

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by Rep. Robert H. Miller at
Chairperson1:30 a.m./p.m. on March 21, 1984 in room 526S of the Capitol.

All members were present except:

Representatives Runnels & Peterson - E

Committee staff present:

Russ Mills, Research
Mary Torrence, Revisor

Conferees appearing before the committee:

Representative Knopp
Frances Kastner
Larry Repp
Neal Whittaker
Larry Sullivan
Reverend Taylor
Charles Nickolay
Audrey McCaig
Dick Ketterman
Ellen Keurner
Representative Moomaw
Ann Heberger
Dick Kline
Bob Klester
Michael Barbara
Dick Boerger
Phil Woodbury
Ron Phillips
Wilbur Leonard
John Vrana

The meeting was called to order by Chairman Miller. He announced that several peices of written testimony dealing with parimutuel had been distributed.

Representative Barr made a motion, seconded by Representative Brady, that the minutes of the March 19 meeting be approved. The motion carried.Janet Stubbs, Topeka Homebuilders, requested a bill be introduced which would be essentially the same as SB531 dealing with the real estate brokers' and salespersons' license act. See attachment A. Ms. Stubbs also distributed a copy of amendments to this bill. See attachment B.

HB2393 - Sale of 3.2 beer in gas stations.

Representative Knopp explained the bill to the committee. See attachment C.*Frances Kastner, Kansas Food Dealers' Association, Inc., gave testimony in opposition to the bill. See attachment D.Larry Repp, KWIK Shop Convenience Stores, gave testimony in opposition to HB2393. See attachment E.

Neal Whittaker, Kansas Beer Wholesalers Association, gave testimony in opposition to the bill. He told the committee there have been a number of filling stations across the state who have had to diversify in order to stay in business.

Larry Sullivan, District Manager for Love's Country Stores, gave testimony in opposition to HB2393. See attachment F.

Charles Nickolay, Kansas Oil Marketers Association, spoke in opposition to the bill.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the F&SA Committee on March 21, 19

Reverend Taylor gave testimony in support of the bill. He asked the committee which was more important - selling beer or selling lives.

Hearings on HB2393 were concluded.

SB403- Pit Dog Fighting

Audrey McCaig, Helping Hands Humane Society, Inc., gave testimony in support of the bill which defines the crime of unlawful conduct of dog fighting one of the most deplorable and desensitizing pastimes ever contrived. See attachment G.

Dick Ketterman, Lawrence Humane Society, gave testimony in support of the bill and gave a history of dog fighting. See attachment H.

Ellen Keurner, Wichita, told the committee dog fighting is a reality and gave some examples of dog fighting cases in the Wichita area. She distributed an ABMA Commentary on dog fighting (See attachment I) and showed the committee pictures of a dog who had been in one of these dog fights.

Hearings were concluded.

HB2899 - Sentencing of D & E felons

Representative Moomaw gave testimony in support of the bill and explained that under current law a judge has two options when sentencing persons convicted of D and E felonies (non-violent crimes). This bill would allow a third option, confinement in jail. See attachment J. Suggested amendments K.

Ann Heberger, League of Women Voters, gave testimony in support of the bill with some reservations. They were concerned about how many jails have rehabilitation services --- Would these be provided by the state or the Department of Corrections. See attachment L.

Dick Kline, Kansas Corrections Association, stated that this bill in its present form would only be shifting a problem of overcrowding in state prisons to local jails. He felt this bill would have a more positive impact on the overcrowding problems if the sentencing option set forth in the bill was coordinated with the development of a Community Corrections Plan. See attachment M.

Bob Klester, Kansas Sheriff's Association, supported the bill but said there was work to be done on the bill.

Michael Barbara, Department of Corrections, told the committee that an amendment to exclude community corrections would be bad. Out of 83 jails 53 were found to be deficient and 14 hazardous to inmates. He felt the committee should move slowly and give this matter further study.

Hearings were concluded.

HB2592 - Mobile phone regulation

Dick Boerger, Southwestern Bell Mobile Systems, Inc., gave testimony in support of the bill and said that one of the keys to the success of the new cellular industry is to be deregulated at the state level. See attachment N.

Phil Woodbury, Mobilfone of Kansas, gave testimony in opposition to the bill stating it would have an adverse effect on small businesses who now compete with the two largest landline telephone companies. See attachment O.

Ron Phillips, Mobil Telephone Service, gave testimony in opposition to the bill. They want KCC oversight. Regulation is in the best interest of the people of Kansas.

John Vrana gave testimony in opposition to the bill. See attachment P.

Wilbur Leonard, Kansas Telephone Association, submitted written testimony in support of the bill. See attachment Q.

Hearings were concluded on HB2592.

CONTINUATION SHEET

Minutes of the F&SA Committee on March 21, 1984

Representative Barr made a motion, seconded by Representative Aylward to introduce the bill draft submitted by Janet Stubbs as a committee bill. The motion carried.

The meeting was adjourned.

A

SENATE BILL No. 531

By Committee on Federal and State Affairs

0015 AN ACT concerning the real estate brokers' and salespersons'
0016 license act; exemptions; prohibited acts; new homes; amend-
0017 ing K.S.A. 58-3037 and 58-3062 and repealing the existing
0018 sections.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 58-3037 is hereby amended to read as fol-
0021 lows: 58-3037. The provisions of this act shall not apply to:

0022 (a) Any person who directly performs any of the acts within
0023 the scope of this act with reference to such person's own prop-
0024 erty.

0025 (b) Any person who directly performs any of the acts within
0026 the scope of this act with reference to property that such person
0027 is authorized to transfer in any way by a power of attorney from
0028 the owner, provided that such person receives no commission or
0029 other compensation, direct or indirect, for performing any such
0030 act.

0031 (c) Services rendered by an attorney licensed to practice in
0032 this state in performing such attorney's professional duties as an
0033 attorney.

0034 (d) Any person acting as receiver, trustee in bankruptcy,
0035 administrator, executor or guardian, or while acting under a court
0036 order or under the authority of a will or a trust instrument or as a
0037 witness in any judicial proceeding or other proceeding con-
0038 ducted by the state or any governmental subdivision or agency.

0039 (e) Any officer or employee of the federal or state govern-
0040 ment, or any political subdivision or agency thereof, when per-
0041 forming the official duties of the officer or employee.

0042 (f) Any multiple listing service wholly owned by a nonprofit
0043 organization or association of brokers.

H. A.

0044 (g) Any nonprofit referral system or organization of brokers
0045 formed for the purpose of referral of prospects for the sale or
0046 listing of real estate.

0047 (h) Railroads or other public utilities regulated by the state of
0048 Kansas, or their subsidiaries, affiliated corporations, officers or
0049 regular employees, unless performance of any of the acts de-
0050 scribed in subsection (c) of K.S.A. 58-3035 *and amendments*
0051 *thereto* is in connection with the sale, purchase, lease or other
0052 disposition of real estate or investment therein unrelated to the
0053 principal business activity of such railroad or other public utility
0054 or affiliated or subsidiary corporation thereof.

0055 (i) The sale or lease of real estate by an employee of a
0056 corporation which owns or leases such real estate, if such em-
0057 ployee owns not less than ~~five percent (5%)~~ 5% of the stock of
0058 such corporation.

0059 (j) The sale or lease of new homes by a person, partnership,
0060 association or domestic corporation who constructed such
0061 homes, ~~but the provisions of this act shall apply to the sale or~~
0062 ~~lease of any such homes by any employee of such person,~~
0063 ~~partnership or association or by any employee of such corpora-~~
0064 ~~tion who owns less than five percent (5%) of the stock of such~~
0065 ~~corporation or the employees of such person, partnership, asso-~~
0066 ~~ciation or domestic corporation.~~

0067 (k) The lease of real estate for agricultural purposes.

0068 Sec. 2. K.S.A. 58-3062 is hereby amended to read as follows:
0069 58-3062. (a) No licensee shall:

0070 (1) Intentionally use advertising that is misleading or inac-
0071 curate in any material particular or that in any way misrepresents
0072 any property, terms, values, policies or services of the business
0073 conducted, or uses the trade name, collective membership mark,
0074 service mark or logo of any organization owning such name, mark
0075 or logo without being authorized to do so-;

0076 (2) fail to account for and remit any money which comes into
0077 the licensee's possession and which belongs to others-;

0078 (3) commingle the money or other property of the licensee's
0079 principals with the licensee's own money or property, except
0080 that nothing herein shall prohibit a licensee from depositing in a

0081 trust account a sum not to exceed ~~one hundred dollars (\$100)~~
0082 \$100 to pay expenses for the use and maintenance of such
0083 account-;

0084 (4) accept, give or charge any rebate or undisclosed commis-
0085 sion-;

0086 (5) represent or attempt to represent a broker without the
0087 broker's express knowledge and consent-;

0088 (6) act in a dual capacity of agent and undisclosed principal
0089 in any transaction-;

0090 (7) guarantee or authorize any person to guarantee future
0091 profits that may result from the resale of real property-;

0092 (8) place a sign on any property offering it for sale or lease
0093 without the written consent of the owner or the owner's autho-
0094 rized agent-;

0095 (9) offer real estate for sale or lease without the knowledge
0096 and consent of the owner or the owner's authorized agent or on
0097 terms other than those authorized by the owner or the owner's
0098 authorized agent-;

0099 (10) induce any party to a contract of listing, sale or lease to
0100 break such contract-;

0101 (11) negotiate a sale, exchange or lease of real estate directly
0102 with an owner or lessor if the licensee knows that such owner or
0103 lessor has, with regard to the property, a written outstanding
0104 contract granting an exclusive agency or an exclusive right to sell
0105 or lease to another broker-;

0106 (12) offer or give prizes, gifts or gratuities which are contin-
0107 gent upon a client's listing, purchasing or leasing property-;

0108 (13) fail to include a fixed date of expiration in any written
0109 listing agreement or fail to furnish a copy of the agreement to the
0110 principal within a reasonable time-;

0111 (14) enter into a listing agreement on real property in which
0112 the broker's commission is based upon the difference between
0113 the gross sales price and the net proceeds to the owner-;

0114 (15) fail to see that financial obligations and commitments
0115 regarding real estate are in writing, expressing the exact agree-
0116 ment of the parties or to provide copies thereof to all parties
0117 involved-;

- 0118 (16) procure a signature to a purchase contract which has no
0119 definite purchase price, method of payment, description of
0120 property or method of determining the closing date-;
- 0121 (17) fail to deliver within a reasonable time a completed copy
0122 of any purchase agreement or offer to buy or sell real estate to the
0123 purchaser and to the seller-;
- 0124 (18) engage in fraud or make any substantial misrepresenta-
0125 tion-;
- 0126 (19) act for more than one party in a transaction without the
0127 knowledge of all parties for whom the licensee acts-;
- 0128 (20) represent to any lender, guaranteeing agency or any
0129 other interested party, either verbally or through the preparation
0130 of false documents, an amount in excess of the true and actual
0131 sale price of the real estate or terms differing from those actually
0132 agreed upon-;
- 0133 (21) fail to make known to any purchaser any interest the
0134 licensee has in the property the licensee is selling or leasing-;
- 0135 (22) fail to make clear to the party for whom the licensee is
0136 acting, or fail to divulge to all parties, any compensation ar-
0137 rangement with more than one party-;
- 0138 (23) fail to inform both the buyer, at the time an offer is made,
0139 and the seller, at the time an offer is presented, that certain
0140 closing costs must be paid and the approximate amount of such
0141 costs-;
- 0142 (24) fail without just cause to surrender any document or
0143 instrument to the rightful owner-;
- 0144 (25) accept anything other than cash as earnest money unless
0145 that fact is communicated to the owner prior to the owner's
0146 acceptance of the offer to purchase, and such fact is shown in the
0147 earnest money receipt-;
- 0148 (26) fail to deposit any check or cash received as an earnest
0149 money deposit within five ~~(5)~~ business days after the purchase
0150 agreement is signed by all parties, unless otherwise specifically
0151 provided by written agreement of all parties to the purchase
0152 agreement-;
- 0153 (27) fail in response to a request by the commission or the
0154 director to produce any document, book or record in the li-

0155 censee's possession or under the licensee's control that con-
0156 cerns, directly or indirectly, any real estate transaction or the
0157 licensee's real estate business;

0158 (28) fail to submit a written bona fide offer to the seller when
0159 such offer is received prior to the seller's accepting an offer in
0160 writing and before the broker has knowledge of such accept-
0161 ance;

0162 (29) refuse to appear or testify under oath at any hearing held
0163 by the commission;

0164 (30) demonstrate incompetency to act as a broker, associate
0165 broker or salesperson; *or*

0166 (31) fail to disclose, or ascertain and disclose, to any person
0167 with whom the licensee is dealing, any material information
0168 which relates to the property with which the licensee is dealing
0169 and which such licensee knew or should have known.

0170 (b) No salesperson or associate broker shall:

0171 (1) Accept a commission or other valuable consideration from
0172 anyone other than the salesperson's or associate broker's em-
0173 ploying broker or the broker with whom the salesperson or
0174 associate broker is associated; *or*

0175 (2) fail to place, as soon after receipt as practicable, any
0176 deposit money or other funds entrusted to the salesperson or
0177 associate broker in the custody of the broker whom the sales-
0178 person or associate broker represents.

0179 (c) No broker shall:

0180 (1) Pay a commission or compensation to any person for
0181 performing the services of an associate broker or salesperson
0182 unless such person is licensed under this act and employed by or
0183 associated with ~~the broker~~ *a broker or employed by a person,*
0184 *partnership, association or domestic corporation engaged in*
0185 *construction of new homes*, except that nothing herein shall
0186 prohibit the payment of a referral fee to a person who is properly
0187 licensed as a broker or salesperson in another jurisdiction;

0188 (2) fail to deliver to the seller in every real estate transaction,
0189 at the time the transaction is closed, a complete, detailed closing
0190 statement showing all of the receipts and disbursements handled
0191 by the broker for the seller, or fail to deliver to the buyer a

0192 complete statement showing all money received in the transac-
0193 tion from such buyer and how and for what the same was
0194 disbursed, or fail to retain true copies of such statements in the
0195 broker's files, except that the furnishing of such statements to the
0196 seller and buyer by an escrow agent shall relieve the broker's
0197 responsibility to the seller and the buyer-;

0198 (3) fail to properly supervise the activities of an associated or
0199 employed salesperson or associate broker-;

0200 (4) lend the broker's license to a salesperson, or permit a
0201 salesperson to operate as a broker-;

0202 (5) fail to return or release an earnest money deposit, except
0203 by court order or upon written agreement of the buyer and seller,
0204 when the transaction is terminated or consummated-;

0205 (6) after an offer has been accepted, disburse an earnest
0206 money deposit, except by court order or upon written agreement
0207 of the buyer and seller, when the transaction has not been
0208 terminated or consummated-; or

0209 (7) fail to provide to the principal a written report every ~~thirty~~
0210 ~~(30)~~ 30 days, along with a final report, itemizing disbursements
0211 made by the broker from advance listing fees.

0212 Sec. 3. K.S.A. 58-3037 and 58-3062 are hereby repealed.

0213 Sec. 4. This act shall take effect and be in force from and
0214 after its publication in the statute book.

0044 (g) Any nonprofit referral system or organization of brokers
 0045 " ed for the purpose of referral of prospects for the sale or
 0046 listing of real estate.

0047 (h) Railroads or other public utilities regulated by the state of
 0048 Kansas, or their subsidiaries, affiliated corporations, officers or
 0049 regular employees, unless performance of any of the acts de-
 0050 scribed in subsection (c) of K.S.A. 58-3035 *and amendments*
 0051 *thereto* is in connection with the sale, purchase, lease or other
 0052 disposition of real estate or investment therein unrelated to the
 0053 principal business activity of such railroad or other public utility
 0054 or affiliated or subsidiary corporation thereof.

0055 (i) The sale or lease of real estate by an employee of a
 0056 corporation which owns or leases such real estate, if such em-
 0057 ployee owns not less than five percent (5%) 5% of the stock of
 0058 such corporation.

0059 (j) The sale or lease of new homes by a person, partnership,
 0060 association or domestic corporation who constructed such
 0061 homes, but the provisions of this act shall apply to the sale or
 0062 lease of any such homes by any employee of such person,
 0063 partnership or association or by any employee of such corpora-
 0064 tion who owns less than five percent (5%) of the stock of such
 0065 corporation or the employees of such person, partnership, asso-
 0066 ciation or domestic corporation.

0067 (k) The lease of real estate for agricultural purposes.

0068 Sec. 2. K.S.A. 58-3062 is hereby amended to read as follows:
 0069 58-3062. (a) No licensee shall:

0070 (1) Intentionally use advertising that is misleading or inac-
 0071 curate in any material particular or that in any way misrepresents
 0072 any property, terms, values, policies or services of the business
 0073 conducted, or uses the trade name, collective membership mark,
 0074 service mark or logo of any organization owning such name, mark
 0075 or logo without being authorized to do so;

0076 (2) fail to account for and remit any money which comes into
 0077 the licensee's possession and which belongs to others;
 0078 commingle the money or other property of the licensee's
 0079 principals with the licensee's own money or property, except
 0080 that nothing herein shall prohibit a licensee from depositing in a

on an occasional basis,

when doing any of the following:

- (1) Exhibiting one or more such homes;
- (2) demonstrating features of one or more such homes;
- (3) distributing literature concerning one or more such homes;
- (4) conveying information concerning one or more such homes;
- (5) performing such other duties relating to any of the foregoing as may be needed, except making a contract of sale of any such home or arranging terms of financing.

Atch. B



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 21, 1984

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FRANCES KASTNER

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

IN OPPOSITION TO HB 2393

EXECUTIVE DIRECTOR
JIM SHEEHAN
SHAWNEE MISSION

We had a number of our members from our town that wanted to appear before you today in opposition to HB 2393, but due to the weather problems the past few days, I will try to bring you their individual and collective concerns, since they didn't get here.

The members of the Kansas Food Dealers Association have always staunchly defended the right for businessmen to sell products which their customers want to purchase, so long as that product is not illegal.

That premise holds true whether it is 3.2 beer, over-the-counter non-prescription drugs, or filled dairy products.

We see little rationale in trying to prevent individuals from driving while under the influence of alcohol simply by NOT permitting them to purchase fuel for the vehicles at the same place where they can purchase beverages which could cause them to become intoxicated.

Passing a bill such as HB 2393 will do nothing insofar as taking drivers off the road who have consumed too much beer. You cannot legislate morality. Neither can you prevent those who want to drive while under the influence of alcohol or drugs from doing so just by limiting the places where these purchases can be made, or saying they can not be made at the same place of business.

The person who wants to make a beer purchase is going to find a place to purchase it. If indeed he has to drive half a block farther down the road, he will do so if he wants to buy beer. Trying to limit what can be purchased during one shopping trip will not prevent someone from drinking and driving, if that is what you are trying to accomplish.

ALch. D

We currently have laws on the statute books which prohibit driving with an open container in the vehicle, and we certainly don't object to that law. We also have laws prohibiting driving while under the influence of alcohol or drugs.

Are you going to next consider a measure which would prohibit a gasoline station from selling anything except fuel? Any type of over the counter non-prescription drug, if used in excess, or other than outlined on the label, could prevent a driver from operating his vehicle in a safe manner.

Again, those same over-the counter non-prescription drugs can be purchased at one establishment and used just as freely and just as incorrectly or unsafely as if purchased at the gasoline station.

We do not believe that this legislature should start prohibiting sales of legal products and hamper private enterprise. Afterall, the way towards becoming a successful business person is to provide the products which customers want to purchase.

In one instance, in Leavenworth County, one of our members owns the BASEHOR FARM STORE which is a full line IGA supermarket. He also provides the only gasoline sales on a regular daily basis in that whole community. He is open from 7 a.m. till 8:30 P.M., selling both groceries and gasoline. Other gas stations in that area are open sporadically and have irregular hours. The people living in the Basehor community would have to go to Kansas City to the next nearest gas station if the IGA store were prohibited from selling gasoline and the other two stations didn't happen to be open. J. R. Waymire, had intended to be here today, but when I talked to him in Leavenworth yesterday, he didn't think he would make it.

Stan Hayes, owner and operator of two DUTCH MAID SUPERMARKETS and four MINI-MARTS in Manhattan says that he sells gasoline at all four of the Mini-Mart Convenience stores as well as one of the supermarkets. Individuals who purchase many items other than 3.2 beer purchase gasoline at these full line supermarkets as well as at the convenience stores.

We had anticipated conferees from the LOVE'S COUNTRY STORE at Wellington, as well as from the QUIK TRIP Corporate Office at Shawnee Mission, but they couldn't appear today. I believe I have covered their concerns for you and if you have any questions, I will be happy to answer them. Larry Repp, from one of the Topeka KWIK SHOPS planned to appear before you to also oppose HB 2393.

Thank you for this opportunity to express the views of our membership.

Frances Kastner, Director
Governmental Affairs
Kansas Food Dealers Assn.
3310 SW 7th St. # 2
Topeka, Ks. 66606
(913). 232-3310



March 21, 1984

Honorable Representatives

Kwik Shop is a Kansas based corporation that has been in existence for 22 years. We currently operate 55 convenience stores in this state representing 19 communities. We, at Kwik Shop, are opposed to HB 2393. This law, if passed, would prohibit the sale of beer at a location that sells and dispenses gasoline. We feel that such a law is undesirable for the following reasons:

1. All legislation must carry an intent. The intent of this bill appears to be the elimination of drunk drivers. There are no statistics available that indicate drunk drivers are a result of purchasing 3.2 beer at a convenience store versus "over the bar" or "at home" consumption. We strongly believe the passage of this bill will not prevent drunk drivers.
2. We feel that present legislation, if properly enforced, is more effective as a deterrent of drunk driving than this bill. The open container laws and the "new" drunk driving penalties can be adequate preventive measures, if they are utilized.
3. Additional legislation, if required, should be to educate the general public of the consequences of the abuses of alcohol, rather than the restriction of 3.2 beer sales.
4. The economic aspect is, and must be a consideration for our company. The combined sale of beer and gasoline represent over 50% of our total sales. If either were restricted from our sales mix many marginally profitable stores would be forced to close. This would leave many neighborhoods without any convenient shopping, causing loss of jobs as well as loss of tax revenues.

In conclusion, convenience stores sell beer and gas because our customers desire to purchase both items. It is anti-competitive and unreasonable to prohibit the sale of either item from one location. It is certainly wrong to drink excessively and drive, but this bill will not solve this problem, it will simply limit competition. Kwik Shop applauds the legislatures efforts to stop drunk driving and would be pleased to work with any state or private organization on this issue of mutual concern.

Thank you for allowing us to express our views on this bill. If we can be of any further service please feel free to contact us.

Sincerely,

Robert L. Meyers
President

Kwik Shop, Inc
734 E. Fourth St
P.O. Box 1927
Hutchinson, Ks 67504-1927

IN OPPOSITION TO HB 2393

My name is Larry Sullivan, District Manager for LOVE'S COUNTRY STORES. Our Office is in Oklahoma City, Oklahoma. We operate 24 convenience stores, with self service gas, in the State of Kansas. There are approximately 750 convenience stores in Kansas, so we represent only about 3% of the total number.

If House Bill 2393 had been in effect in 1983, LOVE'S COUNTRY STORES in Kansas would have lost \$1,117,372.00 in sales, and approximately \$290,500.00 in gross profit. These figures are based on beer sales in our 24 stores.

Based on 1983 profit and loss statements, my 24 managers in Kansas would have lost \$7,500.00 in salaries and bonus potential of approximately \$8,700.00 if beer sales at our stores would have been prohibited. LOVE'S employee labor hours are based on inside sales per store. If this bill is passed, we will be forced to terminate approximately one full time employee in each of our 24 stores.

We feel that this bill would not only be detrimental to LOVE'S and our employees, but to the State of Kansas. Just our 3% of the convenience stores in Kansas, paid over \$44,000.00 in sales tax on beer sales in 1983. The state would also lose Income Tax on approximately \$17,000 in salaries and bonuses paid our managers, plus the Income Tax on approximately \$187,000 on salaries of the 24 people that would have been terminated. This in turn would add another 24 people on the unemployment rolls, just from our 24 stores.

Therefore, for the reasons I have just stated, the 200 employees of LOVE'S COUNTRY STORES in Kansas, are strongly in opposition to HB 2393 and feel that you, as representatives of the people of Kansas, should be also.

On behalf of LOVE'S COUNTRY STORES, I want to thank you for taking the time to listen to our views on this subject, and ask that you KILL HB 2393.

Larry L. Sullivan
521 S. Dinsmore
Lyons, Ks. 67554

Phone (316) 257-2047

Atch. F



Helping Hands Humane Society, Inc.

MISS AUDREY B. McCAIG • EXECUTIVE DIRECTOR

OFFICE AND ANIMAL SHELTER 2625 ROCHESTER RD. • TOPEKA, KANSAS 66617 • TELEPHONE 233-7325

SINCE 1938 - A CHARITABLE ORGANIZATION FOR THE PROTECTION OF ANIMALS

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- Mr. Edward L. Bailey, Topeka
- Mr. Gary K. Clarke, Topeka
- Mr. Duane T. Patterson, Topeka
- Mr. Robert D. Onek, Topeka

March 21, 1984

Representative R. H. Miller, Chairperson
 Federal and State Affairs Committee of the House of Representatives
 Room 526-S
 State House
 Topeka, Kansas 66612

Representative Miller and Members of the Committee. I am Miss Audrey B. McCaig, Executive Director of the Helping Hands Humane Society here in Topeka.

I am here today in support of SB-403, an Act defining the crime of Unlawful Conduct of Dog Fighting which amends K.S.A. 1983 Supp. 21-4315 and repealing the existing sections. I am also representing fourteen (14) Humane Societies throughout the State of Kansas that comprise the Kansas Federation of Humane Societies, all of whom are in favor of this bill being passed as is.

Dogfighting is one of the most deplorable desensitizing pastimes ever contrived. The dogs are pitted against one another in a senseless combat where the weapons are their teeth and jaws. They rip flesh, break bones, and tear the skin off of each other for the sadistic pleasure of owners, spectators, and bettors.

A dogfighting subculture exists which supports several underground magazines, breeders, fighters, handlers, gamblers and equipment dealers. Every year millions of dollars are waged at secret dogfighting sites all over the country, even here in Kansas. The fighting dogs are injured, suffer, and frequently die because the dogfighting subculture has absolutely no concern for the animals they are exploiting.

The going rate for attending a big fight is \$35.00 entrance fee per person, but it isn't unusual for \$40,000 to be bet on one of the fights. The Humane Society of The U.S., along with law enforcement officers, raided a dogfight in Marked Tree, Arkansas before the dogfight started and said the spectators and handlers were found to be carrying about \$500,000 in cash, along with dozens of hand guns, drugs and other concealed weapons such as knives.

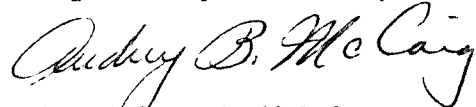
Atch. B

We know for a fact that it goes on all over the State of Kansas. Here in Topeka we know who has Pit Bulls, Dobermans and Rotweillers that are used for fighting, but unfortunately, people are afraid of these people and won't give out any information as to location of the fights. Their lives wouldn't be worth a plugged nickle. There is also quite a ring of these people down in Leavenworth County and it has been rumored that a number of law enforcement officers are in on it, so consequently they cannot get any cooperation from them. Sedgewick County Law Enforcement along with Ellen Querner have had some success on the old Statute but we need this new one very badly with its additional teeth!

Therefore, I urge each of you to join me in support of SB-403 because we need this bill passed during this session. Your help will be deeply appreciated.

Thank you.

Respectfully submitted,



Miss Audrey B. McCaig,
Executive Director

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Andre Brown

our chickens. The entire family ran to investigate. There was Pal, walking around the chicken pen with our big Rhode Island Red rooster. He had taken a mouthful of the rooster's neck feathers and was carefully walking the rooster around the yard. He never hurt the rooster, and in all the years we had Pal, he never once harmed anything or anyone.

As I mentioned before, he was gentle; but when he let go with his bark, it was frightening to anyone who didn't know him. Yet the neighborhood children loved him. They were delighted when he stood on his hind legs to peer over the fence when they passed by.

Our home was on the edge of town. We had an ordinary fence that stood about five feet high. None of us ever thought Pal might jump over it. We didn't know this problem had been on my father's mind for some time. Finally one night at dinner, he brought the subject to our attention.

"I think we must face facts," he said thoughtfully. "We know Pal wouldn't willingly hurt anyone, but suppose someone who didn't know Pal hit him with a stick, or threw a rock at him? What do you think would happen?"

"I know what would happen," my youngest brother said. "Pal would be over that fence in no time. Whoever had hurt him would have run like lightning!"

"No one could outrun..." I began. "Dad, why are you talking

about Pal this way? You never have before."

"I know," Dad admitted, "but I'm worried. With Pal's size and strength, if he ever got angry he could easily kill someone."

"But he wouldn't!" I insisted tearfully. "He would never attack a person."

"We know he wouldn't under ordinary circumstances. I think we should give this some thought. We

This is a Dogfight!

These two dogs have been trained to try and kill one another. Some cruel people think this is a sport.

Dogfighting is illegal in all 50 states and by federal law. Some people think it's dying out. They're wrong! Dogfighting is on the increase.

People raise and train Pit Bull Terriers to fight for entertainment and for betting. It is more popular in some states than others but there are dogfights in almost every state.

Dogfighting is big business. A lot of money is bet on fights. Dogfighters don't

care that their animals suffer and die. Dogfighters are cruel criminals.

If you ever find out about a dogfight you should call the police. You might save a dog's life.



HSUS/Dantzier

One night Dad came home with news. "I've been talking to a friend of mine," he said. "He has seen Pal and he agrees with me that we're taking a big chance, trying to keep him inside that fence."

I didn't say anything. I couldn't. I knew what my father was about to say.

"My friend has a big ranch in the country," Dad said. "There would be acres of land for Pal, and these people will be good to him. He'll get the best of care. We can visit Pal anytime we choose."

"You can't give him away," I sobbed. "There's no danger, even if he is big. You know how gentle he is. He'd never hurt anyone!"

"Honey," Dad said, "I know

Pal I thought my heart would break. Pal didn't protest when his new owner put the leash around his neck and led him to the car. The last I saw of Pal was when he stuck his big head out the window and looked back at us as the car pulled away.

Several months passed. Though it is said that time heals, it didn't with me. There were too many things around the house to remind me. One day, Dad asked if I wanted to drive out to his friend's ranch to visit Pal. I said no. I just couldn't do it.

A year passed. The hurt was still there, but it was slowly buried by everyday things.

One day a man came to visit us. He was a friendly person, and before he'd been in the house an hour it seemed like we'd known him for years.

"I saw that big white dog of yours," he told us as he was leaving. "Mind telling me what they paid you for him?"

"What do you mean?" Dad asked. "We didn't sell Pal. We gave him to Mr. C. who promised to give him a good home out at the ranch."

Our visitor raised his eyebrows and shrugged. "You've been fooled. Your friend is making a fortune with Pal."

"How could he make a fortune?" I asked. "Pal wasn't trained for anything. He was just a pet."

"I wouldn't say he's exactly a pet. He's a Pit Bull. I understand he's killed every dog they've put up against him. They're using him in dogfights."

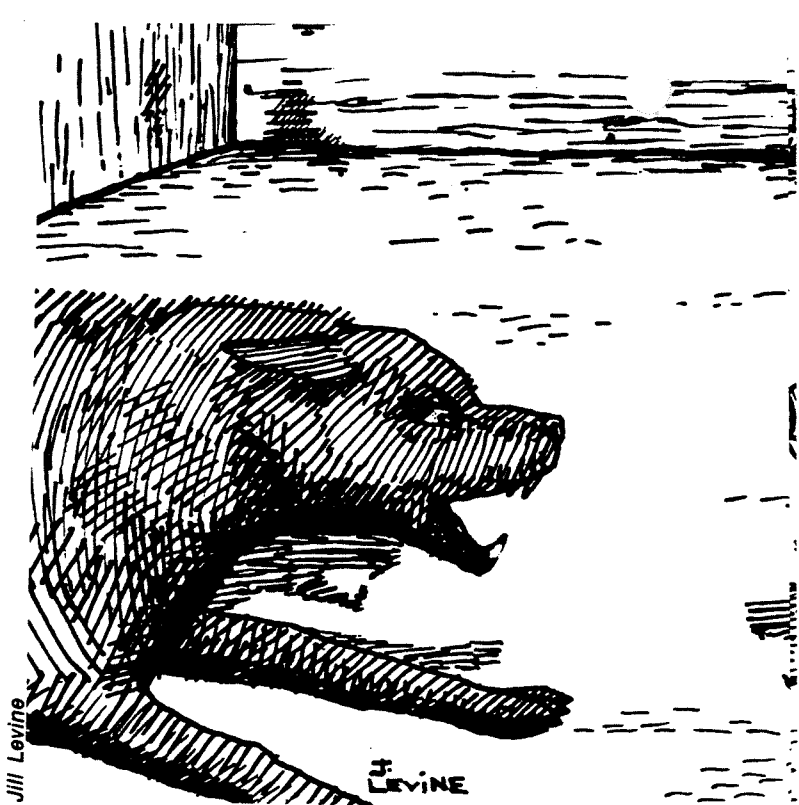
My beautiful Pal. What have they done? God forgive them. I never will!



Atch. H

Dogfighting— A Sport Not Fit for Man or Beast

by Alan Breznick



Every weekend a peculiar form of Saturday night fever hits thousands of Americans throughout the country. Rather than dance the evening away in a disco or drown their sorrows at a local pub, they secretly steal away from their homes, drive or are taken to some obscure prearranged meeting spot (perhaps a barn, garage, or abandoned shack), produce their credentials, plunk down anywhere from \$25 to a few thousand dollars, and grab the best seats they can find.

Then they settle back to watch the evening's entertainment—a full night's slate of dogs killing and maiming each other.

Until recently, dogfighting has not been in the public eye very much. Which is just the way fans and promoters of this underground "sport" prefer it. For, similar to cockfighting, dogfighting draws its roots from a savage, bloodthirsty tradition that dates back to at least the Roman Empire. And, like cockfighting, dogfighting is still quite savage and brutal today, despite claims by its proponents that they really love and care for the dogs they train to kill.

NO MERCY

In a typical modern dogfight, two dogs (often American pit bull terriers that are specially bred for their tenacity and "gameness") leap toward each other in a wooden pit and viciously rip away at the other's limbs, face,

skin, and vital organs until one can no longer leave its corner and cross the "scratch" line.

As in wrestling, the two competitors may struggle frantically to get a good hold on each other. Depending on their conditioning, some dogs go for the nose, throat, or ears, while others shoot for the legs or stomach. Blood and saliva fly throughout the pit, onto the walls, the floor, and the pants of the referee. But, unlike in wrestling, the two fighters rarely make any sound, so intent are they on ripping each other to shreds.

Plenty of sound, however, continu-

... dogfighting draws its roots from a savage, bloodthirsty tradition that dates back to at least the Roman Empire."

ally erupts from spectators and bettors watching the match. As many as a hundred or more dogfight patrons from all walks of life may be hooting, hollering, and screaming for the dog of their choice, on which they may have staked thousands of dollars. These dogfight fans, often visibly affected by alcohol and other drugs, and frequently sporting weapons, may turn on each other violently if their dog loses.

When the fight ends, the losing dog often dies, because the other dog has killed it, its injuries are so severe that it cannot recover, or its owner finishes it off with a bullet or, in some documented cases, an ice pick.

In many cases, the winning dog also dies as a result of its injuries. The

survivors, meanwhile, whether winners or losers, are perhaps the most unfortunate creatures, for they recover to lick their wounds and fight another day.

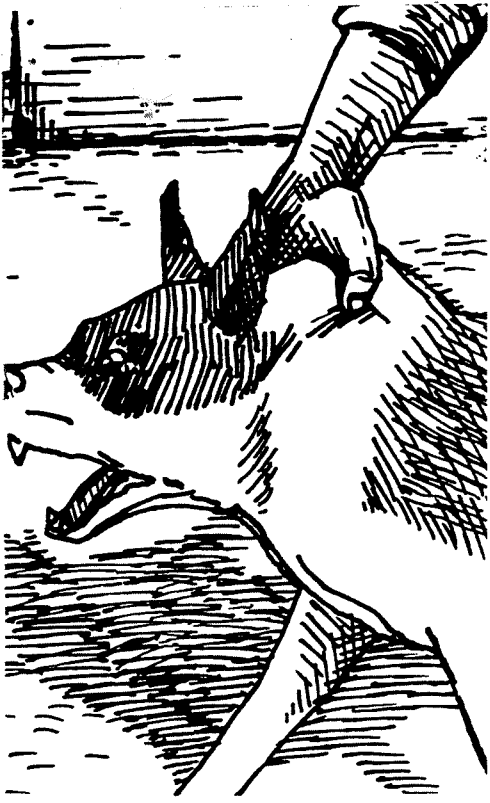
But they don't last long. Even champion fighters rarely last more than half a dozen major matches, as is readily admitted in several of the magazines which have grown up around the underground dogfighting subculture. Some, however, do get a reprieve and serve the rest of their lives as studs, helping to produce future generations of fighting dogs.

It is in the training of these future

generations that dogfighters first show their cruel hand. Almost from the pup's birth, they start training the dog to become a killer, often sparing no expense. Humane society investigators estimate that owners may spend thousands of dollars preparing one dog for one major fight, with the winning purse from that match sometimes only barely covering the training expenses.

COSTLY TRAINING

Where do these thousands of dollars go? Part of the sum goes toward the purchase of the dog, which may cost several hundred dollars depending upon its bloodline. Part of it goes



Despite these reported increases, enforcement of existing laws has been almost nil and penalties remain light. Critics contend that the U.S. Department of Agriculture, the federal agency charged with enforcing the Animal Welfare Act, has not made a serious effort to investigate dogfighting and prosecute offenders. They also blame noncooperative local police agencies, vague anti-cruelty statutes in many states, and local courts which mete out lax sentences for the failure to curb dogfighting.

ASPCA STUDY

In accordance with this belief, the ASPCA is now engaged in a major study of dogfighting in the United States. Other humane societies, including the Humane Society of the United States (HSUS), the International Society for the Protection of Animals (ISPA), and the Massachusetts SPCA (MSPCA) are cooperating with the ASPCA in this study. We'll have more on this study in future issues.

“ . . . the number of dogfights has quadrupled in the U.S. during the last decade.”

Why do so many treat dogfighting so lightly?

Many humane activists believe that ignorance lies at the real root of most cruelties towards animals. They argue that if people really understood just how cruel “sports” like dogfighting are, they would never allow them to continue.

Any action to curb dogfighting will undoubtedly be appreciated by the sport's prime victim—man's best friend. As ASPCA Staff Attorney Christopher Hoff, who is coordinating the ASPCA dogfighting study team, said recently, “dogfighting is one of the most blatant forms of animal abuse. It should not be tolerated.”

toward the fighting dog's high protein diet, which is used to maintain a suitable fighting weight. Part of it goes toward a training method like “bleeding,” where young fighting dogs develop their “blood instincts” by tearing up rabbits, kittens, and other small, helpless animals. And a good deal of it goes toward such conditioning devices as the treadmill (to which the dogs are strapped for hours of grueling roadwork) and the springpole (roughly, the dogfighting equivalent of boxing's punching bag).

POPULARITY SOARING

Unfortunately, though dogfighting is illegal in just about every state and clearly violates the 1976 federal Animal Welfare Act where interstate transportation is involved, this gruesome pastime appears to be enjoying a tremendous surge in popularity. ASPCA Special Investigations Director Jack Cherry, for instance, estimates that the number of dogfights has quadrupled in the U.S. during the last decade. Other humane investigators report even higher increases, particularly in the southwestern and midwestern sections of the country.

But dogfighting is by no means limited to certain parts of the country. In fact, many dogfight matches are reportedly arranged at major conventions held in such northeastern cities as New York and Boston.



Jim Lukosi

This young pit bull terrier pup, brought into the ASPCA as a stray last fall and now living in a good home, might be training today for his first dogfight if fate had not intervened.



Some of the sixty-five people arrested after the Greenville, Illinois, raid sit cross-legged and in plastic handcuffs as police, sheriff's deputies, HSUS staff members, and television crews converge on the farm building where the fight was held.

HSUS investigator Bob Baker attends to one of the dogs whose fight was interrupted by the Greenville raid. Although winning the fight at the time, this dog was injured so badly it was humanely destroyed on the scene.



— HSUS/Dantzier

—The Greenville (Illinois) Advocate

Well-orchestrated raids in two separate parts of the country have proved that longtime HSUS efforts to spur local officials to enforce dogfighting statutes are beginning to succeed. Our investigations department and regional offices have invested countless hours and logged countless miles to educate local law enforcement officials about dogfighting in their jurisdictions. The federal prohibition against dogfighting (part of the Animal Welfare Act) has been, to our disappointment, virtually unenforced by the Justice Department, and it has become all too clear that committed, well-planned action by local officials is our best hope to infiltrate dogfighters' secretive, violent world.

In late summer, a raid on a fight in progress in Greenville, Illinois, carried out by state police and Bond County (Illinois) sheriff's deputies, was termed "the smoothest we've seen," by HSUS Vice President Patrick Parkes (see the Fall 1983 *HSUS News*). Seventy-five officers, many of whom were hidden in an open-sided cattle truck and surreptitiously driven to the fight location, stormed an isolated farm where sixty-five people from nine states were watching a dogfight in progress. HSUS investigators Frantz Dantzier and Bob Baker and Great Lakes Regional Director Sandy Rowland accompanied the police to point out potentially incriminating evidence and assist with confiscating fighting dogs. All but one of the people arrested were charged with attending a dogfight, a misdemeanor under 1983 Illinois law. Thirteen still await trial; the others either have pled guilty or forfeited their bonds (ranging from three hundred to five hundred dollars). Forty-seven dogs were seized

LONG-TERM EFFORTS REAP REWARDS IN DOGFIGHT RAIDS



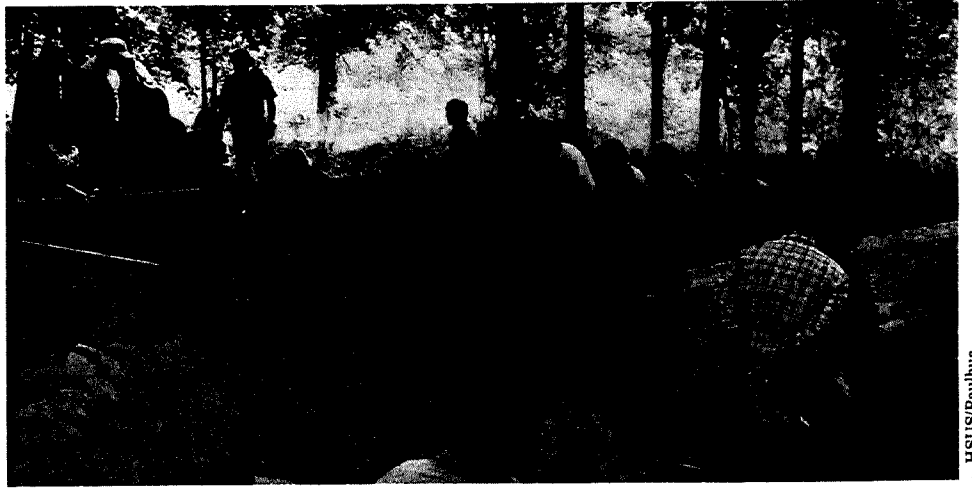
— HSUS/Dantzier

One of the pitiful casualties of the Greenville raid, the losing dog awaits veterinary attention. In shock and suffering from serious injuries, the dog was euthanized.

at the time of the raid, but all were eventually returned to their owners.

The Greenville action was a perfect example of HSUS and local police teamwork. According to newspaper accounts, surveillance of the farm had begun three months before the raid. In January of 1983, HSUS informants had told us that the owner of the farm, a known dog-fighter, had moved into Bond County. We, in turn, passed this information on to the police. Once the location and timing of the fight had been nailed down, the actual raid, involving helicopters and SWAT teams, took place without a hitch.

In October, yet another large-scale operation in rural Mitchell County, Georgia, netted fifty people attending an early morning dog-fight. These were the first arrests made under a tough, new felony dog-fight law in that state. This raid was organized by the Georgia Bureau of Investigations, with The HSUS, the Georgia State Patrol, and the Mitchell County sheriff's department providing back-up assistance. This time, the tip came directly to law enforcement authorities; once they had an idea of where the fight was to be held, aerial and ground surveillance crews were able, eventually, to pin-



— HSUS/Paulhus

An early October morning in Georgia found state Bureau of Investigation officers handcuffing a number of people around the dogfight pit. One of the fighting dogs licks its wounds in its corner of the ring.



— HSUS/Dantzier

Illinois state police and Bond County sheriff's deputies arrest a number of people found inside the farm building. The dogfight pit is in the foreground.

point the exact site in a wooded area. Then, the raiding party moved in. Two bloody dogs, too injured and weak to fight any longer, remained unattended in the pit as participants and spectators scattered into the woods. HSUS investigators and Regional Director Marc Paulhus aided the injured dogs as police, directed by a spotter plane overhead, concentrated on rounding up the fleeing sportsmen.

In a tree near the pit, HSUS investigators found scales, used to weigh the dogs scheduled to fight, and nearby, bloodstained breaking sticks, used for prying open the

dogs' mouths. Two training treadmills, commonly used to build up a dog's endurance through forced road work, and a water tank, in which dogs would have been forced to swim for long periods of time, were also identified. All evidence was photographed for later use in court.

Local assistance was provided by the Atlanta Humane Society and Fulton County Animal Control. All those arrested were taken to the Mitchell County jail for processing. On October 17, Mr. Paulhus appeared before a grand jury in Camilla, Georgia, where indictments were returned against all individuals for fel-



—HSUS/Miller

HSUS Southeast Regional Director Marc Paulhus holds one of the dogs seized during the Georgia raid.

any dogfighting and misdemeanor gambling. Three individuals—Harry Hargrove, the property owner, Robert Earnest Swetman, whose dog was reportedly in the pit at the time of the raid, and John Joseph Kelly, publisher of the underground

dogfighting magazine *The Sporting Dog Journal*—were charged with commercial gambling.

The majority of those arrested pled guilty or nolo contendere (“no contest”) to the charges rather than face jury trial. A Mitchell County

judge ordered these defendants to pay a \$3,000 fine and gave them each a six-year suspended sentence. Others elected to take their chances before a jury.

Mr. Hargrove, Mr. Swetman, and Mr. Kelly were tried on October 24. The following day, the jury returned a guilty verdict on all three counts against Mr. Hargrove and Mr. Swetman. They were sentenced to cumulative jail terms of seven years and assessed \$16,000 in fines. The third defendant, Jack Kelly, was found guilty of two counts. He received a four-year jail term and a \$6,000 fine. These penalties were the highest on record anywhere in the country for a dogfighting offense.

This case demonstrated the tremendous benefits of cooperative law enforcement efforts. All of the involved organizations shared a commitment to eradicating dogfighting from their jurisdictions. We hope that stiff felony laws for malicious animal abuse, such as the one now in effect in Georgia, will provide a more realistic deterrent to future violators. It would be hard to believe that even dedicated dogfighters will again risk these kinds of heavy fines and long jail terms to conduct their business in Georgia.

The Needs Of Animals Will Continue Long After You Are Gone



Unfortunately, man's cruelty and irresponsibility to animals will not end during your lifetime. But a bequest through your will will be a lasting contribution to the fight against these abuses. The HSUS will send you a booklet without obligation on how to make the best use of your animal-welfare bequest. It contains information on selecting recipients and describes how to proceed when you decide to write or change your will.

Write in complete confidence to: Murdaugh Stuart Madden,
Vice President/General Counsel, The Humane Society of the United States, 2100 L Street, NW, Washington, DC 20037.

OF THE UNITED STATES

The Humane Society

CLOSE-UP REPORT

HSUS Helps Bust Cruel Dogfights

Thirty-Eight Arrested in Raids in Georgia and Ohio

For the 100 or so men, women, and children who gathered in an unused barn near Augusta, Georgia, it was going to be just another Saturday night's entertainment. They'd planned to have a good time; eating, drinking, and betting on and watching dogfights—brutal battles between dogs which had been painstakingly bred and trained to try to kill one another.

The crowd cheered wildly as two American Pit Bull Terriers savagely tore at each other. The last thing they expected was a raid. But near 1:00 a.m., Georgia Bureau of Investigation (GBI) agents, assisted by HSUS Director of Field Service and Investigations Frantz Dantzer, surrounded the barn, and put an end to the cruel Saturday night "fun." The raid was made possible by a tip Dantzer provided seven months earlier.

When it was all over, 18 people had been arrested, not only for dogfighting, but also on a variety of other charges, ranging from selling unlicensed beer to cocaine possession. Several were charged with cruelty to animals, which is a misdemeanor in Georgia, despite the fact that it is probably the most brutal of the so-called blood sports.

The Georgia raid was only one of several recent successes in the fight to put an end to dogfighting. Last spring, Dantzer testified before a state legislative committee in Ohio that was considering a bill to upgrade dogfighting from a misdemeanor to a felony. According to Dantzer, the bill which passed and became law in June



This actual combat photo, taken by an undercover investigator, shows how these dogs become literally the center of attention during the fights. But the most painful battles for the animals occur after they leave the pit. Whether they win or lose, it's not uncommon for pit bulls to die hours or days after their events from the severe injuries they inflict on each other. One of the 10 animals confiscated in Georgia died shortly after the raid. On the advice of a veterinarian, four others had to be euthanized later.

of 1980 is one of the nation's best.

It didn't take long to demonstrate the new law's effectiveness. An investigation planned jointly by The HSUS Great Lakes Regional Office and several local animal welfare and law enforcement agencies enabled an undercover investigator to penetrate that state's underground dogfighting fraternity.

Testimony provided by the investigator last fall resulted in the handing down of forty indictments against twenty people in five counties and the confiscation of 39 dogs. By spring, 1981, the seventeen trials conducted under the new law had produced seventeen convictions, and the best documented cases had not even come to trial yet!

Portrait of A Dogfight

A typical dogfight "convention" (a schedule of several matches) takes weeks or months of planning by promoters and participants and often involves dogs from several states or even other countries. The primary way dogfighters communicate with each other is through the several magazines and newsletters which contain articles of interest to dogfighters and advertisements for dogfighting paraphernalia, dogs available for sale or at stud, as well as dogs who are "open to match." Dogs are matched by weight and sex, and contracts are drawn up and signed. Most matches are arranged by telephone.

Conventions are typically held on weekends, often in remote locales. Security is tight, and spectators must go through several security checks before they are led to the site, which may not be decided on until shortly before the convention is scheduled to begin.

Dogfighting is an expensive pastime, both for spectators and participants. The average admission fee is \$35, which usually buys a no-frills seat on a bleacher. Betting is vigorous, and the stakes are often very high. At the Georgia raid, authorities confiscated more than \$40,000, and that was only from the eighteen people arrested!

Owners and trainers have large investments, also. Pups frequently cost \$300 to \$500, and stud fees for champions or grand champions (dogs who have won and survived several fights) can top \$1,000. In addition to the elaborate training equipment like treadmills and heavy metal collars, contract fees for a fight can run from \$250 up to \$1,500.

A match begins when the dogs are placed in their corners of the "pit," the dogfighter's version of the gladiators' coliseum (usually a twenty-foot square plywood ring, with a carpeted floor and two-and-a-half foot high sides). After several fights, the floor and sides of the pit are red with blood.

When the handlers and referee are ready, the dogs are faced toward each other and the signal is given for them to be released.

Most of the noise during a match comes not from the dogs, but from the spectators, shouting bets and encouragement. The dogs are far too busy with their mouths to bark. American Pit Bull Terriers have extremely powerful jaws. They fight by making a "hold" on the other dog with their front teeth, and chewing with their rear teeth. As the dogs rip and tear at each other, blood, urine, and saliva spatter the sides of the pit and the clothes of the handlers. Frequently the only sounds from the ring are those of crunching bones and cartilage.

If at any time a dog fails to maintain complete attention on the destruction of its opponent, even if it's only a shake of the head, a "turn" is called and the dogs are parted with a

stick and returned to their corners so the blood can be sponged away. The dog on whom the turn was called must then attack the other dog (called "scratching") for the fight to resume. This continues until one of the dogs loses because it cannot or will not scratch to its opponent. Frequently a pit bull, carefully bred for aggressiveness, will continue to try to fight until it passes out or dies. Even dogs who win fights often die days or weeks later from their injuries. Dantzler estimates that few dogs ever engage in more than three fights during their "careers." Many die after a single encounter.

What Are The Laws? How Do They Work?

Despite the fact that dogfighting is illegal in all fifty states and under federal law, most dogfighters don't get



Before a fight takes place, the handlers exchange dogs so they can be examined and washed (right) to make sure there is no foreign substance on the dog's coat which could poison or paralyze its opponent. After the fight, however, the dogs are often shoved back into their carriers or into the back of a pick-up truck (above) to await the trip home. This dog, confiscated in the Georgia raid, died before veterinary care could be obtained.



Photo

Shown here is some of the paraphernalia often found at dogfights. At right, a law enforcement official holds two "parting sticks," used to separate dogs between "turns" and also to pull the dog's skin free from his tooth if he becomes "fanged." Below, a Georgia Bureau of Investigation official catalogs drugs and weapons confiscated from those arrested at the raid. It is ironic that the most severe penalties doled out to those arrested at dogfights have been on gambling, drug, and weapons charges—not for cruelty to animals.



-HSUS/Dantzler

What Is A Dogfight?

Dogfights are sadistic contests that fans vehemently defend as sport. Because dogfighting is illegal, dogfighters are understandably secretive about their activities. In fact, they are so successful at being secretive that most Americans don't even know the activity exists. "Too many of those who do know about it," Dantzler says, "are under the impression that it's an activity that's dying out." Nothing could be further from the truth. Dantzler says that not only is dogfighting growing in popularity here in the U.S., but also in Japan, Germany, Canada, England, and parts of South America.

In the U.S., dogfights are most prevalent in the Southeast, Southwest, Great Lakes region, and California. However, HSUS investigators have information documenting dogfights in practically every state in the U.S.

caught, and those that do get off easily.

After the Georgia raid, all animal cruelty charges against those arrested were dropped, despite the overwhelming evidence found at the premises, including the mangled dogs themselves. Penalties are too lenient to act as an effective deterrent in Georgia.

The laws governing dogfighting vary widely from state to state, and enforcement varies even more widely. The Federal Animal Welfare Act was amended in 1976 to specifically outlaw dogfighting, including making it illegal to use the U.S. Postal Service to promote animal fighting ventures, but federal enforcement of the provisions has been virtually nonexistent. Last year, The HSUS sued the government to force it to enforce the law. A pre-trial ruling in the government's favor is being appealed.

The key to ending dogfighting, according to Dantzler, is not only passing good laws, but seeing to it they are effectively enforced. "The best law is no good without good enforcement," he said. "Dogfighting is a big business in this country. It's going on all the time, and encouraged by lax law enforcement, it's spreading."

What HSUS Is Doing

The HSUS believes that dogfighting, along with other blood sports, is nothing less than torture for fun that is degrading and unfit for a civilized society.

The HSUS' dogfighting program is one of the most extensive in the nation. We are frequently contacted by other animal welfare groups, law enforcement agencies, and the media to provide assistance or expertise. Our investigators frequently travel undercover to dogfights, risking their lives to garner information from the heavily armed and often drug-using dog-

fighting fraternity. It is often information that only we are interested in providing that enables dogfighters to be caught and arrested.

It is clear that our work is paying off. In the last year alone, we have assisted in putting together successful raids in at least five states, resulting in more than 100 arrests and eighteen convictions, including the first conviction under the federal Animal Welfare Act. Many others arrested at the dogfights have yet to come to trial.

As part of our efforts to end dogfighting, The HSUS is also:

- Conducting law enforcement seminars for local animal welfare agencies, animal control departments, and police departments, explaining how to conduct investigations and successful raids;
- Working with law enforcement agencies developing information on specific fights;
- Testifying before state legislatures trying to upgrade laws; and
- Working to expose this abomination to the American public through the media and mailings like this one. Last year when the *Lou Grant Show* did an episode on dogfighting, with technical assistance provided by an HSUS investigator, millions of viewers were made aware of this barbaric activity.



HSUS/Dantzier



This individual was ordered to hold this dog in the corner of the pit until law enforcement officials could establish order during the Georgia raid. The animal was later euthanized.

"The fact is, dogfighting is a big business in this country. It's going on all the time; and, encouraged by lax law enforcement, it's spreading."

What You Can Do To Help...

Because The HSUS is one of the few national organizations investing significant amounts of time and money to combat dogfighting, we desperately need the help of our members and others concerned with the welfare of animals. It is likely that dogfights occur in your state or even your community. Here are a few suggestions for how you can help us end this cruel enterprise:

- Find out what the laws pertaining to dogfighting are in your area. If you hear of a dogfighting arrest near you, write to your state's Attorney General to urge stiff penalties for those convicted of participating in this outrageous activity.

- If you hear of a dogfight planned for your area or one that's already happened, let us know. Remember

that weapons, drugs, and violence go hand in hand with dogfighting, so it's better to leave investigations and raids to trained professionals.

- Help spread the word about cruel dogfighting. Use the information in this report to write letters to local officials and law enforcement agencies. Start your own dogfighting awareness campaign.

- **Finally, support HSUS's efforts to end dogfighting by sending a tax-deductible contribution today. Your help is critical if we are to continue our exhaustive and often expensive investigations into this barbaric activity. Please use the enclosed postage-paid envelope to send your gift to help The HSUS help the animals!**



2100 L Street, N.W., Washington, DC 20037
(202) 452-1100

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DOGFIGHTING ON INCREASE



The dog fighting reports that have come to the public's attention has not even scratched the surface of the number of actual incidents that are taking place nationwide. This 10 month old Staffordshire Terrier male was rescued by a New York resident. The dog had been brought to a veterinarian for treatment of a badly injured leg. Due to extensive damage, the vet hospital had to amputate the leg; however, the owner never returned. No doubt he felt that he may be implicated in a possible legal action. Also, a 3-legged dog is no longer useful for the purpose for which his owner had used him. Clyde is a very sweet dog, gentle with adults but will only be adopted into a home where there are no other animals. Because of the particular breed, the Society is taking special precautions in adopting Clyde so that he will not be abused, misused, exploited nor would we want Clyde to be a threat to youngsters or animals. As we go to press, the Society has just picked up three other Staffordshire Terriers in the Newark area, 2 of which have been cruelly exploited, near starvation & one with extensive untreated leg injuries. A complaint has already been signed against the owner of the 2 dogs. That story will appear in the next issue of the HUMANE NEWS. File 0-20770 (Forked River).

NATION-WIDE ADOPTION PROGRAM

The Society has been gratified by the number of people who have inquired about adopting a pet. All animals that are adopted out of state are neutered, are given heartworm tests, fecal checks, up-to-date inoculations, health and rabies certificates — all at no charge to the adopter. The only cost for those who are adopting an animal that is shipped by plane is the cost of the air freight and the airline kennel. For more information on a particular animal or a specific breed, please send a note to Nation-Wide Adoption Program, c/o Society, P.O. Box AF, Keyport, N.J. 07735.

Windsor, Connecticut



During a trip to the Society's Forked River facilities, Linda Giuliano of Woodbridge, Connecticut, saw an extremely affectionate young cat that just stole her heart away. Without hesitation, the lovable lass was quickly adopted. From the looks of the photo, it seems they have their own mutual admiration society.

Willington, Vermont



Featured on the April cover of the HUMANE NEWS was a black pup who had been rescued from a drunk in a bar. The man had neglected an extremely bad wound on the front paw of the sorrowful pup & from the condition of the coat, it was obvious that he had been kept in extremely tight, filthy quarters. There was no alternative but to amputate the leg. Laura Murphy of Willington, Vermont, who is the proud owner of 7 cats & an aging dog, has been looking to add another pooch to the household. As soon as she saw this sad sack, she hopped into her car & drove to the Society's Newark Animal Care Center where the 3-legged lad was waiting — with nary an offer for adoption. In a post-adoption conversation, Laura advises that "Pogo" has fit in just beautifully with her pets. He has rejuvenated her elderly dog who now enjoys exercising with his new playmate. Pogo is quite fearful of men. He also dislikes cars & refuses to get into one. No doubt, he fears that he'll be returned to the place from whence he came. Pogo's life is filled with love & companionship & before long, those cruel memories will soon be forgotten.

PEST ELIMINATOR WARNING

There are many types of high frequency pest eliminators now on the market which are said to be effective against fleas, roaches, rats, mice, waterbugs, flies, mosquitoes, crickets, spiders, bats, bees, wasps, bats, squirrels, chipmunks, weasels, raccoons, skunks, moths, etc. Some of the names are Sonic Guard, Ultra Sonic pest Controller, Pestgon, Pest Free, Pests Away, Pest Guard. These are supposedly effective. However, if given time, they will kill gerbils, hamsters, mice, guinea pigs, rabbits, rats, etc. So if you have any of these as pets in your home, either move them to new quarters or use other methods of pest control.

AIRLINES CITED FOR VIOLATIONS

The U.S. Dept of Agriculture is asking that American Airlines be fined \$3,000 in civil penalties for 9 counts of violating transportation standards of the Animal Welfare Act. On Dec. 20, 1980, American Airlines, headquartered in Dallas-Fort Worth Airport in Texas, shipped a cat which was dead on arrival at Boston, Mass. from exposure to freezing temperatures. Also, on 2 occasions between Feb. & March 1981, 7 dogs were shipped from Los Angeles to Honolulu in crates that were too small for them; Monkeys shipped from Tuscon to Washington, D.C. in crates that were inadequately ventilated, lacked rims to prevent obstruction of ventilation, there was no label indicating "wild animal" & nothing to indicate upright position. Moreover, on an inspection by the USDA, the animal holding areas at Dallas-Fort

Worth was not sufficiently cleaned & was littered with spilled feed & other materials. American has 20 days to respond to the charges.

The U.S. Dept. of Agriculture charged Aeromech Airlines of Clarksburg, W. Va. shipped 12 rabbits intended as laboratory animals from Little Rock, Ark. to Portland, Ore. in poorly ventilated cardboard boxes not strong enough to withstand the transportation nor were they marked as live animals. Aeromech Airlines agreed to a \$150 penalty to settle the charge.

NEUTER IS NEATER! DON'T LET YOUR PET HAVE LITTERS.

Legislative Alert

The ASPCA's Legal Department is involved in getting needed humane legislation passed on local, state, and national levels. The following issues and legislation are currently being worked on, and we urge your participation in contacting your representatives to let them know how you view these issues.

PETS IN HOUSING

A growing problem facing many pet-owning tenants is the threat of eviction for having a pet. The ASPCA has been working with legislators in drafting bills to prevent landlords from using the no-pet clause found in standard form leases to cause the eviction of tenants. The pets-in-housing bills only protect those tenants who do not create nuisances with their animals. The following bills are most noteworthy:

New York State

Senate Bill 8168 and Assembly Bill 10146 provide that persons who are 62 years of age or older may not be denied occupancy in or be subjected to eviction from public housing projects on the sole ground that they have a dog or cat residing with them. Write in support of these bills to:

Senator Warren Anderson
Assemblyman Stanley Fink

Senate Bill 2520-C and Assembly Bill 3248-C provide that tenants occupying apartments in multiple dwellings in a city with a population of one million or more persons may not be evicted from such dwellings because they keep pets in violation of a no-pet clause in their lease agreements. Write in support of these bills to:

Senator John Daly
Senator Douglas Barclay
Senator Warren Anderson
Assemblyman Saul Weprin
Assemblyman Stanley Fink

Note: Many states have pets-in-housing bills. If you are not a New York State resident, check with your own assemblyman or state senator. If there is no pets-in-housing bill pending before the legislature in your state, urge your state representatives to introduce one.

TRAPPING

The steel-jawed leg-hold trap has been banned in many countries for a number of important reasons: 1) the unnecessary pain and suffering it causes the animals it

captures, 2) its non-selectivity; leg-hold traps often capture pets and other animals not wanted by the trapper, and 3) the danger it poses to people, particularly children.

The ASPCA, along with other humane societies, has been working to get this barbaric trapping device banned once and for all.

Federal

Senate Bill 2239 would prohibit the shipment in interstate commerce of any fur or leather that comes from animals trapped in any state or foreign country which has not banned the manufacture, sale, or use of leg-hold traps. Write in support of this bill to:

Senator Robert Stafford

ANIMAL EXPERIMENTATION

Several months ago, the Congressional Subcommittee on Science, Research and Technology conducted hearings at which testimony was presented concerning bills that would encourage the development of alternatives to animal experimentation and would improve the conditions of laboratory animals. Many humane societies, including the ASPCA, presented oral testimony or submitted written statements on this issue. The result was the promise by the committee that new legislation would be drafted that would take into consideration the various viewpoints expressed. Write to Congressman Doug Walgren, Chairman of the Subcommittee on Science, Research and Technology. Urge Congressman Walgren to act promptly to get a bill drafted for his committee's consideration that would encourage the development of alternatives to animal experimentation and improve the existing conditions of laboratory animals.

DOGFIGHTING

The federal Animal Welfare Act prohibits dogfighting activities but the United States Department of Agriculture, the agency empowered to enforce the Act, has done little in this regard. This makes the need for stringent state laws prohibiting dogfighting, which are enforceable by societies for the prevention of cruelty to animals, even more crucial.

New York State

Assembly Bill 4360-A would substantially increase the penalty for those persons involved in dogfighting activities. Presently, the maximum fine is \$1,000. This bill raises that fine to \$25,000. Write in support of this bill to:

Assemblyman Rolland Kidder
Assemblyman Stanley Fink

DOG LICENSING

In order for the ASPCA to continue to provide services for the people and animals in New York City at present levels, it will be necessary for the New York State Legislature to pass legislation that would increase dog license fees, raise fines for violations, and expand the power to enforce this law to city agencies.

Despite inflation, resulting in increased costs for the ASPCA, dog license fees have not been raised since 1974 and the present maximum fine for violations of the law is only \$10.

New York State

Senate Bill 7057-A and Assembly Bill 8970-A provide for an increase in dog license fees, impoundment fees, and fines. They also empower certain city agencies to enforce this law. Additionally, the bills increase the holding period at shelters for identifying dogs and cats in order to give their owners a greater opportunity to redeem their pets. Write in support of these bills to:

Assemblyman Alan Hevesi
Assemblyman Arthur Kremer
Assemblyman Rolland Kidder
Assemblyman Stanley Fink
Senator Franz Leichter
Senator Charles Cook
Senator Warren Anderson

WHERE TO WRITE

United States Senators can be addressed:

The Honorable _____
Senate Office Building
Washington, D.C. 20510

United States Congressman can be addressed:

The Honorable _____
House Office Building
Washington, D.C. 20515

New York State Legislators can be addressed:

The Honorable _____
Legislative Office Building
Albany, N.Y. 12248

New York City Councilmembers can be addressed:

The Honorable _____
City Hall
New York, N.Y. 10007

Note: Make sure that in addition to the names listed under each bill, you let your own representatives know your views on these important bills.



Food Industry Foray

Despite strong opposition from the National Restaurant Association (NRA), The HSUS secured a booth at the NRA's annual convention, the "world's largest food-service lodging exhibition," held in Chicago in May. The vast area of Chicago's McCormick Place was crammed with displays of styro-foam cartons, flatware, machines that crack and blend dozens of eggs at a time, and mechanical Santa Clauses nodding and beckoning. Between the aerosol parking-lot-painting machine and the canned shredded carrots and cabbages, staffers at the blue and white HSUS booth quietly distributed material on whaling and factory farming.

Representatives from The HSUS's Washington, D.C., and Great Lakes offices joined forces to make our first excursion into the world of food conventioning a success. As the only animal-welfare organization present at the convention, The HSUS sur-

Those who attended the National Restaurant Association's annual convention had the chance to learn about the welfare of animals used for food.

prised the participants; the first question asked was always, "What are you doing here?"

The HSUS was there to educate restaurant owners and food distributors about the cruelties of factory farming—the practice of raising milk-fed veal in particular—and our campaign to save the whales by boycotting fish from Japan, Peru, Norway, and the U.S.S.R.

Visitors from all over the world filed past our booth and swept up *Factory Farming* booklets, "No Veal This Meal" cards, and whaling fact sheets. In general, their response was positive; only one man rotated his finger at his temple and said, "You guys are crazy."

Most of the other passersby who stopped to talk gathered our materials and said, "It's so good to see you here."



—HSUS/Greyhavens

Far-flung Correspondents

Every so often, we hear from members who contribute articles to their local newspapers and wish to use HSUS publications as their source materials. We always welcome the opportunity to help such columnists, who are often unpaid. They are making the effort to bring animal issues to readers in their communities. (We do ask that they quote our material in its entirety, unless otherwise permitted, and that they credit it correctly.)

Mrs. Emery Molnar, who writes for the "Michiana Point of View" column in the *South Bend Tribune* in Indiana, is one of these contributors. She writes on a variety of

subjects from her vast store of knowledge and memories and, on occasion, focuses her readers' attention on pet problems and other animal issues. Most recently, she wrote on milk-fed veal calves and goose liver paté production and quoted The HSUS extensively. She is a meticulous fact-checker and a charming writer, whose inspiration comes, in part, from her eleven-year-old terrier mix, Seven ("born on October 7, 1972, adopted at seven weeks of age, seven inches in height, seven pounds in weight...").

Thank you, Mrs. Molnar, and thanks to all of your colleagues who are busily and conscientiously spreading the word about animal problems in a valuable and unsung effort.

Dogfighter's Lament

As we know from Gulf States Regional Director Bill Meade's reports in recent issues of *The HSUS News*, a battle is being waged to make dogfighting a felony in the state of Texas. As *The Daily Oklahoman* learned after interviewing C.E. "Tiny" Krusen of Muskogee, felony status would seriously compromise the enjoyment of sportsmen like Mr. Krusen in fighting pit bull terriers in the Lone Star state. Although he has gone to more than 150 fights in four years, Mr. Krusen said he is no longer a participant. "I had to get out. Because they're fixing to pass the felony law in Texas." The possibility of a five-year prison term and 10,000 dollar fine did not, apparently, appeal to the gentleman, who believes dogfighting has received undeserved negative publicity in the past. A political philosopher as well as an observer of the Texas sporting scene, Mr. Krusen told the newspaper, "I'm not saying there are not people that don't abuse dogfighting. But it's not the inhumane thing that everybody thinks. I would like to see it legalized but it will never be. The trouble started when we gave women the vote."

**MORE
VOICES**

READER OPPOSES ANIMAL USE

Responding to the publicity surrounding the conviction of Rudolph Vrana, an animal dealer, on cruelty charges (April AV, p. 19), AAVS Life Member Sandra Schumann sent the following letter to the *Burlington County (NJ) Times*:

I have been following your articles about the abused animals that were found stuffed into a small van on their way to the New York hospitals. I hate to say it, but I have the feeling that, as soon as this is no longer a newsworthy item, your paper and readers will forget about animal abuse until the next case arises.

While I am extremely happy that this case has generated so much interest, I think that you would do your readers a service by letting them know that this is not an isolated case. This abuse is happening every day, to millions of animals, and the saddest part is that the cruelty that these creatures will see in the labs will make this past abuse seem like a picnic. People do not realize the unspeakable tortures that laboratory animals are subjected to, and most often without the use of anesthetics.

I hope that the suffering of these particular animals will at least serve to 1) let people know that pets are being stolen from cars and backyards every day for sale to the labs, and 2) get readers informed and involved in the "lab animal" (vivisection) issue. I am sure that The American Anti-Vivisection Society will be happy to furnish information to anyone requesting it.

The Connecticut Council for Humane Education (Junction Road, Box 12, Brookfield Center, CT 06805) uses the following on all its correspondence:



*Be a responsible pet owner.
License and leash your dog.
Spay or neuter dogs, cats.*

**AMENDMENT TO
DOG FIGHTING BILL
PROPOSED IN ILLINOIS**

Dog fighting is one of the most blatantly cruel and debasing forms of animal abuse. Yet humane investigators continue to report that animal fighting as a "sport" is increasing even though it is illegal. Members of the Illinois State Legislature are attempting to combat this cruelty through an amendment to the Humane Care of Animals Act which would increase penalties for conducting animal fights and prohibit ownership or possession of any device designed for use in animal fights.

The Bill is currently before the State Judiciary Committee, where it has to be favorably reviewed before movement to the House and Senate. Illinois members are urged to write to their Representatives, requesting their support of House Bill 0485. The names of your legislators can be obtained from the League of Women Voters or your local library.

HELPFUL HINT FOR PET CARE

Member Lillian S. Rottmann of Brooklyn, NY informs us that there is now on the market a vitamin product called Pet Tabs Granules with polyunsaturated fat that will help to give your pet a lovely coat.

THANKS FOR YOUR VIGILANCE

We thank all of our members who have gone to the trouble and expense of sending us clippings pertinent to animal rights issues. These articles help us to keep abreast of current developments and the actions of researchers. We frequently use this information as background for AV articles. The clippings also give us an indication of the prevailing attitude of the press.

We especially appreciate the thoughtfulness of members who take the trouble to cut out pertinent items and tape them to a backing sheet. This makes it much easier for us to process and file the information. We also ask that you provide the date and source of the clippings.

Although we cannot always acknowledge receipt of such items, please know that we appreciate your vigilance on behalf of animals.

MEMBERS SEEK CONTACT

Miss Suzanne Sheldon would like to be contacted by other AAVS members in the states of Massachusetts, Connecticut, New Hampshire, Rhode Island, Vermont and Maine. Her address is: 1369 Bay Street, Springfield, MA 01109.

Mrs. M. Caprile would like to be contacted by other AAVS members in her area. Her address is: 1240-A Chiquita Rd., Healdsburg, CA 95448.

Nancy L. Carson would like to be contacted by other AAVS members in her area. Her address is: 9595 Pecos St., Sp. 139, Denver, CO 80221.

Great Lakes (continued)

have come to trial. In Toledo, Ohio, 7 men indicted on information provided by an HSUS investigator pled guilty to both felony and misdemeanor charges of dogfighting. Sentences included fines averaging \$1,500 each, public service work, two-to-five years probation, and, in one case, seven days in jail.

Six of 17 people arrested in Milwaukee, Wisconsin, have pled guilty to dogfighting charges in that city. Two men received ten-day jail sentences on a work-release program, while others were fined \$300 and given two years' probation on lesser charges. Eleven people are still awaiting trial there.

In Ann Arbor, Michigan, 23 men and women arrested after a raid organized by the Humane Society of Huron Valley and The Great Lakes Regional Office have been convicted of various dogfighting charges. Of 6 people convicted on felony charges, 5 received sentences including jail terms, fines of up to \$250 plus court costs of \$1,000, public service time, and reimbursement to the Humane Society of Huron Valley. The remaining persons were convicted on misdemeanor charges. Most of them await sentencing.

IN-fighting

The Great Lakes Regional Office is lending a helping hand to the United Indiana Campaign Against Dogfighting, a coalition of humanitarians, dog groomers, and veterinarians who are working to make dogfighting a felony in the Hoosier state.

The coalition hopes to gather several hundred thousand signatures on petitions asking state legislators to upgrade this crime to the more serious classification. The petition also asks for strict enforcement of the law once it is changed. After the petition drive is over, the regional office will work with the state legislature to secure passage of this legislation.



Sen. Louis Bassano: he supported the bill to ban the decompression chamber in New Jersey.

Mid-Atlantic

Death Tank Ban

Gov. Thomas Kean has signed into law a bill to outlaw the decompression chamber in New Jersey. Sen. Louis Bassano was a major supporter of the legislation which had the backing of animal-welfare groups as well as of the New Jersey Veterinary Medical Association (NJVMA).

The NJVMA's Dr. Calvin Moon told the state senate committee, "The law gives shelters and pounds the right to buy and use sodium pentobarbital, which is known to be the most humane method available; they should be using it." Mid-Atlantic Regional Director Nina Austenberg testified in support of this bill.

Great Swamp Protest

For more than a decade, hunters have killed hundreds of deer at the Great Swamp National Wildlife Refuge in Morris County, New Jersey. The number of hunting days and projected deer kill have increased tenfold during that time, from a one-day hunt for 25 deer to a ten-day hunt for 250 deer. The HSUS plans to participate in a December protest against this misuse of a refuge designed to protect animals and urges all interested members to contact the Mid-Atlantic Regional Office for details.

HSUS Cries Fowl

Despite a protest from The HSUS, hundreds of Canada geese are being captured in New Jersey, New York, and Connecticut by the U.S. Fish and Wildlife Service. Fearful that the birds are being transported to privately-owned gun clubs in Pennsylvania and New York for killing by hunters, Regional Director Austenberg told the *New Jersey State Ledger*: "The HSUS takes the position that transporting semi-tame wildfowl from local parks and refuges for the benefit of hunters is stressful and cruel for the birds." The HSUS will continue to monitor U.S. Fish and Wildlife activities involving game birds—and all game species—during the autumn months.

New Area Office Opened

The HSUS has expanded the work of our Tuscaloosa, Alabama, office to include regional activity throughout the states of Alabama, Tennessee, Kentucky, and Mississippi. The HSUS South-Central Area Office will work with state and local humane societies and animal-control

agencies and organize programs for public education; for passage of additional and improved anti-cruelty laws; and for enforcement of existing laws by conducting cruelty investigations. Bill Smith, Director of The HSUS's Animal-Control Academy, is the South-Central Area Representative. Both offices are located at 2606 8th Street, Suite 202, Tuscaloosa, AL 35041.



West Coast (continued)

ition of 83 organizations, including 4 national animal-welfare organizations, every major humane organization in California, the California Animal-Control Officers' Association, and numerous animal-control agencies.

The HSUS coalition gathered over 70,000 petition signatures and held three large press conferences. The Marin Humane Society and West Coast Regional Office initiated a Children and Youth Against the Steel-Jaw Trap Campaign. Humanitarians won editorials against the trap in major California daily newspapers and gave numerous radio and television interviews.

AB 2600 passed the first committee, a first in itself for legislation

opposed by the Cattlemen's Association, National Rifle Association, California Federation of Wildlife, Woolgrowers Association, the AFL/CIO, the fur industry, trappers' groups, California Department of Water Resources, Department of Fish and Game, California Farm Bureau, and local farm bureaus. However, in order to push the bill through the second committee, sponsor Assemblyman Sam Farr agreed to a number of amendments which were unacceptable to the HSUS coalition. We asked him to withdraw the bill as a result, and he did so.

We are now more than ever committed to banning this cruel device. We have learned from past experience it takes many attempts before difficult animal-welfare is-

sues are addressed successfully in the California legislature.

Flash

As we went to press, we learned that SB 1438 (see Spring 1982 *HSUS News*) had been defeated in the California state assembly. This bill, which would have prohibited animal shelters from releasing dogs and cats to laboratories, was opposed by powerful forces in the California medical community. "Although we are disappointed by the bill's failure, we can take heart in knowing this is the first time such a bill made its way through both houses before going down to defeat on the assembly floor," said West Coast Regional Director Char Drennon hours after the vote.

Great Lakes

Chicago Battle

The Great Lakes Regional Office is working to pass repeal of "pound seizure" for the City of Chicago (see article on page 17).

Mayor Jane Byrne announced her support of the repeal on August 8, 1982. She was expected to introduce an amended version of the Chicago animal-control ordinance, which would include the provision repealing the mandate to release shelter pets to research facilities, in September.

Fighting Force

To combat the growing popularity of animal fighting, a coalition of ten regional animal-welfare organizations, including The HSUS, has formed the Great Lakes Animal Fighting Task Force. The task force will be working directly with law enforcement agencies on investigations while at the same time educating the public about animal fighting through a strong public re-

lations campaign. Various committees of the task force will produce written guidelines for other humane organizations covering the housing of pit bull terriers, investigation techniques, and court case reports.

Several of the task force members are offering rewards for information about animal fighting. The HSUS Great Lakes Office has announced a reward of up to \$1,000

for information leading to the arrest and conviction of anyone directly involved in dogfighting in the Great Lakes area.

Dogfighters Sentenced

Many of the 47 people arrested in a series of dogfighting investigations in the Great Lakes area last fall (see Spring 1982 *HSUS News*)



Employees of the Dearborn, Michigan, post office wear HSUS seal T-shirts to work every Friday to show their concern for animals worldwide. Postal worker Estee Ollie saw one of the shirts some months ago, liked them, and began taking orders from fellow employees. So far, she has sold over 100 to postal people and the general public. Postal supervisors have been enthusiastic about the effort.

Executive Director's Report

Working Together

"In unity there is strength," and this has been shown in several ways of late, as humane societies from around the country have been cooperating with several recent ASPCA initiatives to counter some of the more grotesque examples of animal exploitation. To date, 335 humane societies have responded to the ASPCA's invitation to form a coalition to abolish the *Draize Rabbit Eye Test*. The Draize test purportedly measures the harmfulness of chemicals intended for human use by noting the damage that these chemicals inflict on the unprotected eyes of conscious rabbits. That the animals suffer from this procedure is incontestable, and the most amazing thing about this widely accepted and federally approved test is that it is unreliable.

The Draize test is not limited to cosmetics. Either explicitly or implicitly, several federal agencies require eye irritancy testing. The Environmental Protection Agency requires it for pesticides. The Consumer Product and

Safety Commission requires such testing for general household products and consumer items that contain a mixture of chemicals. The Food and Drug Administration accepts the results of these crude tests for approving market usage of cosmetics. Eye irritancy tests are also looked upon with favor by the Environmental Protection Agency for chemicals other than those types already mentioned that may come in contact with humans.

The Coalition formed to abolish this archaic, unreliable, and inhumane test



John F. Kullberg

" . . . 335 humane societies have formed a coalition to abolish the *Draize Rabbit Eye Test*."

(see article by Henry Spira in this issue) is receiving strong support from the ASPCA, HSUS, and the Millenium Guild, and is sparking much needed national debate about bringing about congressionally mandated reforms.

Dogfighting Update

A major national study on dogfighting, begun by the ASPCA last January, has received cooperative input from more than 400 humane societies and almost 500 law enforcement agencies. Many smaller humane societies have taken great risks in prosecuting dogfighting activities in their areas, often establishing legal precedents for dogfighting prosecutions. In learning more about the problems and successes of these societies, we hope to bring together a compendium for better enforcement and greater humane society-law enforcement agency cooperation in the future.

Trapping Hearings

As this *BULLETIN* goes to press, some fifty humane societies have supplied us with evidence of the barbaric

atrocities that result from steel jaw leg-hold trappings in the United States. The Commerce and Transportation Sub-Committee of the U.S. Congress is planning hearings on a bill (H.R. 1297) that would ban interstate shipments of pelts caught in steel jaw leg-hold traps. We will provide that committee with the reports that we have received from other humane societies, as well as many of the brutalities that we have witnessed in the urban environment of New York City. Once we have federal legislation impacting on cruel trapping methods, the task of having the steel jaw leg-hold trap banned in more states becomes achievable. As more humane societies provide Congress with evidence of the horrors created by cruel trapping practices, more of our legislators will have to respond in helpful ways.

Banning the Decompression Chamber

In addition to these national imperatives, we have been making significant progress in New York State in finally ending the horrors created when de-



HSUS, Police Sweep Illinois Dogfight

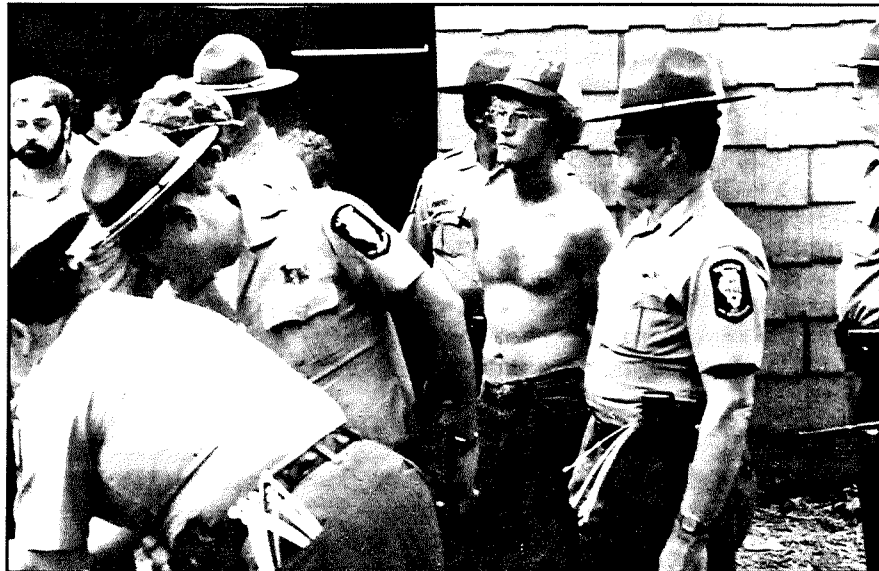


Dogfight victim lies exhausted and bleeding before being humanely euthanized. Man lying in background is under arrest.

Advance work by The Humane Society of the United States' (HSUS) Great Lakes Regional Office (GLRO) led to the arrest of 65 people, from nine states, during an Illinois dogfight last August. Seventy state troopers, including a SWAT team of approximately 35, barged into the middle of a scheduled August 27 fight between two pit bull dogs, forcing the referee to break the bleeding dogs apart. Based on the judgment and experience of HSUS representatives and a veterinarian who were present, the two dogs were later humanely euthanized at the site. Forty other dogs at the fight and housed on the property were taken to shelters, as had been prearranged, to await disposition of this case. Approximately \$30,000 in cash (and several guns) was confiscated but later returned to fight participants for lack of evidence that there was gambling.

For four months, working with the Illinois Office of the State Attorney and using information from an anonymous source, Sandy Rowland, director of the GLRO; Frantz Dantzler, HSUS director of Investigations; and Investigator Bob Baker monitored details of the raid, which took place at 7:30 a.m. "We are very pleased this raid was so successful," said Rowland. "With the help of state troopers -- they said it was the most well-kept secret they had been involved with -- and Investigator Mike Sheeley, who did surveillance before the raid, everything went smoothly." The entire process of booking arrests and inventorying evidence took approximately three hours. A police helicopter hovered overhead to help maintain order. At the scene was a *Kansas City Star* investigative reporter, and the raid was mentioned in an Associated Press release.

Those arrested were charged with a Class C misdemeanor, except the owner of the property upon which the fight took place, who was charged with a Class A misdemeanor, and a felony stemming from evidence of drugs, according to Rowland. Ironically, a new Illinois law, effective Jan. 1, 1984, will make participation in a dogfight a felony. ●



A new Illinois law will make participation in a dogfight a felony.

LAW NOTES

HSUS Demands USDA Action on Animal Fighting Ventures

In its ongoing investigation of dog-fighting and cockfighting, HSUS investigators have time and again been frustrated by the U.S. Department of Agriculture's seeming reluctance to enforce Section 26 of the Animal Welfare Act which outlaws interstate activity relating to animal fighting ventures. In passing the legislation, Congress gave USDA the authority to call on the FBI, Treasury Department, or other federal agencies for help in enforcing Section 26. Nevertheless, USDA has never had a program for enforcement and continues to fail in its duty to actively enforce Section 26 despite meetings between USDA officials and members of HSUS' investigative and legal staff in which cooperation was promised.

The latest evidence of this was seen at a dogfight raid led by HSUS last December in Marked Tree, Arkansas. Two FBI agents who were actively investigating the dogfight were suddenly pulled off the case on orders from Washington, explained later as a "jurisdiction dispute" resulting from a lack of cooperative agreement between the Department of Justice and USDA. Shortly afterwards two USDA investigators appeared on the scene as observers to gather information. While USDA involvement at the Marked Tree fight can be seen as a first step, HSUS still has little confidence that an enforcement program will be put into effect without continuing pressure on USDA.

In December, 1979, HSUS' legal counsel wrote a formal letter to USDA officials specifying the minimum steps USDA should take to ensure that Section 26 will be actively enforced in the future. The letter states, in part: "The Animal Welfare Act Amendments of 1976, incorporating the animal fighting provisions, were passed in April, 1976.



Since then, I think we are all in agreement that virtually nothing was done until recently to even begin enforcement of § 26. While there may not have been an intentional decision to ignore § 26, there has been and still is within the Department a pronounced, systemic inability to enforce it, which has the same result. This systemic inability or incapacity is reflected in the non-existence of cooperative agreements among USDA, the Department of Justice, other pertinent federal agencies and state and local authorities. Such cooperative agreements are not only explicitly provided for in the Act, but, as events two weeks ago in Marked Tree, Arkansas pointed out, are indispensable as a practical matter in effecting the kind of enforcement effort which Congress envisioned.

"The systemic incapacity is decisively illustrated by the fact that in this year alone, USDA has been provided advance information on twelve dog fights, including evidence in several cases showing the probability of interstate activity. Out of that plethora of advance information has come only one concrete USDA action at the field level: the tentative presence of two investigators from the Office of Investigations at the Marked Tree, Arkansas fight. Furthermore, it is obvious that USDA has not been sure how to use advance information of criminal fight-

ing, has not decided which personnel will be responsible for § 26 enforcement, does not have a feasible plan or guidelines for conducting field investigations of § 26 violations, and is unpracticed at coordinating the necessary federal and state enforcement personnel.

"What we have been watching for and what we think is necessary to see from USDA in the near future is reasonable and steady progress toward putting together an enforcement program. From our viewpoint, the acid test of an effective enforcement program is how it performs at the field level, how decisions and intentions in Washington are translated into interdictions of the fights themselves. Thus, while we appreciate efforts at improving communications among USDA and HSUS by the meetings which you have organized, we, and particularly this office, must respond to the signs of USDA confusion and inaction reported by Frantz Dantzer and Marc Paulhus, our field investigators. The critical vantage point for us is the activity or inactivity apparent at the end of the federal chain of command — at the fight level. As a matter of legal necessity, USDA must have an enforcement program in place. The Department does not have the discretion either to decline to enforce the Act or to continue in its present, systemically indisposed state."

We are currently awaiting USDA's reply to our inquiry. If there is no satisfactory response and it appears that USDA will continue to shirk its responsibility to investigate and prosecute those who perpetuate cruel animal fighting ventures, HSUS is willing to take whatever legal steps are possible to force action in this important area of federal involvement in animal welfare.

Compiled by Murdaugh Stuart Madden, HSUS General Counsel, and Roger Kindler, Associate Counsel.



Observations on fighting dogs

Donald H. Clifford, DVM, MPH, PhD; Mary Pat Boatfield, B Ed; Judy Rubright, BS

DOGFIGHTING IS A VESTIGE of the ancient use of dogs to kill for food, protection, and sport. In nineteenth century Europe, dogs were matched against bulls, bears, and other animals. This evolved into the cruel sport of matching one dog against another. Unfortunately, this sport persists and appears to be increasing in the United States.^{1,2} Companion dogs now are selected away from their predatory instincts, toward temperaments that make them compatible with other animals and man; however, in certain mixed and established breeds, there may be animals that retain an uncontrollable urge to fight and kill.

Many people use the term "pit bull" when referring to dogs used for fighting. There is no recognized breed with this name. Recognized breeds that have been associated with dogfighting in the United States are the American Staffordshire Terrier, originally accepted for registry by the American Kennel Club in 1935,³ the Bull Terrier, a breed that dates back to 1835,³ the Staffordshire Bull Terrier, which was admitted to registration in 1974,³ and the American Pit Bull Terrier,⁴ registered in 1898. Other breeds, eg, Bulldog Terrier, Old Pit Bull Terrier, and Bull and Terrier are interesting historically, and dogs conforming to former standards may exist in an unregistered status. The American Pit Bull Terrier (United Kennel Club) is the predominant pit or fighting dog (Fig 1). There appears to be considerable variation in the "stop," length of muzzle, weight, and other characteristics between the American Pit Bull Terrier and the American Staffordshire Terrier.⁵ Some dogs are registered as both American Pit Bull Terriers and American Staffordshire Terriers. In November 1981, 32 fighting dogs were seized by the Humane Society of the United States and the Toledo Humane Society⁶ and confined at the Medical College of Ohio. A total of 3 recognized breeds were represented. One dog was of mixed breeding. The lack of fixed conformation was illustrated by 7 pups that were whelped by a confined bitch that conformed to the standards of an American Pit Bull Terrier. Of



Fig 1—Typical head of a pit bull. This dog has purulent drainage from the wound on the right side of the muzzle. The lesion responded to surgical drainage and antibiotic treatment. Notice the short ear crop or "bun crop." Thick and wide leather collars with rings are used more commonly than nylon web or chain collars.

these, 2 pups resembled Staffordshire Bull Terriers, one was like a Bull Terrier, and the remaining 4 dogs looked like American Pit Bull Terriers.

The 32 dogs were seized at the residences of 6 Toledo, Ohio (Lucas County) dogfighters. The predominant lesions (wounds, abscesses, and scars) observed in the dogs are listed for adult dogs, immature dogs, and pups (Table 1; Fig 2 to 5). There was not evidence of veterinary treatment of any of the 32 dogs. Antibiotics and other drugs that could be used to treat dogs were taken from the residences of the owners.* Other conditions, including cutaneous gran-

*Last 3 plead guilty in dogfighting cases. *The Blade* (Toledo, Ohio) 132:14, July 4, 1982.

From the Division of Laboratory Animal Medicine, The Medical College of Ohio, OS No. 10008, Toledo, OH 43699 (Clifford, Boatfield), and the Toledo Humane Society, 320 Indian Wood Circle, Maumee, OH 43537 (Rubright).

Presented at the June 25, 1982, meeting of the Great Lakes Animal Fighting Task Force, Toledo Humane Society, 320 Indian Wood Circle, Maumee, Ohio.

Atch. I

TABLE 1—Distribution of wounds, abscesses, and scars according to maturity in 32 fighting dogs seized in 6 kennels in Lucas County

	Adult dogs*		Immature dogs†		Pups‡		Total (32)
	Male (9)	Female (17)	Male (2)	Female (1)	Male (2)	Female (1)	
Wounds	1	2	...	...	...	...	3
Abscesses	1	2	...	...	...	...	3
Scars							
Ears	4	9	1	...	1	...	15
Muzzle	4	9	...	...	1	...	14
Throat	1	5	1	...	2	...	9
Forelimbs	5	13	...	...	2	2	22
Hindlimbs	6	10	...	...	2	1	19

* >6 months old. † 4 to 6 months old. ‡ 2 to 4 months old.

ulomas (2), ringworm (6), paronychia (2; Fig 6), and healed fractures (2), were observed. All of the lesions and conditions responded to debridement, surgical drainage, administration of antibiotics, and other treatments during confinement at the Medical College of Ohio.

Adult dogs were confined separately in runs, whereas immature dogs and pups were confined separately in cages as well as in runs. In over 6 months of confinement, there were many apparent and subtle differences between the fighting dogs and the dogs routinely confined in this institution.

Aggressiveness of the fighting dogs toward other dogs was always evident during the period of confinement. Masonry dividers, 4 feet high, between the pens prevented contact between dogs. Dogs of either sex were not compatible with dogs of the same or opposite sex. In 1 instance an older male broke out of its pen and seriously mauled a young female that was being exercised. Because of an inclination toward violent fighting, it was necessary to separate 7 littermates into groups of 1 or 2 when they were 10 weeks old. Two pups that appeared compatible were taken to another location; however, within 2 weeks, it was

necessary to separate these animals. Compared with other dogs, the fighting dogs appeared to react less to IV and IM injections and to be less sensitive to pain. They recovered promptly from the effects of ataractic, analgesic, and anesthetic drugs. The dogs did not bite the personnel handling them but became increasingly athletic, difficult to handle, and threatening. They still were manageable by regular, experienced handlers but appeared very aggressive toward new handlers. The dogs gained weight on high-energy food, which constantly was available, in spite of considerable exercise in the large pens. Pups or young dogs had a tendency to defecate in the same area and did not soil themselves as readily as pups from other breeds. Rawhide chews that would have lasted several days or weeks for most dogs were devoured in 1 day. They liked to carry or "mouth" food dishes and other objects. The fighting dogs barked and jumped against wire doors when strange people came into the area, but they tended not to bark when they were in direct contact with people or other dogs. When not barking, their mouths were open. They consistently maintained eye contact and did not "back down" or move away from other animals or people. They did not make threatening gestures such

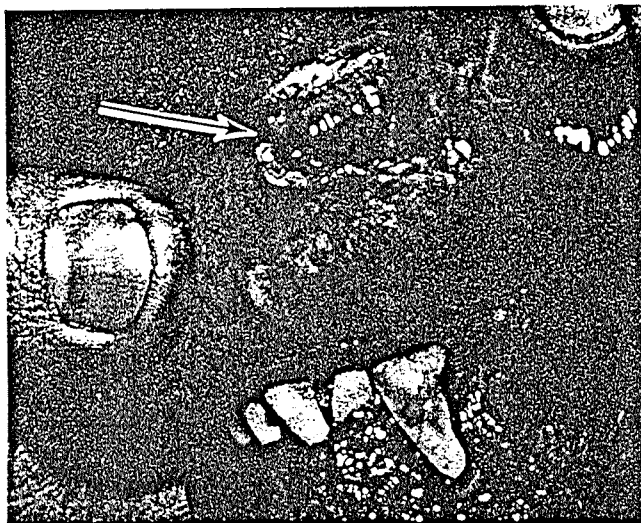


Fig 2—Bite wound through the lip. Granulation tissue at the margin of the wound is visible. This type of wound is frequently self-inflicted when the lip becomes impaled on the canine tooth during a match.⁵ Dogfighters use the term "fanged" for such an injury, which is cause to stop the fight until the dog can become unfanged with a parting or breaking stick and/or pencil.



Fig 3—Scar at the nasal orifice. Nose or face biting is a common style of fighting. Such wounds healed rapidly with local treatment and systemic administration of antibiotics.

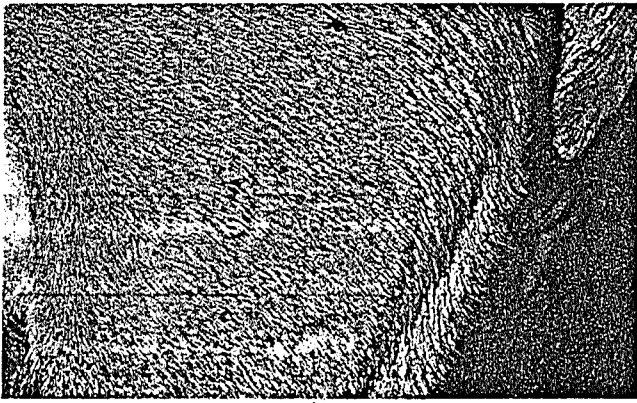


Fig 4—Scars and muscular atrophy of a pelvic limb. These scars appear to have resulted from deep wounds following a stifle or leg hold. Femoral vessels may be severed during this type of injury, which can be fatal.

as baring their teeth, snarling, or raising the hair over their back and neck. They maintained a wide stance as if ready to move forward or laterally.

Blood and feces were examined for evidence of internal parasitisms. The endoparasitic burden of the pit bulls was over 50% higher than that reported in several surveys.⁷⁻¹⁰ The percentages of endoparasitic infections among pit bulls resembled those reported in pound (stray and abandoned) dogs.¹¹⁻¹³ Each dog also was examined for ectoparasites and, with the exception of 5 dogs that had demodectic mange, ectoparasites were not found.

Most veterinarians are not familiar with the subculture¹⁴ of dogfighting, since dogfighters are reluctant to seek veterinary advice and assistance. Veterinarians should be aware of the breeds most commonly involved in dogfighting and know how to identify pit bulls (Fig 1 and 5). It would be appropriate to advise their clients to tattoo their dogs and record them with a national registry since pet dogs as well as street dogs are used as training animals by dogfighters.

The distinguishing characteristics of fighting dogs include short ear crops (Fig 1), recent or longstanding wounds and abscesses, and scars over the head, throat, legs, and ears (Fig 1 to 5). Also, wide leather or web collars with heavy rings may be worn. Dogs confiscated at dogfights may have puncture wounds and lacerations, with edema over injured areas.¹⁵ Other lesions or conditions may include missing teeth, inability to stand, scars, abrasions, loss of the tip of the tail, and circular wounds on the legs.¹⁵ Deep thoracic and abdominal wounds, inflicted by "chest dogs" or "stomach dogs" also may be encountered.^{16-20,b}

Fighting dogs may be parasitized heavily due to the fact that anthelmintic treatment is empiric or sporadic, and sanitation at holding and training areas often is poor. Exercising devices such as treadmills, catmills,^c and spring poles^d may be shared by

^bSwift JE: The gentle looking dog went for the other's legs. *Ledger-Enquirer* (Columbus, Ga) 94:B1, B5, July 27, 1980.

^cAn exercising device with radial spokes extending outward from a central axis. Bait consisting of a chicken or cat may be placed in a cage or bag in front of the dog.

^dA pole or sapling and hide that a dog can grab by jumping to strengthen the hindlimbs and jaws.

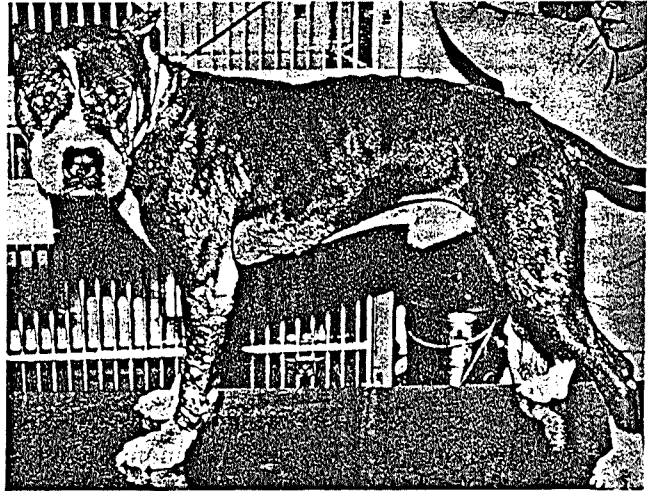


Fig 5—Multiple wounds on the head, neck, and legs of an adult pit bull. This dog had severe demodectic mange, which responded to local and systemic treatment in addition to a special diet. Notice the thin, muscular body and large head and muzzle. This animal is near "match weight" or the optimal weight for fighting.

several animals and provide an opportunity to become infected.

If a pit bull needs to be hospitalized, it should be confined to a cage or run that cannot be opened by the dog, and it should not be allowed to come in contact with other animals in any situation. A pit bull can seriously injure or kill a dog of similar size in a few minutes and it is not easy to detach a pit bull in preferred "hold." Pit bulls can bite with greater force than most dogs and once in a hold they do not simply maintain the "bite," but continue to grind their premolars and molars into the tissue while the canine teeth stabilize the hold.²⁰

A law was passed in Wisconsin in 1981 requiring veterinarians to report (in writing) to the local humane officer, society, or organization or to the local law enforcement agency, dogs that they believe have been in intentional dogfights.²¹ Although this information can be very useful to those investigating and

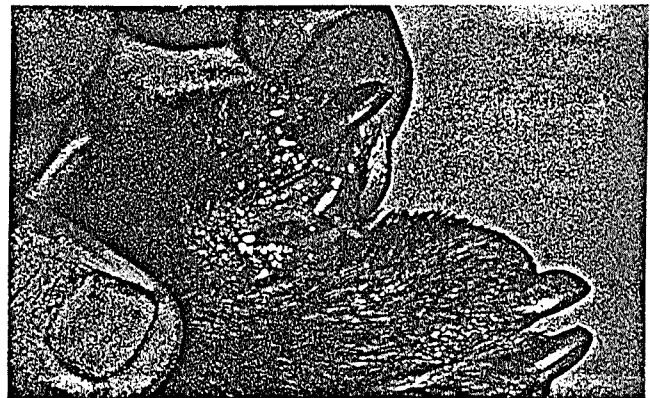


Fig 6—Digital infection. Such an infection, with or without paronychia, may be caused by fighting or injury on the treadmill. In this and another dog, the hindlimbs had similar lesions and it was suspected that the feet had been caught between the belt and the frame of the treadmill.

Prosecuting dogfighters, it may pose some danger to a reporting veterinarian.

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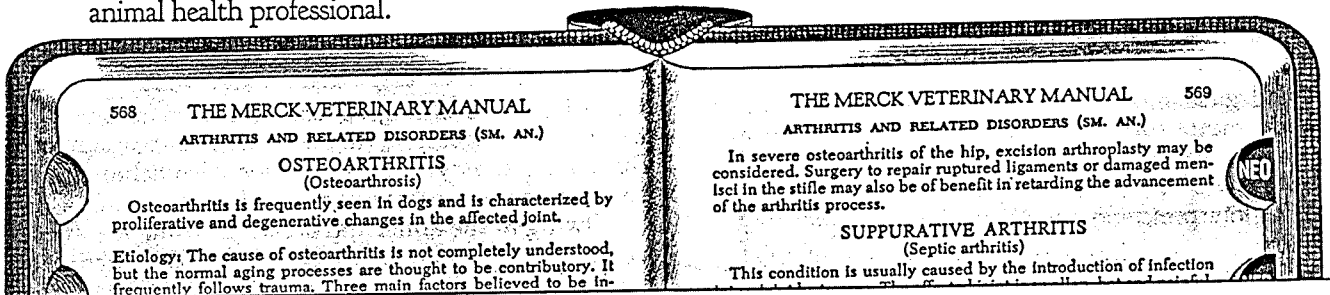
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TOPEKA

HOUSE OF
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ELECTIONS

House Bill 2899

Testimony before the Federal and State Affairs Committee:

Under current law a judge has two options when sentencing persons convicted of "D" and "E" felonies. "D" and "E" felonies are non-violent crimes. House Bill 2899 would allow a third option, confinement in a local jail. We have heard a lot this year about the crowded conditions in our prisons. We addressed part of this problem with the creation of pre-release centers to move minimum security prisoners out of our correction institutions. House Bill 2899 would slow down the flow of convicted felons into the correction system by allowing some of them to be incarcerated in local jails. As of 12-23-83, Kansas had 359 "E" and 1325 "D" felons, for a total of 1684 convicted "D" and "E" felons in our corrections system.

During 1983, Kansas convicted approximately 5900 offenders of class "D" and "E" felonies. Approximately 1400 of these were committed to the Secretary of Corrections. Of this number, approximately 1100 remain incarcerated past the 120-day time period during which a sentencing judge can modify an offenders sentence. These are the people who could be affected by HB 2899.

Let me explain what the bill allows:

(1) "D" and "E" felons could, as a condition of probation, be sentenced to up to 364 days in a qualifying local jail.

(2) If parole is revoked and the defendant is transferred to a corrections institution, total sentence does not change.

(3) The jail must meet standards of safety, education and rehabilitation. This jail could be anywhere in a particular judicial district.

(4) The convicted felon could waive his rights to educational, counseling, and other rehab training.

(5) Sec. (e) deals with reimbursement by the state for local custody after the defendant is sentenced.

Atch. J

There are some things I think need to be amended into this bill:

(1) As a condition of participation in this program, District Judges and Sheriffs within that judicial district must agree on the maximum population for each jail.

(2) This would not be applicable to persons who could otherwise be sentenced to a community corrections institution.

(3) Something on cost of testing needs to be added.

The Sheriff's Association is checking jails in the state for capacity and average occupancy. After 54 counties were checked, there were approximately 1581 capacity and 842 average occupancy. This is a difference of 739. I don't mean to say all these 739 spaces are available, but some certainly would be.

On the fiscal note:

The cost of incarcerating inmates was \$11,000 per year in 1983. The cost of building new prisons is estimated at \$68,000 per bed. We are all aware of our prisons are over-crowded. We also know that the estimates on the cost of updating pre-release centers were not accurate. What I have in mind and have presented to the Ways and Means Sub-Committee is a pilot program to allow up to 150 "D" and "E" felons to be held in local jails.

The local jails would be re-imbursed at the rate of \$31.50 per day. The Department of Corrections has a very limited contract jail placement program currently operating. In FY 1985 the payment rate will be \$31.50 per day per person. Under this proposed law, we can not determine the exact amount of time each will be held. Assuming an average time of 6 months, the daily costs amount to \$5670 for medical costs, add another \$130 for a total of \$5800 per person. There would be some additional costs for court service officers (see chart A). There is a large variance in case load from district to district as you will see in this printout. I believe the 150 new people could be included in the system without a great number of new CSO's. The cost certainly will not be as cheap as incarceration in a correction institution if there is plenty of room at that institution, but at \$5800 per person, 150 people comes to \$870,000.00; there will be some additional costs that I

have not thought of, but I believe that \$1 million would more than fund this program. It costs \$68,000 per bed for a new prison. At a 10% interest, this is \$6800 in interest money per bed $\$6800 \times 150 = \$1,020,000.00$, which is about the same money we are talking about here.

I believe this bill will do three things:

- (a) Slow down in flow into our prisons.
- (b) Cause less disturbance of family continuity.
- (c) Make entrance back into society easier for the paroles.

Cud. Dist.

- 7 would definitely need an increase in personnel
- 9 would have greater impact on jail facilities, than their caseload - would not affect them as much
you would need to talk to the Sheriff for more info.
Sheriff Gale Moberd 316-283-6900
- 15 * if they would have an incr. now they could handle it at the present time.
- 17 will call back
- 20 Ct. Admin. Hugh Zavadil will call back
- 23 would need more personnel
- 24. yes - you spoke to them

* Jim Rowson 462-7613
handles all counties
will be in wed or Thurs.

MEMORANDUM

July 7, 1983

TO: Special Committee on Ways and Means
FROM: Kansas Legislative Research Department
RE: Proposal No. 47 — Compensation of Probation and Parole Personnel

Committee Charge

This Committee is directed to review the roles, responsibilities, and rates of compensation of court service officers, parole officers, and community corrections personnel. By way of background for the study, this memo presents information on the placement of the probation and parole functions within state government, duties of each type of employee, and a brief description of the administrative structure within which the classes of employees work.

Probation

Probation is defined in Kansas law as "a procedure under which a defendant, found guilty of a crime . . . is released by the court after imposition of sentence, without imprisonment subject to conditions imposed by the court and subject to the supervision of the probation service of the state, county or court." (K.S.A. 21-4620)

Probation activities have been conducted by the courts since 1979 when the function was removed from the Department of Corrections. The court personnel who have responsibility for, among other things, supervising probationers are Court Service Officers (CSO). They are employees of the district court in which they work subject to the rules of the district court and the Supreme Court. Staffing within districts varies, but generally each employs a supervising CSO and one or more line staff. Table I shows the distribution of CSOs by judicial district as indicated in the Court's FY 1984 budget request. A total of 283.3 F.T.E. CSO positions are authorized for FY 1984.

There are currently four classes of Court Service Officers: I, II, III and Administrative Officers. Any class other than CSO I may have supervisory responsibilities. The Court Service Administrative Officers are supervisors in the large, urban districts.

Many of the responsibilities of CSOs are delineated in statutes. Those are primarily duties of conducting, and submitting reports of, presentence investigations, and supervising probationers and parolees from county jails. In some cases the statutes are permissive, providing the judge with discretion regarding investigations and reports. In some judicial districts CSOs develop and implement a variety of programs designed to assist people who come in contact with the courts, but who are not involved in the criminal process. The most often cited examples of these services are domestic relations work and programs for juveniles. This aspect of court service work is difficult to generalize because it is very dependent upon the skills available among the staff, resources of the community, and the interest of the district judges. The work of CSOs, summarized from their job descriptions, include the following:

1. to conduct presentence investigations and prepare presentence reports for the court;
2. to supervise persons placed on probation, given a suspended sentence or paroled from a county jail;
3. to prepare information necessary to transfer supervision, or initiate a legal proceeding involving a probationer;
4. to maintain records of client contacts, client progress, and caseload;
5. to conduct investigations or perform other duties approved by the court; and
6. to solicit public support, provide public information, and build community resources.

Community resource development is for the purpose of assisting in the supervision and treatment of offenders. Such resources may include volunteer programs, halfway houses, group care homes, and others. Community resources are subject to approval of the district judges.

Community Corrections

In the nine counties that currently participate in the Community Corrections program, judges may require participation in that program as a condition of probation. Since the programs are designed and implemented by the counties, the components, staffing, and operation are not uniform, but there are some common elements. For the purpose of this study, discussion is limited to the personnel who supervise adult and juvenile probationers.

Information provided by the Department of Corrections for four of the nine counties indicates that each of the programs includes some form of intensive supervision. This may be accomplished by contact with the client as often as daily. Apparently some programs also include pretrial and/or presentence evaluation and investigation activities. Other common components of the programs include referral to agencies and institutions for counseling, restitution, and victim services. It is apparent from the information available that close coordination with the court services programs is an integral part of community corrections. In some cases, job descriptions would lead one to believe that the same activities are being carried out by the staff of both programs. The Committee may wish to explore how programmatic coordination is accomplished.

Like duties, salaries and educational requirements vary. A summary is included in Table III.

Parole

Kansas law defines parole as "the release of a prisoner to the community by the Kansas adult authority prior to the expiration of his term, subject to conditions

imposed by the authority and to the secretary of correction's supervision. 'Parole' is also the release by a court of competent jurisdiction of a person confined in the county jail or other local place of detention after conviction and prior to expiration of his term, subject to conditions imposed by the court and its supervision." (K.S.A. 21-4602)

Most of the parole function is assigned to the Department of Corrections. The CSOs supervise parolees from county jails. Four classes of employees are directly involved in parolee supervision, Parole Compact Officers, Parole Supervisors, and Parole Officers I and II. In addition, the Department employs two Parole Planning Coordinators who work with inmates prior to release and act as liaisons between the correctional institution and the Parole Officers. The two Parole Compact Officers supervise both parolees and probationers who have been transferred to Kansas from another state.

The 36 Parole Officers are based in five regions, each of which is administered by a Parole Supervisor. Regional offices and their staffing patterns are shown on Table II.

Responsibilities of Parole Officers are as follows:

1. to perform preparole investigations;
2. to supervise parolees;
3. to maintain contact with agencies and organizations that might be of service to parolees;
4. to maintain client records and prepare and submit required reports; and
5. to establish contact with potential parolees prior to release.

Parole Officers II may have, in addition, supervisory and administrative responsibilities. The Parole Supervisors have the administrative responsibility for each of the five regional offices.

Table III provides a comparison of the number, salaries, duties, and minimum qualifications of court service, community corrections, and parole personnel. It appears, from an examination of duties and minimum qualification requirements of the classes of employees involved in probation and parole that great similarities exist. However, there may be qualitative differences, not apparent in the job descriptions, that are used as the basis for assigning salary levels. The Committee may wish to pursue this by receiving testimony from incumbents of the positions and from the administrative staff who develop and review salary assignments.

TABLE I

FY 1984 PLACEMENT OF CSOs BY JUDICIAL DISTRICT

Judicial District	Counties	Court Service Personnel	No.	Cases April, 1983	Average Caseload
1	Atchison, Leavenworth	CSO I CSO III	5 1	498	83
2	Jackson, Jefferson, Pottawatomie, Wabaunsee	CSO I CSO II	2 1	154	51
3	Shawnee	CSO I CSO II CSO III C.S. Admin. Officer	25 7 3 1	2,644	73
4	Osage, Franklin Anderson, Coffey	CSO I CSO II	4 1	586	117
5	Chase, Lyon	CSO I CSO III	3 1	194	49
6	Bourbon, Linn, Miami	CSO I CSO II	3 1	271	68
7	Douglas	CSO I CSO II CSO III	4.5 2 1	297	40
8	Dickinson, Geary, Marion, Morris	CSO I CSO II	3 1	309	77
9	Harvey, McPherson	CSO I CSO II CSO III	6 2 1	233	26
10	Johnson	C.S. Admin. Officer CSO I CSO II CSO III	1 23 4 1	1,804	62
11	Crawford, Cherokee Labette	CSO I CSO II CSO III	6 1 1	631	79
12	Cloud, Jewell, Lincoln, Mitchell, Republic, Washington	CSO I CSO II	1 1	218	109
13	Butler, Elk, Greenwood	CSO I CSO III	4 1	403	81
14	Montgomery, Chautauqua	CSO I CSO II	4 1	457	114
15	Cheyenne, Logan, Rawlins, Sheridan, Sherman, Thomas, Wallace	CSO I CSO II	3 1	77	19
16	Clark, Comanche, Ford, Gray, Kiowa, Meade	CSO I CSO II	1.5 1	226	90

(cont.)
 call back
 Jim F... → * Thomas - 402-7413
 handles all counties
 be included so that's

TABLE II

PAROLE OFFICES AND STAFFING

			<u>FY 1983 Caseload</u>
<u>Western Region</u>			67.4
Great Bend	-	Parole Supervisor	
	1	Parole Officer	
Salina	-	Parole Officers	
Dodge City	-	Parole Officer	
Hutchinson	-	Parole Officers	
Garden City	-	Parole Officer	
 <u>South Central</u>			 69.0
Wichita	-	Parole Supervisor	
	9	Parole Officers	
 <u>Central</u>			 57.6
Topeka	-	Parole Supervisor	
	6	Parole Officers	
Manhattan	-	Parole Officer	
 <u>Southeastern</u>			 58.4
Pittsburg	-	Parole Supervisor	
	2	Parole Officers	
Independence	-	Parole Officer	
Emporia	-	Parole Officer	
Augusta	-	Parole Officer	
 <u>Eastern</u>			 83.3
Kansas City	-	Parole Supervisor	
	5	Parole Officers	
Olathe	-	Parole Officers	

Each office also has a small clerical staff.

TABLE III

Position Title	No. F.T.E. Approved	Annual Salary		Duties	Minimum Edu./Exp. Req.
		Entry	Maximum		
Court Service Officer I	210.3	\$14,336	\$ 19,332	<ul style="list-style-type: none"> - Presentence investigations - Probation supervision - Parole supervision (persons released from county jail only) - Community resource development - Other duties assigned by court, e.g., restitution, diversion, domestic relations 	<ul style="list-style-type: none"> - Bachelor's degree in corrections, counseling, criminology, etc., or - 60 hours college credit plus two years court service experience
Parole Officer I	24	\$16,728	\$ 21,120	<ul style="list-style-type: none"> - Preparole investigations and client contact - Parole supervision - Community resource liaison 	<ul style="list-style-type: none"> - 60 hours credit in corrections, counseling, criminology, etc., plus two years experience in probation/parole work
Community Corrections Personnel*		\$14,000	\$ 21,000	<ul style="list-style-type: none"> - Client supervision, generally at least once per week - Liaison with court and other community facilities and resources 	<ul style="list-style-type: none"> - Ranges from masters degree in social work, clinical psychology, corrections, etc., and two years experience in field, to training and experience in corrections field
Court Services Officer II	48	\$15,912	\$ 21,312	<ul style="list-style-type: none"> - Staff supervision and administrative duties (generally in smaller districts only) - Duties of CSO I (above) 	<ul style="list-style-type: none"> - Bachelors degree in corrections, counseling, criminology, etc., and two years experience in court service work, or - 60 hours college credit with four years experience in court service work
Court Services Officer III	20	\$17,544	\$ 23,508	<ul style="list-style-type: none"> - Staff supervision and administrative responsibilities in moderate sized district or division of large district - Supervision of limited caseload 	<ul style="list-style-type: none"> - Bachelors degree in corrections, counseling, etc., plus four years experience in court service work

Position Title	No. F.T.E. Approved	Annual Salary		Duties	Minimum Edu./Exp. Req.
		Entry	Maximum		
Parole Officer II	12	\$19,092	\$ 24,564	<ul style="list-style-type: none"> - Supervision of "difficult and specialized" parolees - Staff supervision in metropolitan areas or sole officer in isolated, one-person offices - Preparole investigations - Community liaison - Probable cause hearing officer 	<ul style="list-style-type: none"> - 60 hours college credit in corrections, counseling, criminology, etc., and three years experience in probation/parole work
Court Administrative Service Officer	5	\$19,332	\$ 25,920	<ul style="list-style-type: none"> - Supervisory and administrative responsibility of largest districts' court service programs 	<ul style="list-style-type: none"> - Bachelors degree in corrections, counseling, etc., plus five years experience in court service work
Parole Supervisor	5	\$20,856	\$ 26,844	<ul style="list-style-type: none"> - District supervisor and administrative officer 	<ul style="list-style-type: none"> - 60 hours college credit in corrections, counseling, etc., and four years experience in probation/parole work

* The Department of Corrections is in the process of compiling current information about positions and salaries in the Community Corrections programs. The personnel information summarized here includes that provided by four of the nine participating counties.

↙

LWVK

LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

March 21, 1984

STATEMENT TO THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS ON HB 2899.

The League of Women Voters of Kansas is certainly on the record in support of the concept of non-violent D and E convicted felons remaining in local communities, but our concerns with HB 2899 are as follows:

1. How many jails in Kansas actually provide any kind of services, such as alcohol and/or drug treatment or counseling, educational programs or work release? A jail sentence with nothing but four walls for a year seems far more restrictive to us than actually serving time in a state prison.
2. Would money provided by the state to keep these people include any such services?
3. Perhaps more important than 1 and 2, is it fair that only certain D and E felons serve less time than the minimum sentence served by those who go to prison? We would like to mention here that the League strongly supports the roll back of D and E minimum sentences to pre-1982 criminal statutes. That would reduce six or so months off of the D sentence and two months plus off of E sentences.

The League is not necessarily against using jails as an alternative, but we like to see them used for a more specific purpose. We like to suggest that judges use available jail space for shock incarceration within the 120 day time limit, rather than sending D and E felons to prison for just that purpose. There are many judges who use this method, but do not realize that the inmates are pretty much in isolation during that period, and are not necessarily in the main population. We are reasonably certain that by doing this it would relieve some of the overcrowding in the state facilities.

We are quite certain that by using jails as an alternative would not be any cheaper, but no matter what the cost, anything would be cheaper than

Atch. 6

Page 2

providing more beds or more institutions.

We would appreciate your consideration of our concerns and suggestions concerning HB 2899.

Thank you very much.

Ann Heberger

Ann Heberger, Lobbyist
League of Women Voters of Kansas

President J. Kenneth Hales
 Secretary Jane Alford
 Treasurer Tom Padilla



Vice President Heidi Wallace
 President Elect Michael Thurber

Testimony Regarding
 House Bill 2899

Thank you for the opportunity to speak as a representative of the Kansas Correctional Association in regard to HB 2899. The K.C.A. is a non-partisan organization comprised of 200 members who work in all facets of the corrections field (prison, parole, probation, jail, community corrections, courts). The K.C.A. is dedicated to improving the corrections system at all levels in the State of Kansas.

K.C.A. is concerned that the passage of H.B. 2899 in its present form would only be shifting a problem of overcrowding in state prisons to local jails which are for the most part already overcrowded and in worse conditions than what exists in the state facilities.

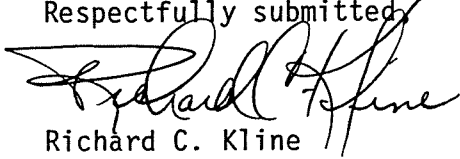
It would appear that the class of offenders impacted by this bill (D and E felony offenders) would be those who generally fall in the category for which the Kansas Community Corrections Act was developed. The K.C.A. could support passage of this bill if implemented in conjunction with a community corrections plan. This would allow for a full range of programs and services to be available to the jail for the offender. Coordination of this Bill under a Community Corrections Plan would also provide close monitoring of the offenders.

As referred in the New Section 1 (e) of the Bill, the State would be responsible for reimbursing the county for expenses and care of prisoners sentenced under this option. By utilizing funds available through a county's Community Corrections Plan, the county could then assume funding responsibility in lieu of the State.

Atch. M

K.C.A. believes that H.B. 2899 would have a more positive impact on the overcrowding problem for both counties and the State if the sentencing option set forth in the Bill was coordinated with the development of a Community Corrections Plan.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard C. Kline". The signature is written in black ink and is positioned above the printed name.

Richard C. Kline
Representative of the
Kansas Correctional Association

HOUSE BILL No. 2899

By Representatives Moomaw, Chronister, DeBaun, Farrar, Fox,
Friedeman, Guldner, L. Johnson, Nichols, B. Ott, Polson and
Roebaugh

2-8

0019 AN ACT concerning crimes and punishments; relating to sen-
0020 tencing for certain felonies; amending K.S.A. 21-4603 and
0021 repealing the existing section.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 New Section 1. (a) In sentencing a defendant who is con-
0024 victed of a class D or E felony, the court may, in its discretion,
0025 order that the defendant be released on probation under the
0026 supervision of a court services officer and that the defendant
0027 serve not more than one year imprisonment in the county jail as a
0028 condition of probation.

0029 (b) Except as otherwise provided by this section, the court
0030 shall continue to have jurisdiction over a defendant sentenced
0031 under this section until the defendant is finally released by the
0032 court. The court may at any time order that the defendant be
0033 released on probation or parole under the supervision of a court
0034 services officer or that probation or parol be revoked and the
0035 defendant be committed to the secretary of corrections for the
0036 remainder of the defendant's term, in which case the court's
0037 jurisdiction to modify the sentence shall terminate 120 days after
0038 the order is entered.

0039 (c) The court may order that a defendant sentenced under
0040 this section be transferred to a jail in another county in the
0041 judicial district if the jail meets the advisory standards promul-
0042 gated pursuant to K.S.A. 75-5228 and amendments thereto and if
0043 the court finds that the other county has better facilities or
0044 programs for handling the defendant. Transportation of the de-
0045 fendant to the other county shall be the responsibility of the
0046 sheriff of the county where the defendant was sentenced.

0047 (d) A defendant sentenced pursuant to this section may
0048 waive the defendant's rights under law to educational, coun-
0049 seling, training and other rehabilitative programs.

0050 (e) The state shall reimburse a county for all expenses of care
0051 and custody of a defendant incarcerated in the county jail under
0052 this section to the same extent that reimbursement would be
0053 required for a defendant held in a county jail after commitment
0054 to the custody of the secretary of corrections but shall not be
0055 required to reimburse those expenses which accrued prior to
0056 sentencing of the defendant.

0057 ~~(d)~~ The provisions of this section will expire on July 1, 1986.

0058 Sec. 2. K.S.A. 21-4603 is hereby amended to read as follows: (g)

0059 21-4603. (1) Whenever any person has been found guilty of a
0060 crime and the court finds that an adequate presentence inves-
0061 tigation cannot be conducted by resources available within the
0062 judicial district, including mental health centers and mental
0063 health clinics, the court may require that a presentence inves-
0064 tigation be conducted by the Kansas state reception and diag-
0065 nostic center or by the state security hospital. If the offender is
0066 sent to the Kansas state reception and diagnostic center or the
0067 state security hospital for a presentence investigation under this
0068 section, the institution or hospital may keep the offender con-
0069 fined for a maximum of 120 days or until the court calls for the
0070 return of the offender. While held at the Kansas reception and
0071 diagnostic center or the state security hospital the defendant may
0072 be treated the same as any person committed to the secretary of
0073 corrections or secretary of social and rehabilitation services for
0074 purposes of maintaining security and control, discipline, and
0075 emergency medical or psychiatric treatment, and general popu-
0076 lation management except that no such person shall be trans-
0077 ferred out of the state or to a federal institution or to any other
0078 location unless the transfer is between the Kansas reception and
0079 diagnostic center and the state security hospital. The Kansas
0080 state reception and diagnostic center or the state security hospi-
0081 tal shall compile a complete mental and physical evaluation of
0082 such offender and shall make its finding known to the court in
0083 the presentence report.

(f) The provisions of this section shall apply only in counties:

(1) In which the sheriff and the judges of the district court have agreed upon the maximum number of defendants that will be serving sentences of imprisonment imposed under this section at any one time; and

(2) which have not elected to come within the provisions of the community corrections act.

2

KANSAS HOUSE FEDERAL AND STATE
AFFAIRS COMMITTEE
DICK G. BOERGER

CHAIRMAN MILLER, COMMITTEE MEMBERS.

I WANT TO THANK YOU FOR GIVING ME THE OPPORTUNITY TO SPEND SOME TIME WITH YOU DISCUSSING H.B. 2592 AND CELLULAR MOBILE TELEPHONE SERVICE.

I AM DICK BOERGER REPRESENTING SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

WE ARE A WHOLLY OWNED SUBSIDIARY OF SOUTHWESTERN BELL CORPORATION, A HOLDING COMPANY. SOUTHWESTERN BELL TELEPHONE COMPANY ALSO IS A WHOLLY OWNED SUBSIDIARY OF SOUTHWESTERN BELL CORPORATION.

- WE ARE FULLY SEPARATED FROM THE TELEPHONE COMPANY BY FCC ORDER.
- THIS SEPARATION IS REQUIRED TO PREVENT CROSS-SUBSIDIZATION OF THE CELLULAR COMPANY WITH MONOPOLY OR TELEPHONE COMPANY REVENUES.
- RADIO COMMON CARRIERS ARE NOT REQUIRED TO HAVE THIS TYPE OF SEPARATION IF THEY OFFER MORE THAN ONE TYPE OF RADIO SERVICE.

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- IN FACT, OUR BUSINESS RELATIONSHIP WITH SOUTHWESTERN BELL TELEPHONE COMPANY IS ONE IN WHICH WE ARE A CUSTOMER OF THEIRS. WE'LL INTERCONNECT TO PHONE COMPANY FACILITIES JUST LIKE ANY OTHER RADIO COMMON CARRIER. WE'LL OBTAIN THESE SERVICES UNDER THE SAME CONTRACT ARRANGEMENTS AS ANY OTHER CUSTOMER, AND
- WE'LL PAY SOUTHWESTERN BELL TELEPHONE COMPANY ITS CHARGES FOR THOSE SERVICES.
- THE FCC REQUIRES THAT WE OBTAIN INTERCONNECTION ARRANGEMENTS ON THE SAME BASIS AS EVERYONE ELSE. (SEE EXHIBIT A)
- THIS INTERCONNECT ARRANGEMENT WILL CONTINUE TO BE REGULATED BY THE KANSAS CORPORATION COMMISSION. (SEE EXHIBIT B)

WHAT IS CELLULAR?

CELLULAR IS THE MARRIAGE OF TWO-WAY MOBILE RADIO WITH THE COMPUTER. TO UNDERSTAND HOW THE TECHNOLOGY WORKS, A QUICK LOOK AT TODAY'S MOBILE SERVICE IS USEFUL BECAUSE YOU REALLY CAN'T TALK ABOUT ONE WITHOUT THE OTHER.

CURRENT MOBILE RADIO SERVICES RELY ON A SINGLE, HIGH-POWERED TRANSMITTER TO COVER A MARKET AREA. THE NUMBER OF CUSTOMERS WHO

CAN BE SERVED SIMULTANEOUSLY DEPENDS ON THE NUMBER OF ALLOCATED RADIO CHANNELS, AS WELL AS, ON THE HEIGHT AND POWER OF THE TRANSMITTER. THE NUMBER OF CHANNELS ARE LIMITED CREATING BUSY SIGNALS.

CELLULAR WORKS ON A MULTIPLE TOWER GRID SYSTEM. THE MARKET AREA TO BE SERVED--SAY METROPOLITAN KANSAS CITY--IS DIVIDED INTO A GRID OF CELLS, IN KANSAS CITY THERE WILL BE 13 CELLS--6 IN KANSAS AND 7 IN MISSOURI, EACH WITH ITS OWN LOW POWER TRANSMITTER. EACH CELL SERVES ONLY CUSTOMERS LOCATED WITHIN ITS OWN COVERAGE AREA. WHEN A CUSTOMER MOVES FROM ONE CELL TO ANOTHER WITHIN THE GRID, A CENTRAL COMPUTER "HANDS OFF" THE CALL TO AN ADJACENT CELL. BEST OF ALL, THE CUSTOMER WON'T EVEN NOTICE. (SEE ATTACHED EXHIBIT C)

TWO CHARACTERISTICS SET CELLULAR APART FROM OTHER MOBILE TECHNOLOGIES. ONE, IT USES LOW POWER TRANSMITTERS, MAKING IT POSSIBLE TO REUSE THE SAME FREQUENCIES IN THE COVERAGE AREA. AND TWO, AS DEMAND FOR THE SERVICE GROWS, THE CELLS CAN BE DIVIDED INTO SMALLER CELLS. THE TECHNIQUE, KNOWN AS CELL SPLITTING, ALLOWS THE SYSTEM TO GROW ALONG WITH CUSTOMER NEEDS. NEW CELLS ALSO CAN BE ADDED TO ALLOW THE SYSTEM TO COVER LARGER AREAS.

I THINK YOU CAN START TO SEE THE IMMEDIATE BENEFITS OF CELLULAR:

- AN ALMOST UNLIMITED NUMBER OF CUSTOMERS CAN USE THE SERVICE WITHIN A GIVEN AREA;
- QUALITY OF TRANSMISSION IS COMPARABLE TO HOME OR BUSINESS TELEPHONE SERVICE; AND
- BUSY SIGNALS ARE REDUCED SIGNIFICANTLY

IN 1981 THE FCC ORDERED THAT TWO DIFFERENT COMPANIES SHOULD PROVIDE CELLULAR SERVICE IN A GIVEN MARKET, SUCH AS KANSAS CITY, WICHITA, ETC. WIRELINE CARRIERS WERE PERMITTED TO FILE APPLICATIONS IN VARIOUS MARKETS FOR ONE FREQUENCY SPECTRUM WHILE NON-WIRELINE CARRIERS WERE PERMITTED TO FILE APPLICATIONS IN THE SAME MARKETS UTILIZING A SECOND FREQUENCY SPECTRUM. THE GOAL WAS TO FOSTER COMPETITION IN THE CELLULAR MARKETS. IN ORDER TO FURTHER INCREASE COMPETITION, THE FCC ORDERED THAT RESELLERS OF CELLULAR SERVICE SHOULD BE ALLOWED. THIS ENSURED ADDITIONAL COMPETITION IN EACH MARKET.

AN EXAMPLE OF A NON-WIRELINE COMPANY WOULD BE MCI/AIR SIGNAL, WESTERN UNION AND MANY SMALLER RCC'S OPERATING IN KANSAS.

CELLULAR WILL COMPETE WITH OTHER FORMS OF RADIO SERVICE. FOR EXAMPLE, CONVENTIONAL MOBILE TELEPHONE SERVICE, PAGING SERVICES AND THE VARIOUS SPECIALIZED MOBILE RADIO SERVICES (SMR).

I TRACE YOU THROUGH ALL OF THIS TO SUPPORT MY SECOND MAJOR CONTENTION REGARDING THE MOBILE INDUSTRY. IT WILL UNQUESTIONABLY

OPERATE MOST EFFECTIVELY IN THE OPEN MARKET, FREE OF REGULATION. H.B. 2592 WILL ACCOMPLISH THIS. IT WILL DEREGULATE MOBILE TELEPHONE RATES. THE LOCAL TELEPHONE RATES, AND THE LOCAL INTERCONNECT RATES, CHARGED BY THE TELEPHONE COMPANY WILL CONTINUE TO BE REGULATED BY THE KANSAS CORPORATION COMMISSION.

THE TEXAS STATE LEGISLATURE HAS ALREADY RECOGNIZED THE INDUSTRY'S COMPETITIVE NATURE BY PASSING A MEASURE TO DEREGULATE CELLULAR RADIO SERVICE. LIKewise, IN MISSOURI, THE SENATE HAS PASSED SIMILAR LEGISLATION AND 12 OTHER STATES AS WELL DO NOT REGULATE RADIO COMMON CARRIERS.

IN MY OPINION THE FREE ENTERPRISE APPROACH IS BEST FOR THE MOBILE INDUSTRY IN THAT THE MARKET PLACE WILL DICTATE THE PRICE OF RADIO SERVICES. THREE FACTORS BEAR THIS OUT:

FIRST, MOBILE TELECOMMUNICATIONS IS NOT A TRADITIONAL UTILITY. THERE IS COMPETITION, THE CONSUMER CAN SHOP AROUND.

SECONDLY, UNLIKE THE TRADITIONAL UTILITY, MOBILE IS A DISCRETIONARY SERVICE.

THIRDLY, THE FCC IS THE ULTIMATE REGULATOR OF RADIO LICENSES.

WE BELIEVE--AND I HOPE YOU'LL AGREE THAT ONE OF THE KEYS TO THE SUCCESS OF THE NEW CELLULAR INDUSTRY IS TO BE DEREGULATED AT THE STATE LEVEL.

I ASK THAT YOU SUPPORT H.B. 2592 AND REPORT IT TO THE HOUSE
RECOMMENDING ITS PASSAGE.

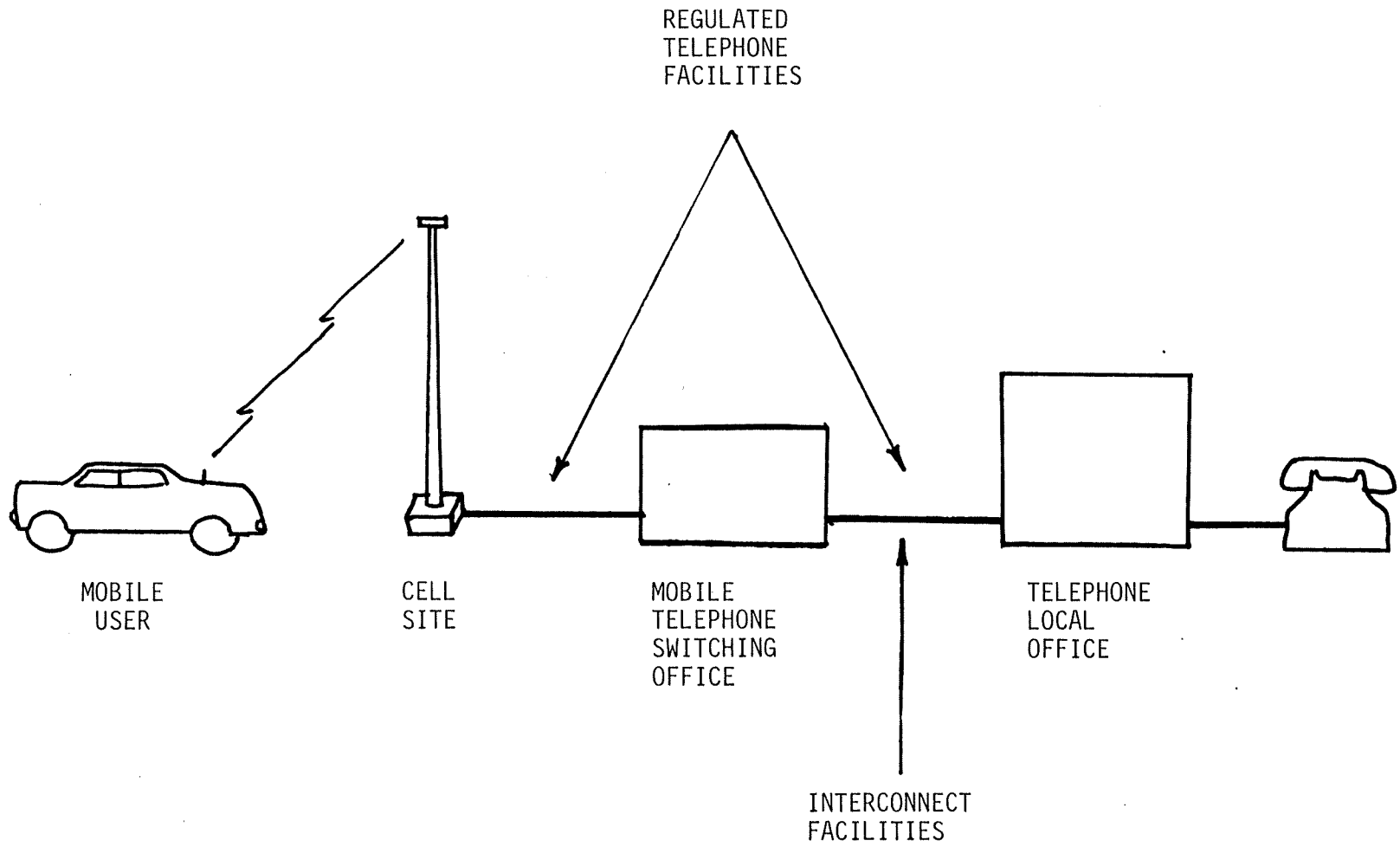
THANK YOU VERY MUCH.

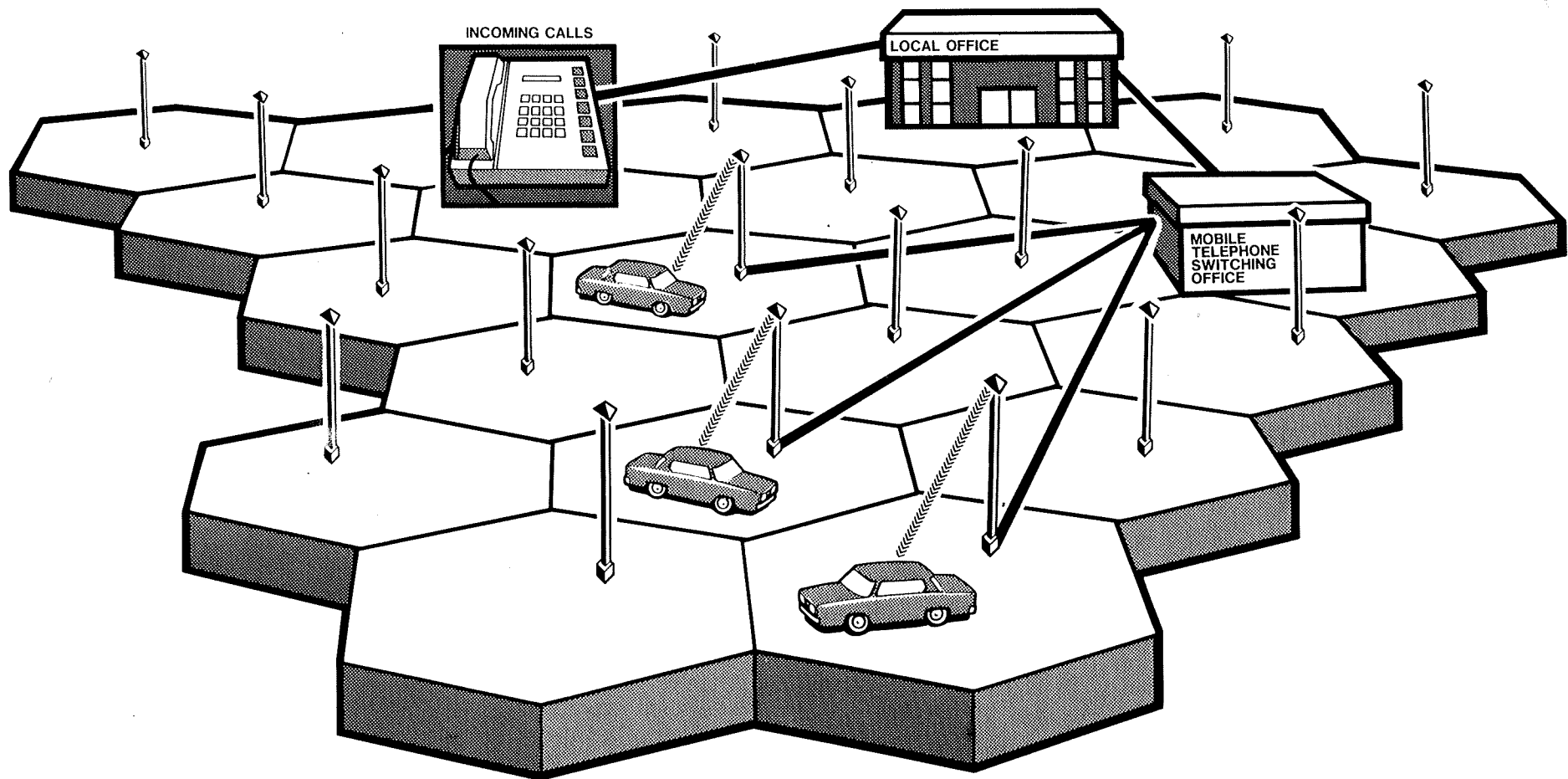
cellular systems requires that competing carriers be afforded equivalent access to the local exchange. It is imperative, therefore, that we establish parameters for reasonable cellular interconnection of cellular carriers. This is not to say, however, that it is necessary that we prescribe a particular form of interconnection. The reason for this is simply that in a dynamic technological environment such a prescription may impose arbitrary limits on cellular system design. Accordingly, our interconnection requirements, set forth below, are intended to provide competing carriers with equal access to the local exchange network while permitting the carriers involved to negotiate specific interconnection arrangements to accommodate differences in cellular system design.

50. First, we wish to emphasize that every wireline carrier has an obligation to provide reasonable interconnection to cellular systems, regardless of whether the wireline carrier seeks to provide cellular service itself. In addition, every non-wireline cellular licensee has the right to interconnect with the landline network in the identical manner as a wireline cellular system with comparable switching serving the same area. ^{41/} To give practical effect to this right, and to insure that no unfair interconnection advantage is conferred on a wireline carrier in its provision of cellular radio services, we are modifying our application process to require that any wireline carrier applying for a cellular system in the area where it is also providing landline service set forth in its application exactly how its system will interconnect with the landline network. Moreover, the interconnection information contained in the application must be of sufficient specificity to enable a potential competitor to design its system to connect with the landline network in exactly the same fashion if the competitor so chooses. Failure to provide such information will constitute cause for denying the application. If a license is granted to a wireline carrier for a cellular system serving the same area as its landline system, the license will be conditioned on the carrier providing a competing cellular operator the option of obtaining interconnection in the manner set forth in its application. In addition, if a wireline carrier's application for a cellular system is not granted, a competing applicant is entitled to obtain interconnection in the same fashion as set forth in the wireline carrier's application.

51. In addition, where a non-wireline carrier seeks interconnection arrangements different from those specified in the application of a wireline carrier, the non-wireline applicant may negotiate other interconnection arrangements with the wireline carrier. This will assure that non-wireline carriers will not necessarily be locked into the specific interconnection arrangements requested by a wireline carrier. Thus, it provides the flexibility necessary in a dynamic technological environment such as cellular. At the same time, the right to identical interconnection arrangements discussed in the

^{41/} Where the local landline telephone company doesn't apply for cellular service, we expect the landline company to provide non-wireline licensees with reasonable and appropriate interconnection, as negotiated between the parties.





HOW THE CELLULAR SYSTEM WORKS

Cellular technology is based on a grid of hexagons, or cells, that cover specific geographic areas. Each cell contains a low-powered radio transmitter and control equipment located in a building called a cell site.

The cell site is connected by wireline facilities to a Mobile Telephone Switching Office (MTSO), which is connected to the regular landline network through the telephone central office. With its electronic switching capability,

the MTSO monitors the mobile units and automatically switches or "hands-off" conversations in progress as the mobile unit moves from one cell to another.

Each cell has a set of radio frequencies, allowing reuse of every channel for many different simultaneous conversations in the given service area.

As demand for the service grows, dividing cells into smaller cells can meet customer needs even in the most densely populated areas.

6

OPPOSITION TO HB 2592 PERTAINING TO
DEREGULATION OF MOBILE RADIOTELEPHONE SERVICE
BY
KANSAS ASSOCIATION OF RADIO COMMON CARRIERS

This bill should not be enacted for the following reasons:

1. Adverse impact on small businesses who now compete with the two largest landline telephone companies.
2. No public urgency. Another year will not cause an adverse impact on the citizens of Kansas.
3. Premature. We believe HB 2592 to be inappropriate at this time because the KCC has not issued its findings in the industry-wide communication Generic hearings just concluded. We spent considerable man hours and money attempting to help the KCC understand the many complications involved in providing hi-tech communications services to the citizens of Kansas.
4. Uncertainty over short and long term effects of the 6 week old AT&T-Bell telephone divestiture. Considering the vacillations of the FCC, the public and industry require a little time to observe the results before determining the need, if any, for new laws in Kansas.
5. Confusion has been created as to just who and what is involved since it could apply to more than one Kansas statute. Information from other states indicates a good likelihood of developing a Catch 22 situation for the legislature and/or KCC.
6. Southwestern Bell Corporation's Efforts to Weaken Divestiture Rules. Already SWB has asked the FCC to reconsider and remove public interest restrictions pertaining to:
 - A. Separate organizational structures;
 - B. Prohibition against marketing cellular mobile equipment;
 - C. Restrictions on joint billing and others.
7. No Forum for the public to complain.
8. Proponents of this Bill are SWBC and United, both of whom have recently formed subsidiaries and are conducting the same type actions in other states in anticipation of the lucrative cellular market for the company who controls the central plant.

Atch. 0

9. Disconnected Phone Facilities. ^{LAST WEEK} / SWB disconnected service to the RCC in Emporia, thereby cutting off vital service to the medical and business community for several hours. This was done by prewritten disconnect orders for all RCCs in anticipation of a KCC order regarding access charges. This action was without notice or benefit of hearing, and is a graphic indication of what can happen to small business competitors and their customers. If this can happen now to a co-utility, think what would happen with no third party oversight control.
10. Public Service that requires equal standards for competitors providing a "through service" must be regulated to insure the viability of that competition and a high grade of service to the public.

Until now the RCC industry has provided competition to the landline companies, initiated new cost effective services and a choice to the public. HB 2592 if enacted, will in effect throw the baby out with the bath water.

FOR ADDITIONAL INFORMATION - CALL ANYTIME

PHIL WOODBURY, owner	Off.	316/342-2002
MOBILFONE OF KANSAS, Emporia	Home	316/342-6411
OTHAL VRANA, owner	Off.	316/262-2646
GENERAL COMMUNICATIONS, Wichita	Home	316/722-2436
FRANK SCHMALE, owner		316/276-2911
MOBILE PHONE & COMM., Garden City		
LARRY DICKEY, owner		913/899-2284
KARKALL, INC., Goodland		
RONALD PHILLIPS, owner		816/221-2720
MOBILE RADIO COMM., Kansas City		

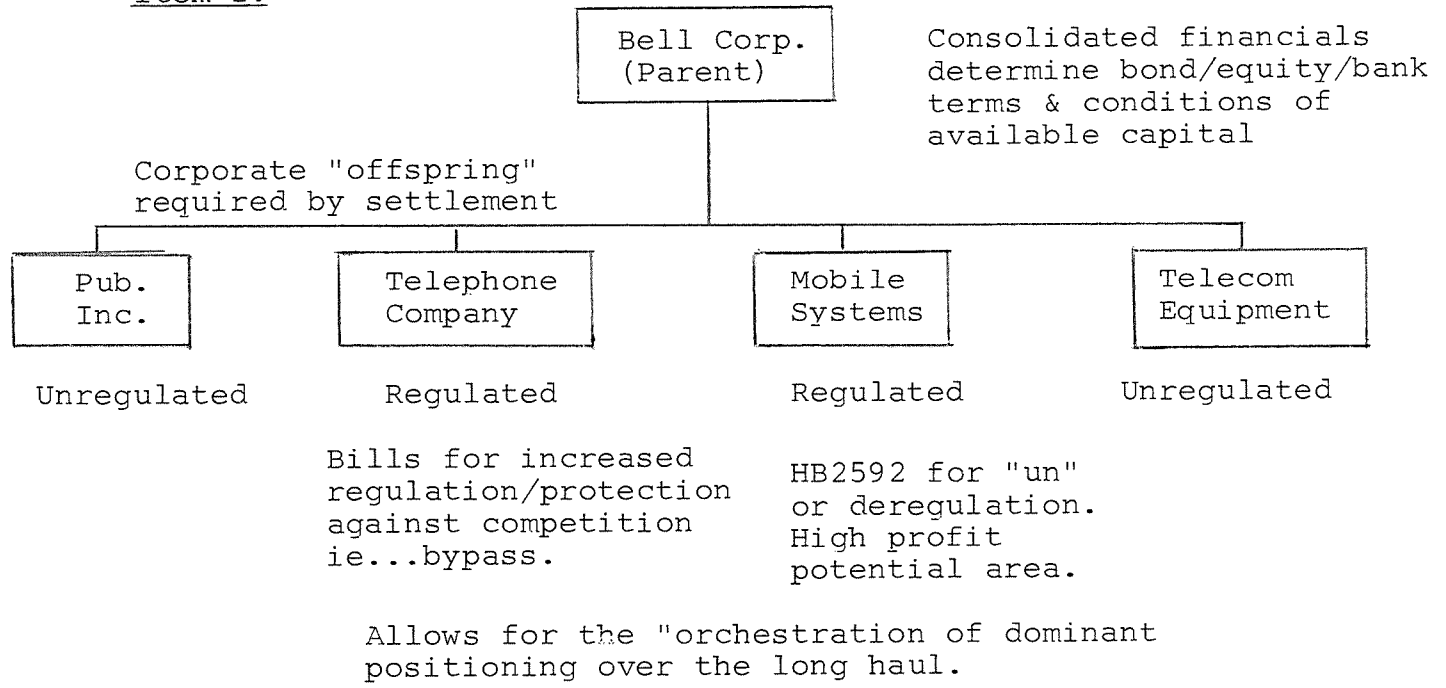
TO: KANSAS HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
 CHAIRPERSON ROBERT MILLER

RE: HB2592

DATE: MARCH 21, 1984

Item 1. "New" Cellular radio telephone services in a highly competitive environment? There is to exist two (2) federal operator/licensee in a given market. All reseller/retailers must obtain exchange service from one of these two licensees, as well as the general public directly with licensees.

Item 2.



Item 3. The Regional Bell Holding Companies are filing waivers to "Line of Business" restrictions of anti-trust settlement (see Kansas City Times 3-13-84).

"The Justice Department, in its Feb. 21, 1984 brief, complained that the Bell companies had apparently lost sight of the fact that the antitrust settlement was not designed to turn them into competitive entrepreneurs."

Judge Greene scheduled hearings for 4-11-84.

Item 4. We; the public, regulators, legislators, and those in the business intimately tied to the telecommunication industry--are not yet 3 full months into post-divestiture issues. Establishment of laws to deal with the current confusion and upheaval is a quick trigger--which will only serve the benefits of those asking for the legislation.

Atch. P

A series of 5 bills were introduced in 1983 dealing with more and less regulation for telephone and radio utilities. "Post-divestiture" positioning has occurred full steam on a "pre-divestiture" basis.

Item 5. The Kansas Corporation Commission has clear and presently uncontested authority to hold hearings and "flush out the facts." A pending Generic hearing concerning future status of Cellular telephone regulations and other radio telephone issues is one example.

D-12 The Kansas City Times Tuesday, March 13, 1984

Judge to decide on Bell ventures

The Associated Press

WASHINGTON — The federal judge who oversaw the breakup of the American Telephone & Telegraph Co. has scheduled a hearing next month to address the issue of what outside businesses the seven new Bell companies should be allowed to enter.

U.S. District Judge Harold H. Greene, in a two-page order made available Monday, scheduled the hearing for April 11. He also gave the regional Bell companies until March 23 to file legal briefs replying to a Justice Department memorandum on the issue.

In his order Judge Greene made clear he had decided to schedule the hearing because of the Justice Department brief, which was filed Feb. 21. That brief has provoked controversy because federal prosecutors

urged Judge Greene to sharply limit the ability of the Bell companies to enter new lines of business.

The department's brief was filed in response to waivers submitted by the Bell companies to enter such new fields as the marketing of computer software, the leasing of office products and the marketing of telephone equipment outside the United States.

Seven regional Bell companies were created by the breakup of AT&T on Jan. 1: Ameritech, NYNEX, US WEST, Pacific Telesis, Southwestern Bell, Bell Atlantic and BellSouth.

The Justice Department, in its Feb. 21 brief, complained that the Bell companies had apparently lost sight of the fact that the antitrust settlement was not designed to turn them into competitive entrepreneurs.

Q

BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
STATEMENT OF KANSAS TELEPHONE ASSOCIATION
IN SUPPORT OF HOUSE BILL 2592

This statement is submitted by the Kansas Telephone Association on behalf of its 27 nonsystems company members. * These are basically the smaller operating companies in Kansas and include cooperatives, family-owned companies and small stock companies.

This bill affects only those companies which are now or may be contemplating offering mobile telephone service. At the present time only a few independent telephone companies offer such service to their members, and it has not been a source of substantial revenue to them.

Robert Ellis, vice president and general manager of the Haviland Telephone Company, told the House Committee on Energy and Natural Resources at its hearing on February 20, 1984, that his company had a waiting list for mobile service but that the expense involved in building additional facilities would not make it economically feasible.

However, the FCC has recognized the increasing demand for mobile telephone service and has made available certain frequencies to be utilized by cellular radio, a new technology which will be discussed in detail by other conferees. The FCC authorizes two operators for each cellular market area, only one of which may be a wire telephone carrier. Thereby, competition is assured in those market areas, effectively nullifying the need for state regulation.

*The three systems companies operating in Kansas are members of the Kansas Telephone Association, but this statement is not made on their behalf.

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The FCC in granting frequencies to the various operators provides a system of orderly regulation. Another layer of regulation at the state level does little but to increase the costs of providing mobile telephone service, which, in turn, is passed on to the customers and really benefits no one.

Therefore, the small operating telephone utilities in Kansas request that this service be deregulated.

Respectfully submitted,

Wilbur G. Leonard
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