enforcement power. While Congress has defined egregious animal-cruelty “offenses” within the PACT Act, there are no restitution penalties for violating the statute.¹⁴⁶ Accordingly, Congress should incorporate a provision within the PACT Act that calls for an order of restitution if an individual engages in the egregious “offenses” that the statute identifies. Specifically, restitution should be assessed as a condition within the statute to seize the profits from video recordings of dogfights. Because the sale of these videos is one of the most profitable parts of dogfighting, this is an essential provision to enforce the prohibition of dogfighting in general, and the specific egregious “offenses” laid out within the PACT Act.¹⁴⁷ This solution aligns with the statute’s purpose and serves to drain dogfighting profits—again reducing the issue of dogfighters recidivating.

V. CONCLUSION

The high profits amassed from the illicit and cruel practice of dogfighting motivates individuals to continually engage in the crime.¹⁴⁸ Although Congress has set forth important laws for regulating animal-cruelty generally, there is no existing clause in any of these laws imposing restitution sanctions.¹⁴⁹

Imposing restitution uniformly as a mandatory condition of the Federal Sentencing Guidelines for dogfighters would actively deter individuals from engaging in the crime.¹⁵⁰ Further, imposing restitution within the already existing framework of animal-cruelty laws, including the A.W.A. and PACT Act, is another essential step in giving these statutes enforcement power.¹⁵¹ Thus, Congress should update these laws to carry out the statutory intent and, as a practical matter, to save lives.

¹⁴⁶ Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019). Though the statute incorporates a fine, it is not specific to restitution. *Id.*

¹⁴⁷ V. Tamara Montrose et al., *The Role of Social Media in Promoting Organized Dog Fighting*, THE VETERINARY NURSE (Oct. 2, 2021), <https://www.theveterinarynurse.com/research/article/the-role-of-social-media-in-promoting-organised-dog-fighting> (describing the comprehensive study and findings of social media’s role in distributing and promoting dogfighting videos).

¹⁴⁸ See PERDUE & LOCKWOOD, *supra* note 24; see also Gibson, *supra* note 24; Lockwood, *supra* note 19, at 8 (“There are many reasons people are attracted to dogfighting. The most basic is greed. Major dogfight raids have resulted in seizures of more than \$500,000, and it is not unusual for \$20,000–\$30,000 to change hands in a single fight. Stud fees and the sale of pups from promising bloodlines can also bring in thousands of dollars. Young participants have often been convinced that they can breed and sell a few fighting dogs and make a lot of money.”).

¹⁴⁹ See discussion *supra* Parts III.C.1–III.C.2.

¹⁵⁰ See discussion *supra* Part IV.A.1.

¹⁵¹ See Animal Welfare Act, 7 U.S.C. § 2131; Preventing Animal Cruelty and Torture Act, Pub. L. No. 116-72, § 48, 133 Stat. 1151 (2019).

An order for restitution in a dogfighting case goes beyond a simple sanction within a criminal case. Of course, the threat of deterrence is key to ending dogfighting as a whole, but for those dogs who are the subject of such cruelty, an assessment of restitution serves to heal them. And when courts order restitution, happy endings *are* possible for these dogs: Handsome Dan, seized from a dogfighting ring, has now grown up to be “the perfect nanny dog to his little human sister”; Timmy, rescued by the American Society for the Prevention of Cruelty to Animals from a dogfighting ring, now has his own bed and frequently plays with the neighbor dog; Mama Jade, rescued from a dogfighting ring after a veterinary receptionist recognized she had injuries consistent with a dogfight, is now living a new life with her own family.¹⁵² Restitution is essential to bridge the gap between punishment for the dogfighter and healing for the dog.

¹⁵² Madeline Shannon, *5 Former Fighting Dogs Whose Stories Will Make You Believe in Happy Endings*, ONE GREEN PLANET (2017), <https://www.onegreenplanet.org/animalsandnature/former-fighting-dogs/>.

