For Fear of the Fans: An Argument for Holding Sports Teams Accountable for Fans' Post-Match Conduct

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INTRODUCTION

The sports industry relies on fans. Professional sports teams and university athletic departments exist and thrive because scores of people watch games in person, watch games on television, purchase team paraphernalia, and generally follow the ups and downs of their teams’ seasons. Ardent fans follow their favorite teams around the country and world to watch their games. They tattoo their bodies with images of players’ faces and team logos, adorn their cars and homes with team colors, and name their children after their sporting heroes and heroines. With sports executives, coaches, and players making millions of dollars and sports organizations being worth billions of dollars, the sports industry as we know it requires fans.

As such, sports organizations do all they can to attract, enthuse, and retain fans. The more passionate the fans, the better the organization’s fortunes. Passionate fandom, however, has its costs. Ardent fans’ behavior, spurred by love for their team can be deeply destructive, leading to physical injuries, property damage, and death. Fans fight each other in stadiums, in bars, and in the streets,

* Professor of Law, Washington College of Law, American University. J.D., Harvard Law School; M.P.P., Harvard University, John F. Kennedy School of Government; B.A., Brown University. I am grateful to Alisa Fornwald and Erin Winkfield for their excellent research assistance. I dedicate this article to the Honorable Damon J. Keith, my judge, mentor, and friend.
and after major championship victories, fans of the winning team often take to the streets in celebration, sometimes sparking riots.¹

Governments, sports governing bodies, leagues, and teams take various steps to reduce or eliminate fan violence, and police forces in cities with teams vying for a championship routinely prepare to contend with wild celebrations.

Comparatively little attention is paid to the damage fans cause after the devastation of their teams' losses. Studies reveal that ardent fans experience hormonal surges when their teams play, and whereas winning fans feel better about themselves after the game, losing fans feel worse about themselves and exhibit signs of depression. Indeed, rather than taking to the streets as frequently as winning fans, losing fans, saddled with pessimism and reduced self-esteem, return to their everyday lives, where they are prone to take out their frustration on the unsuspecting. In particular, multiple studies indicate an increase in domestic violence among fans of losing teams in the aftermath of losses. And, in at least one U.S. state, judges sentence juveniles more harshly after the state's flagship university's football team loses.

This article argues that teams—whether pursuant to legislation or league rule—should be required to aid their fans in reacting to team losses to reduce the harm these fans inflict upon society. Specifically, it argues that teams should reduce the harm by host-

ing their fans at team-centered, post-loss, "cool down" gatherings designed to meet the fans' psychological needs.

Part II of this article explores the psychology and depth of ardent fandom. Part III discusses the extent to which sports organizations serve their own interests through encouraging ardent fandom and leading fans to believe they are a part of the team. Part IV examines the most visible form of fan malfeasance, fan-on-fan violence, and discusses efforts made to eliminate it. Part V explores the underappreciated threat that fans of losing teams pose once they return to their daily lives. Part VI proposes that teams host post-loss, "cool down" gatherings designed to assist fans in psychologically recovering from a loss. Part VII concludes that because sports organizations profit handsomely from and promote ardent fandom, they must be held accountable for seeking to reduce the damage that fandom causes, particularly to the heretofore minimally recognized category of unsuspecting persons who happen to be in the path of demoralized losing fans.

I. THE WONDER OF FANDOM

Sports fans do not all fit one mold. Some fans follow their teams casually, periodically watching games or highlights on television or over social media. On occasion, these types of fans attend a game in person. For these fans, wins are enjoyable and losses are disappointing, but they are not deeply impacted by the games' outcomes. Other fans—fans who ardently follow their teams—respond differently. These ardent fans, psychologist Susan Krauss Whitbourne explains, "hold on to the passion for their team no matter what." Ardent fans use the pronoun "we" when referring to the team, as if they are a part of the team, and they closely and personally identify with the team's results. Psychologists term this phenomenon "basking in reflected glory" or BIRGing and describe it as not entirely voluntary. The most ardent fans, studies show, connect so closely with their teams that as they watch games

3. Id.
4. Id.
"they experience hormonal surges and other physiological changes" just as the athletes do.5

Georgia State University professor James Dabbs conducted one of the first studies related to this phenomenon in 1994 when FIFA, soccer’s global governing body, held the World Cup in the United States. He tested the saliva of male Brazilian and Italian fans just before and immediately after Brazil beat Italy in the championship match. While the victorious Brazilian fans’ testosterone levels rose by an average of 28%, the defeated Italian fans’ testosterone levels dropped by an average of 27%.6

Due to these hormonal changes, ardent fans not only revel in their team’s victory and feel better about the team, they feel better about themselves as human beings.7 When their team loses, however, their self-esteem drops, and they become pessimistic about various, unrelated aspects of their lives – from their ability to secure a date with a person they find attractive to their ability to successfully complete word puzzles.8 Professor Robert Cialdini, who in the 1970s pioneered the study of the psychology of fan-team relationships, explains that the malaise can be so severe that it can “influence the morale of a region, a city, or a college campus.”9 He writes:

A substantial segment of the community may actually have clinical features of depression when their team loses. People become ‘blue’ for several days, disoriented, and non-productive; whereas if they win, they are pumped-up and active. In many cities, an atmosphere of depression and failure prevails after the loss of a significant game. The fans were counting on their team to deliver a

6. Id.
8. See id.
victory to make their day. And instead, they feel personally let down.  

Scholars differ on why ardent fans attach so intimately to their teams. Some theorize that such attachment traces to the days when primitive humans settled in small, tightly-knit, self-sustaining groups that lived in constant conflict with other groups. A group's warriors protected the group from enemies, and the group's non-warriors, who were often related to the warriors, supported the warriors without restraint. Under the theory, "[i]n modern society, professional and college athletes play a similar role for a city in the stylized war on a playing field. Their exploits may re-create the intense emotions in some fans that tribal warfare might have in their ancestors."  

Professor Cialdini was the first to propound this theory. For ardent fans, he explained, "sport is not some light diversion to be enjoyed for its inherent grace and harmony. The self is centrally involved in the outcome of the event. Whoever you root for represents you . . . [Therefore], it becomes possible to attain some sort of respect and regard not by one's own achievements but by one's connection to individuals of attainment."  

Other scholars theorize that deep team allegiance is borne of the need to be part of a group, not so much as a primitive response, but due to the erosion of long-standing social and community pillars. For instance, Indiana University professor Edward Hirt attributes ardent fans' deep attachment to their favorite teams to "the desire to belong to a group or a society—a need once fulfilled mostly by religious and political organizations." Murray State professor Daniel Wann makes a similar argument, though he cites religion and family as the "traditional institutions" breaking down. The reduction in religious institutions as the center of American life, which Hirt and Wann both cite, is an oft-cited cause

10. Id.
12. Id.
13. Id.
14. See McKinley Jr., supra note 11.
15. Id.
16. Id.
of sports fanaticism. And indeed, as formal religious observance in America has declined steadily since the early 1960s and as more and more people claim to be religiously unaffiliated, the sports industry has steadily grown. As one commentator bluntly put it, “[s]ports and religion have switched places in American culture.” And because, as Wann notes, the human psyche is unchanged in its need for belonging, it follows that some sports fans devote themselves to their teams as previous generations devoted themselves to their church communities.

It is no wonder that sports stadiums are routinely described as cathedrals. They are generally the twenty-first century American city’s defining architectural achievement—often erected with the help of public financing—serving both as a tribute to the local team and a gathering place for adherents. As commentator Ty Schalter writes: “For a thousand years, every city in the Western world poured all of their wealth, natural resources, artistic vision, civic pride and faith in God into building cathedral churches. Now, they build football stadiums.”

Whether as a primitive, deeply-ingrained response to one’s clan members battling or as a need to belong to something bigger

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20. McKinley Jr., supra note 11.
24. Id.
than one’s self, ardent fans follow their teams rabidly and inti-
mately, rising and falling physiologically and emotionally with
their heroes.

II. A Part of the Team

Professional sports teams and university athletic departments
seize upon this longing for a connection to the team and feverishly
promote ardent fandom, many going so far as to essentially design-
ate the fans as a part of the team. Consider the National Football
League’s (“NFL”) Seattle Seahawks. In 1984, Seahawks fans were
among the loudest in the league.25 Generally in sports, loud fans
are an advantage because they encourage the home team and diso-
rient the opposition.26 Loud fans are particularly important in
football because before each play the offense must communicate its
plan for the play with its eleven players spread across the field.27 A
loud fan base supporting its team’s defense can disrupt that com-
unication and cause the offense mishaps and penalties.28 The
Seahawks fans were particularly good at this, and the club honored
and encouraged them by refusing to allow any player to wear the
number “12.”29 The number instead represented the fans, who the
club designated as being so instrumental that they essentially
served as a twelfth player.30 When the club built a new stadium in
2002, CenturyLink Field,31 it built the stadium with the express
purpose of increasing the fans’ contribution to the team’s effort.32
Every aspect of construction – stadium size, proximity of seats to

27. Id.
28. Id.
30. Id.
31. The stadium was originally called Seahawks Stadium, but the name was changed in 2004 to Qwest Field when the telecommunications company Qwest purchased the naming rights. When CenturyLink acquired Qwest in 2011, the stadium took its current name. See What to call CenturyLink Field? Here are some ideas, Seattle Times (June 21, 2011), https://www.seattletimes.com/sports/seahawks/what-to-call-centurylink-field-here-are-some-ideas/.
the field, building materials, the curvature of the roof—was geared toward creating an acoustically overwhelming experience so that the fans would have an even greater impact on the game.\textsuperscript{33} It worked. The Seahawks’ stadium quickly became recognized as the league’s loudest stadium, and the club began formally crediting the fans for being the decisive factor in games the team won.\textsuperscript{34}

Most notably, during a 2005 home game against the New York Giants, the Giants were penalized 11 times for false starts (the penalty that loud fans most frequently trigger) and missed three field goals. After the win, then Seahawks head coach, Mike Holmgren, dedicated the game ball to the fans, the 12th man, for disrupting the Giants offense and, essentially, winning the game.\textsuperscript{35} Since then, the Seahawks have broken the world record for crowd noise twice, registering 136.6 decibels and 137.6 decibels, both of which the club proudly announced as being louder than a jet taking off 100 meters away and just a few decibels below sound level that causes eardrum damage.\textsuperscript{36} On other occasions, the fans in CenturyLink Field have jumped up and down so vigorously and created so much noise that they sent a seismic signal of the sort indicating occurrence of an earthquake.\textsuperscript{37} Seahawks fans take extreme pride in their contribution to the team, wearing number 12 Seahawks jerseys and waving flags proclaiming themselves the team’s 12th man.\textsuperscript{38}

While the Seahawks football club is unique in the amount of noise its stadium generates, it is not the only football team to designate the fans as a part of the effort to win games. Indeed, Texas A&\textsuperscript{M} University sued the Seahawks over rights to the phrase “12th man,” noting that the University had used the phrase for decades to

\textsuperscript{33.} Id.
\textsuperscript{35.} Id.
\textsuperscript{36.} Id.
\textsuperscript{38.} Id.
embolden its raucous fans and trademarked the term in 1990. The parties settled, and the Seahawks have paid hundreds of thousands of dollars since 2006 to license the phrase. Other football teams, namely the NFL’s Buffalo Bills, Indianapolis Colts, and Chicago Bears have termed their fans the “12th man,” and both the Bills and Colts have put the “12th man” in their respective Ring of Honor, a tribute otherwise reserved for actual players.

Other NFL teams and teams throughout other sports leagues give their fan bases a variety of empowering names – such as the team’s “Nation,” “Army,” or “Crew” – to signal the team’s solidarity with the fans. Football is the only sport in which fan noise can directly cause the opposition to commit penalties. However, all sports teams encourage their fans to enthusiastically support the team in hopes that the fan support will help thrust the team to victory.

Not only, then, are many fans intensely drawn – whether as a matter of socialization or genetics – to their favorite teams, but those teams encourage the fans’ ardent support and, in fact, embrace the fans as part of the team. Fans’ ardent support can lead to victories and, of course, spark fan spending whether that includes buying game tickets, in-stadium concessions, or official team merchandise. All of this inures to the team’s benefit, but the consequences of such fan devotion are substantial.

42. Bien, supra note 34.
43. Shuck, supra note 41.
44. Schalter, supra note 21.
III. THE UGLY SIDE OF FANDOM: FAN-ON-FAN VIOLENCE

a. HOOLIGANISM

Perhaps the most notorious manifestation of sports fan destruction is hooliganism, a tradition that has developed in European soccer over the course of decades.\footnote{See Jefferson C. Taylor, The War on Soccer Hooliganism: The European Convention on Spectator Violence and Misbehaviour at Sports Events, 27 Va. J. Int'l L. 603, 605-06 (1987) (citing Salter, The Judges v. The Football Fan: A Sporting Contest?, 36 N. Ir. Legal Q. 351, 352 (1985)) (defining “hooliganism” as activity associated with spectator violence, including but not limited to, looking aggressive while waving fists in the air, kicking rival fans, robbing rival fans of their valuables and clothes, vandalizing and overturning local people’s cars, and taking a crutch away from someone and using it as a club).}

Hooligan violence often has little or nothing to do with the result of a particular match. Instead, it is the expression of disdain among rival groups of supporters. Unable to help their teams on the pitch, passionate fans of rival clubs, or “hooligans,” deem themselves as supporting their clubs by engaging in their own contest. As Kent State University professor Jerry Lewis, an expert on violence between groups of fans, explains, “[t]hese perpetrators . . . commit violence as a skill which helps them identify with the team.”\footnote{Aidan Quigley, Russia Fined as Soccer Seeks Strategies Against Euro 2016 Fan Violence, Christian Sci. Monitor (June 14, 2016), https://www.csmonitor.com/World/Global-News/2016/0614/Russia-fined-as-soccer-seeks-strategies-against-Euro-2016-fan-violence.}

In some cases, hooligans are extremely well-organized in their efforts, using walkie-talkies to orchestrate their attacks and retreats and leaving calling cards scattered among their victims.\footnote{Gwen Knapp, Fans Celebrate Lakers Victory Through Rioting, Globe and Mail Inc. (June 27, 2000 updated Apr. 2, 2018), https://www.theglobeandmail.com/sports/fans-celebrate-lakers-victory-through-rioting/article4165221/.
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The United Kingdom, in particular, has a historical reputation for hooliganism.\footnote{Stephen Cleary, History of Football Hooliganism in the United Kingdom, CLEATS (Mar. 25, 2018), https://cleats.media/history-of-football-hooliganism-in-the-united-kingdom.
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Beginning in the late 1960s and early 1970s, fan groups – known as firms – supporting English soccer clubs began to regularly battle each other as a sort of sport of their own.\footnote{Id.}

Sometimes the groups fought on game days in and around stadiums in which their teams were playing.\footnote{Id.} On other occasions, leaders of
the groups organized with each other to fight at locations and on days totally unrelated to the soccer matches.\textsuperscript{52} Indeed, some firms accepted their team's status as a mediocre side and were more concerned with their reputation as a top firm.\textsuperscript{53} While brutal, there were generally rules to the fights with agreements as to whether weapons would be permitted.\textsuperscript{54}

In the 1990s, the United Kingdom government began to crack down on firms, and moving into the twenty-first century, the firms began to substantially weaken.\textsuperscript{55} Russian soccer fans, however, took over the reputation as the fiercest soccer fans in the world, initially trying to imitate the English but then taking their hooliganism a step further.\textsuperscript{56}

During the 2016 European Soccer Championships – known as Euro 2016 – Russian hooligans representing different domestic soccer clubs converged in Marseille, France, where Russia was playing England, and attacked English fans as a means of essentially seizing the mantle from the English.\textsuperscript{57} Neither the actual Euro 2016 tournament nor the rivalries back in Russia were relevant. One hooligan who traveled to Marseille said, "It doesn’t matter which city [in Russia] fans come from or which team they support. It’s important that we’re all from Russia. We are going to fight the English."\textsuperscript{58} Physically fit, trained in mixed martial arts, and travelling with mouth guards as if preparing for boxing matches, the Russian hooligans deemed the English soft and too

\begin{footnotes}
\item 55. Cleary, \textit{supra} note 48.
\end{footnotes}
reliant on alcohol. They wanted to send a message that Russians were the strongest hooligans.\textsuperscript{59} One Russian hooligan explained, "We respect the English tradition of hooliganism, but we no longer fear them. They are weak."\textsuperscript{60}

While Russia has become the global epicenter of soccer hooliganism, it does not stand alone. As a leading Russian hooligan explains, "It's the same all over Eastern Europe."\textsuperscript{61}

\textbf{b. NON-HOOLIGAN VIOLENCE}

There is little organized sports hooliganism in the United States, but ardent fans engage in plenty of less organized violence in and around stadiums. Such violence disproportionately occurs among football fans.\textsuperscript{62} This is the case for a few reasons. First, because the football season includes far fewer games than other sports' seasons, most games are meaningful with respect to qualifying for the playoffs and pursuing a championship. Indeed, while Major League Baseball has 162 regular season games, the National Basketball Association has 82 regular season games, and the National Hockey League has 82 regular season games, the NFL has only 16 regular season games.\textsuperscript{63} Multiple studies reveal that high-stakes games are more likely to trigger fans' socially destructive behavior.\textsuperscript{64} Second, football is America's most violent team sport, and the violence on the field tends to increase violent instincts among spectators.\textsuperscript{65}

\begin{footnotesize}
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\item [59.] Id.
\item [60.] Marc Bennetts, \textit{My night with the Russian ultras: "We respect the English tradition of hooliganism, but we no longer fear them"}, Mirror News (June 14, 2016, 8:26PM), https://www.mirror.co.uk/news/real-life-stories/night-russian-ultras-we-respect-8190868.
\item [61.] Id.
\item [65.] Id.
\end{itemize}
\end{footnotesize}
A 2016 Washington Post investigative report, the most recently published comprehensive report on football fan violence, which examined the 2011-2015 seasons, revealed that violence in and around NFL football games is a problem throughout the league. The report revealed that in 2015, the most recent year studied, police arrested 6.34 fans for disorderly behavior on average per game. Each NFL game week features between 13 and 16 games, which means there are typically close to 100 arrests per week in and around NFL stadiums and roughly 1,500 such arrests per NFL season, exclusive of the playoffs.

**C. ADDRESSING HOOLIGANISM AND NON-HOOLIGAN VIOLENCE**

Authorities employ various means of trying to reduce both hooligan and non-hooligan sports-related violence.

For instance, after the Euro 2016 attacks in Marseilles, UEFA fined the Russian Soccer Federation $150,000 and threatened disqualification from the tournament if Russian fans perpetrated any additional violence. Soccer governing bodies, and even nations' legislatures, sometimes ban known hooligans from stadiums for

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66. Id.

67. The NFL’s 32 clubs compete over the course of a 17-week regular season, and each club is assigned one bye week during which it does not play. During some game weeks, no clubs have a bye and during others as many as six clubs have a bye. Thus, no week features less than 13 and nor more than 16 games. See NFL Releases 2018 Regular-Season Schedule, Nat’l Football League (Apr. 19, 2018), http://www.nfl.com/news/story/0ap3000000927551/article/nfl-releases-2018-regularseason-schedule.

68. See Babb & Rich, supra note 63.


70. In several European nations, including England and Italy, legislators have passed statutes banning fans, who have previously perpetrated violence at and around matches, from attending future matches. See Spiegel, Rome Takes on the Hooligans: Italy Passed Anti-soccer Violence Law, Spiegel Online (Apr. 4, 2007, 12:18PM), http://www.spiegel.de/international/europe/rome-takes-on-the-hooligans-italy-passes-anti-soccer-violence-law-a-475642-druck.html; see also World Cup Ban to be Introduced for 3000 English Football Hooligans, Guardian (Jan. 26, 2010), https://www.theguardian.com/football/2010/jan/26/football-hooligans-world-cup-ban (discussing England’s measure that banned more than 3,000 hooligans from travelling to South Africa for the 2010 World Cup); see also Stephen Gill, Colombia Imposes Strict Stadium Entry Rules to Curb Soccer Violence, Colombia Reports (May 3, 2016), https://colombiareports.com/colombias-authorities-introduce-strict-measures-combat-soccer-violence/ (describing how, in 2016, Colombia started requiring
periods of time, and on rare occasion for life. In some instances, rather than attempting to identify particularly troublesome fans and take them away from the games, governing bodies have taken the game away from the fans—forcing a club whose fans have acted violently to play “home” games in empty stadiums.

In addition, to prevent hooligans from exporting their violence, as Russian fans did at Euro 2016, authorities sometimes prevent them from leaving their home nations to attend games. For instance, police in England seized passports from 1,254 known hooligans in advance of the 2018 World Cup in Moscow, perhaps in a bid to prevent them from retaliating against Russians’ Euro 2016 attacks and to spare the Football Association—England’s soccer federation—a fine and possible disqualification. Because hooliganism is about fighting as much as it is about supporting a team, attempts to stop it often only divert it, leading the hooligans to fight elsewhere and against other opponents. For instance, Russian authorities attempted to stamp out hooliganism in advance of hosting the 2018 World Cup but achieved little more than driving the hooligans further from the game. To avoid attention and arrest, the groups of hooligans abandoned the soccer contests altogether and fought in secluded forests.

Non-hooligans are less likely to take their violence to the forests, so efforts to suppress non-hooligan fighting in and around

75. Id.
stadiums are more likely to suppress it overall. In the NFL, to do so, security personnel analyze violence risk through assessing multiple factors including the club hosting the game, the stadium in which the game is played, the time of day the game is played, the opponent, and the importance of the game to the clubs involved. Some clubs’ fan bases seem to be consistently more violent than others clubs’ fan bases. Late afternoon and evening games—once fans have had a chance to consume alcohol for much of the day—tend to be more dangerous than earlier games, and rivalry games generally produce more violent fan confrontations than games between non-rivals.

Even when, based on these factors, a game presents a high risk of violent episodes, and even when the NFL is proactive in trying to prevent violence, it is difficult to stop the violence. The San Francisco 49ers and Oakland Raiders, for example, are bitter rivals, owing in large part to the proximity of San Francisco and Oakland. When the two teams were scheduled to play each other in December of 2014 at the Oakland Coliseum, one of the league’s hotspots with respect to fan violence, the NFL took substantial precautions. First, the League’s head of security, Jeffrey Miller, told the League’s schedulers that under no circumstances could the

76. See Babb & Rich, supra note 63 (detailing the NFL’s relationship with clubs with respect to their security records through, among other initiatives, hosting an annual league-wide security summit, to which each club sends four representatives, often including the club’s owner. There, the league presents each club a report on the efficacy of its security during the previous season, ultimately grading the club’s performance between “1” and “4” with “1” being the best score and “4” being the worst and providing training on how to improve).

77. Id. Lou Marciani, the director of the University of Southern Mississippi’s National Center for Spectator Sports Safety and Security, attributes this phenomenon to the sports spectating drinking culture. He explains that the practice of “tailgating” (which gets its name because the pre-game parties were initially and traditionally anchored around a pickup truck’s tailgate) has evolved over the years to involve fans imbibing copious amounts of alcohol on game days in and around the stadium parking lot, often beginning very early. Id. For many, tailgating is an indispensable part of attending a game: “There’s a reason why people show up early to ballgames, and it’s not just to get the best parking spaces. Tailgate parties are essential to the game day experience. They give fans the opportunity to eat, socialize and energize before they head into the stadium to watch their team play.” Erik Alexander, 5 tips for tailgating success, CNN (Dec. 8, 2016), https://www.cnn.com/2016/12/08/living/5-tips-tailgating-success/index.html.


79. Id.

80. Id.
game be played during a late afternoon or evening time slot. Miller then sent three league representatives, including the head of strategic security, to liaise with the Alameda County Sheriff’s office and to urge the office to increase its presence for that particular game. It did so, assigning additional officers to various tasks. Some patrolled the stadium and parking lot on motorcycles and in golf carts. Others surveyed the grounds from patrol towers. Still others walked around undercover, wearing 49ers and Raiders jerseys while pretending to be spectators. Nevertheless, police responded to 49 incidents, the fifth highest total from any game played between 2011 and 2015, and 25 fans were taken to jail.

Unlike European governmental authorities, no American legislature has banned particularly troublesome fans from stadiums altogether. Leagues, however, have implemented their own prohibitory rules. For instance, in the NFL, if a fan is ejected from a game for bad behavior, the fan is prohibited from purchasing future game tickets until he or she pays a $250 League-imposed fine, passes an exam on the League’s Code of Conduct, and formally petitions the club from whose stadium he or she was ejected, for

81. Id.
82. Id.
83. Id.
84. Id.
85. Id.
86. Id.
87. In 2012, California Assemblyman Mike Gatto introduced the Improving Personal Safety at Stadiums Act, which would have barred fans with convictions for violent crimes from attending professional sporting contests in the state. The law would have required that databases containing such fans’ names and photographs be available on the internet and be circulated to all clubs and would have required that the clubs be financially responsible for the cost of the program. In addition, the Act would have criminalized aiding a banned fan in gaining entrance to a game. See Abe Rosenberg, Ban List Proposed to Keep Violent Fans Out of California Sports Venues, Southern California Public Radio (Mar. 13, 2012), http://www.scprr.org/news/2012/03/13/31624/la-assembly-member-proposes-ban-list-keep-violent/. See generally Barbara Atkinson, Sports Fan Violence Prompts Questions of Litigation and Liability, Legal News Archive, In Good Practice (Sept. 4, 2012), http://www.legalnewsarchive.com/2012/09/sports-fan-violence-prompts-questions-of-litigation-and-liability/ (explaining the violent events surrounding the introduction of the bill). Although the Act eventually passed, it was substantially watered down, requiring only that clubs post in their stadiums: “written notices displaying the text message number and telephone number to contact security in order to report a violent act.” Cal. Penal Code § 243.85.
88. Rovell, supra note 40.
permission to return. These initiatives have reduced violence at NFL games. Other major American sports leagues, such as Major League Baseball and the National Basketball Association, which have struggled with fan violence (though to a lesser extent than the NFL), have successfully reduced fan violence with similar initiatives.

Fan-on-fan violence is a recognized problem in sport, and legal authorities, sports regulatory bodies, leagues, and clubs have all worked to ameliorate it. However, virtually no attention has been paid to the damage fans inflict on non-fans—people who they encounter when they return to their homes and workplaces. An entirely different category of initiatives is necessary to address this problem.

IV. THE UNDERAPPRECIATED THREATPOSED BY LOSING FANS

Fans mourning a team’s loss pose an underappreciated threat to society. Consider Professor Cialdini’s work, referenced above. As he notes, fans whose teams lose often exhibit “clinical features of depression.” Additionally, as Hirt, Zillmann, Erickson, and Kennedy explain, losing fans often suffer from reduced self-esteem. While losing fans, like other fans, may engage in game-day violence, they are particularly prone to carry the losses with them and take out their frustrations on non-fans, away from the context of the game. Sports governing bodies, leagues, and teams, have done virtually nothing to prevent this form of victimization. The money sports organizations make from frenzied fan involvement, however, obligates them to protect society from the damage caused by fans who have descended from frenzy into darkness. The magnitude of such damage is untold, but studies in two realms provide insight.

89. Id.
90. Id.
92. Newton, supra note 9.
93. Hirt, supra note 7 at 732-33.
a. Juvenile Sentencing

There are few realms of American life in which the infiltra-
tion of sports fanaticism is less appropriate than the dispensation of
criminal justice. Judges are generally endowed with discretion in
sentencing criminal convicts. In some cases, the discretion is
wide. In others, it is more cordoned. Different court systems
provide judges with different instructions as to what sorts of con-
siderations may impact sentence length. They range from age,
education, and vocational skills to health and employment his-
tory. No jurisdiction, however, permits a judge to hand down
sentences based on the fortunes of the judge’s favorite sports team.
Nonetheless, in Louisiana, that is exactly what is happening.

A 2018 study published by American Economic Journal: Ap-
plied Economics reveals that Louisiana state judges sentence
juveniles convicted of crimes more harshly when the Louisiana
State University ("LSU") football team loses. The study’s au-
thors, LSU economists Ozkan Eren and Naci Mocan, sorted
through all of the case files for juvenile defendants in the Louisiana
criminal justice system over the course of sixteen years, recording
the sentences handed down to those found guilty. They then
cross-referenced the sentencing hearing dates with games played
by LSU’s football team as well as the Las Vegas point spread –
which reveals which team was predicted to win – on those games.
LSU fandom is rampant throughout the state, and as Eren and Mo-
can discovered, among the state’s judges. They found that when
LSU lost a game it was expected to win, judges took their frustra-
tion out on the children in the form of longer sentences.

94. See Sean J. Mallett, Judicial Discretion in Sentencing: A Justice System that is No
Longer Just?, 46(2) Victoria U. Wellington L. Rev. 533, 534 (2015), https://www.victo-
95. Id.
(U.S. Sentencing Comm’n 2018).
57/app.20160390.
98. Id. at 172.
99. Id.
100. Id. at 173.
101. Id.
worse for the children when LSU was having a particularly good year. Indeed, when the Tigers were ranked among the nation's top ten collegiate football teams, Eren and Mocan discovered the impact was larger. The impact also varied based on where the sentencing judge studied as an undergraduate. Judges who received their bachelor's degrees from LSU, and therefore presumably had a stronger attachment to the university and football team than their colleagues on the bench, tended to be the harshest.

Eren and Mocan also broke the data down by race and, disturbingly, found that African American juvenile defendants were by far the most harshly sentenced when the LSU football team suffered upset losses. After such a loss, African American defendants' sentences were 8% longer than they otherwise would have been, which translates to forty-three extra days in jail. For white defendants, an LSU upset loss triggers an average of five extra days in jail.

No other rational explanation exists for LSU losses spurring harsh sentences for children convicted of crimes, and these scholars attribute it to judges taking out their frustrations through their work.

It is important to note, however, that the study is limited in its scope. The study did not examine sentencing trends in any other U.S. state or jurisdiction, and it only addressed juvenile sentencing. More research on this front is warranted. Still, this one statistically significant study is probative, and there is no reason to believe these sentencing trends are limited to Louisiana, as the physiological and emotional toll that losing takes on ardent fans, described in Part II above, is not restricted to a single state or jurisdiction.

102. *Id.*
103. *Id.*
104. *Id.* at 194.
105. *Id.*
106. *Id.* at 191.
107. *Id.*
108. *Id.*
109. See, e.g., Daniel Li Chen & Holger Spamann, *This Morning’s Breakfast, Last Night’s Game: Detecting Extraneous Influences on Judging* (Institute for Advanced Study in Toulouse Working Paper No. 16-49, 2014), http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.440.5677&rep=rep1&type=pdf (recognizing the unfortunate reality that factors irrelevant to the substance of a judicial decision occur both with respect to
b. **Domestic Violence**

Juvenile defendants are not the only people who suffer the wrath of downtrodden sports fans seething over their teams' losses. Domestic partners of fans suffer as well. In 2011, economists David Card and Gordon Dahl published an article in the *Quarterly Journal of Economics* in which they explore the connection between NFL games and domestic violence. As a basis for the article, Card and Dahl studied "family violence data for over 750 city and county police agencies in the National Incident Based Reporting System, merged with information on Sunday NFL games played by six teams over a 12-year period." They found that the home team's fate substantially impacted domestic violence rates. Just as with Louisiana judges sentencing juveniles, upset losses and losses in salient matches proved to be the triggers. Like Eren and Mocan, Card and Dahl cross-referenced Las Vegas point spreads when conducting their analysis and found that fans were most impacted when they expected their team to win and the team lost instead. As a general matter, Card and Dahl concluded, upset

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111. Id. at 105.
112. Id.
losses "led to a 10% increase in the rate of at-home violence by men against their wives and girlfriends."\textsuperscript{113} When the home team lost to a rival and/or was in playoff contention, the volume of domestic violence reports was even higher.\textsuperscript{114}

The connection between sporting events and domestic violence is neither restricted to the NFL nor to the United States. Further, the connection between salient matches and domestic violence carries through other studies. For instance, economists at the University of Strathclyde in Strathclyde, Scotland examined the relationship between Scottish Premier League soccer matches and domestic violence over the course of eight years.\textsuperscript{115} They concluded, as did Card and Dahl, that salient matches triggered increased domestic violence. The league's most salient games occur when Rangers play Celtic, perhaps the fiercest rivals of any two soccer clubs in the world.\textsuperscript{116} According to the study, games between those two clubs sparked a 36% increase in domestic violence incidents in Strathclyde.\textsuperscript{117} This was the case regardless of the game's outcome. During the last five matches of the season, however, when there remains competition as to who will place first in the league and the games therefore take on even greater saliency, an upset loss also drives up domestic violence rates.\textsuperscript{118}

Researchers at Lancaster University in England examined domestic violence incidents in England during FIFA's quadrennial World Cup soccer competitions held in 2002, 2006, and 2010 and also found that the matches triggered an increase in domestic vio-

\textsuperscript{113} Id. at 103.
\textsuperscript{114} Id. at 105.
\textsuperscript{116} Id. at 4.
\textsuperscript{117} Id. at 15.
\textsuperscript{118} Id. at 3. A 2017 University of Calgary study examining nearly 70,000 domestic violence reports between 2011 and 2014, produced similar conclusions with respect to the relevance of rivalry games. When Calgary's Canadian Football team, the Stampeders, played their rival, the Edmonton Eskimos, domestic violence incidents increased by 15%. See Sophia Boutilier et al., The Connection Between Professional Sporting Events, Holidays and Domestic Violence in Calgary, Alberta, 10(12) University of Calgary The School of Public Policy Publications 1, 13 (2017), https://www.policyschool.ca/wp-content/uploads/2017/06/Domestic-Violence-Boutilier-Jadidzadeh-Esina-Wells-Kneebone.pdf.
lence incidents. Considering that the World Cup occurs only once every four years and qualifying for the tournament is extremely difficult, every game is salient. The study revealed that a loss of any sort, whether an upset or otherwise, increased domestic violence rates by 38%.

Research tracking the connection between sporting events and fans' engagement in domestic violence is relatively scant. The above-described studies, however, indicate a connection does exist. While more research must be done to determine how losses of different sorts impact domestic violence rates, sufficient evidence certainly exists to prompt concern about ardent fans battering their domestic partners after big games.

V. SOOTHING THE LOSING FAN: THE POST-LOSS GATHERING MODEL

Neither professional sports clubs nor collegiate sports programs have a tradition of post-loss gatherings. In advance of games, they sponsor tailgate parties, pep rallies, and other events to stir up fans' enthusiasm, excitement, and passion. After victories, many host celebratory events for their fans. After losses, however, there is generally nothing. To exist and prosper, teams rely on the passion of their fans. This passion converts into ticket sales, merchandise sales, television ratings, and ultimately, the team's solvency. If a team's fan base were to dissolve, so too would the team. But, having lathered fans up into a ticket buying, television watching, paraphernalia wearing frenzy, teams must take some re-

119. Stuart Kirby et al., Can the FIFA World Cup Football (Soccer) Tournament be Associated with an Increase in Domestic Abuse?, 51(3) J. OF RES. IN CRIME & DELINQ. 259, 269 (2013).
120. See Andrew Das, How the United States Missed the World Cup, Minute by Minute, N.Y. Times (Oct. 11, 2017), https://www.nytimes.com/2017/10/11/sports/soccer/usmnt-world-cup.html (detailing the difficulty the U.S. team faced in failing to qualify for the World Cup).
responsibility for the negative externalities of that frenzy. The same
passion that produces millions of dollars for the teams leads losing
fans to damage society. Thus, teams should be required to amelio-
rate that damage through post-loss programming. Just as teams
courage fans to cheer for and celebrate victories together, they
should encourage them to mourn losses together through sponsored
post-loss gatherings.

Different post-loss gathering models may suit different teams.
Some teams may choose to open portions of their stadium after
games for gatherings, while others might partner with nearby busi-
nesses to host gatherings. The location of the gatherings is less
important than that the gatherings happen. The roadmap to recov-
ering from the pain of a sports loss is relatively clear. Practicing
psychologists have already detailed it. Anthony Centore, a Boston-
based psychologist and founder of Thriveworks, a counseling or-
organization with branches in five states, acknowledges that
"experiencing the blues after a sports-related defeat is a common
experience for sports enthusiasts, and for some the symptoms can
be shockingly painful."123 He explains, however, that "the blues"
need not be debilitating or potentially destructive. To counteract
sports-fan depression, Centore suggests that a sports fan pursue
several strategies. Among them, fans should "take a step back"
and recognize that the loss "looks and feels a lot bigger than it
actually is."124 The fan and the team will move forward and it is
important for the fan to recognize this. In addition, Centore notes
that it is essential for the fan to remain social. "People who feel
down or depressed have a tendency to isolate themselves,"125 and
isolation often exacerbates the problem. It is also important for a
fan to "commiserate with other fans who are having some of the
same feelings."126 Centore explains that it is critical for a dis-
traught fan to know that he or she is not alone.

Team-sponsored post-loss gatherings would serve all of these
goals. By bringing dejected fans together, teams would prevent the
fans from isolating themselves, give them the opportunity to com-

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123. Anthony Centore, Sports Fan Depression is Real: Did Your Team Lose Last
Night?, Thrive-works (Feb. 5, 2014), https://thriveworks.com/blog/sports-fan-depression-
is-real-did-your-team-lose-last-night/.
124. Id.
125. Id.
126. Id.
miserate with fellow fans, and provide them a forum to discuss both disappointments and hopes for the team’s future. To entice disappointed fans to attend, the gatherings would have to be attractive affairs. Perhaps small groups of players could – as a contractual prerequisite, if necessary – occasionally attend the gatherings to sign autographs for fans, mingle, and commiserate. A live video feed from the team’s head coach thanking fans for their support and expressing his or her hope for the future could also be helpful.

The logistics of the gatherings are perhaps best left to the individual teams, but the gatherings themselves should be mandated, as teams have historically shown little interest in attending to their fans’ post-loss despair.

VI. Conclusion

Sports provoke passion in a way little else does, which is one aspect of sports that makes it so special. That passion also makes sports potentially profitable, and both professional teams and collegiate athletic programs have long leveraged fans’ passion to raise revenues. That passion, however, can turn ugly, and the ugliest consequences follow losses. While victorious fans have problems of their own, fans whose teams lose are the greater societal burden. While hormonal surges prompt positive feelings in fans of winning teams, they prompt pessimism and signs of depression in fans of losing teams. Rather than taking to the streets in joyous – if at times riotous – celebration, downtrodden losing fans are more likely to take out their frustrations on unsuspecting people with whom they interact in everyday life. The few studies that have been conducted on the topic have exposed the consequences of these losing fans’ fury in their homes, as well as in the courtrooms in which losing fans have presided as judges. The consequences beyond these are untold.

Thus, in that professional sports teams and university sports programs spur and benefit from fans’ passion in order to build excitement and drive revenues, they should be held accountable for the negative externalities produced by those passions and should take steps to reduce their effects.