

# Trail of Lies

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*Report on the role of trail hunting in preventing successful prosecutions against illegal hunters in the UK*



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# 1. EXECUTIVE SUMMARY

This report is the result of a study on the role of trail hunting in preventing successful prosecutions against hunters who break the current hunting with dogs bans. Trail hunting is a little-known activity undertaken in England and Wales by organised hunts, which highlights the serious enforcement problems relating to the bans.

Our report covers as many aspects of the trail hunting issue as possible and has been produced by staff members at the London office of the International Fund for Animal Welfare (IFAW). It combines: bibliographical research; testimonies of first-hand witnesses and expert witnesses; statistical analysis of data obtained from quantifiable sources; analysis of documents and records on court proceedings; and the review of audio-visual evidence.

There are basically three different opinions about trail hunting from three different groups:

- the hunting fraternity believes it is a harmless temporary simulation of hunting before the ban
- the anti-hunting movement believes it is a false alibi to avoid prosecutions of illegal hunting
- the authorities, the media and the general public tend to believe it is a slight variation of the cruelty-free and legal sport of drag hunting.

The evidence obtained for this study suggests that trail hunting is not just a slight variation of the cruelty-free sport of drag hunting, as there are many differences between the two activities. However, trail hunting is being used as an alibi in most Hunting Act 2004 prosecution attempts against members of registered hunts.

The evidence also suggests that although there may be exceptions, trail hunting is primarily a false alibi to avoid prosecutions of illegal hunting, rather than a harmless temporary simulation of hunting before the ban, or a slight variation of the cruelty-free sport of drag hunting.

Trail hunting as a false alibi takes four forms, or *Modus Operandi* (MOs):

- MO1- No trail (hunts not making any attempt to lay any trail and simply relying on the authorities believing that they have)
- MO2- false evidence (hunts occasionally creating some evidence to support their alibi, and keeping it for use in the future while primarily hunting as before the ban)
- MO3- faking it (hunts systematically creating some evidence of trail laying to support their alibi, but nevertheless continuing to hunt as before the ban because the evidence is not of genuine trail hunting, but is actually fake)
- MO4- causing accidents (hunts developing some sort of 'real' trail hunting while at the same time inducing the hounds to hunt a live mammal, and then, claiming it was just an 'accident').

The authors believe that most hunts may be using 'MO1-No trail'. This is because in 99% of IFAW hunt monitors' reports produced during the last 10 years (443 reports on supposed 'trail hunting' events covering 45 different registered hunts in England & Wales), the investigators reported not having witnessed anybody laying what they believed was a genuine trail. This is one of the most compelling pieces of evidence to support this conclusion, mirrored by the testimony from hunt monitors from other organisations from all over the country.

These conclusions are also supported by all the circumstantial evidence presented which analyses the motive, means, and opportunities of trail hunters. The evidence of the variety of crimes committed by members of the hunting fraternity, the coordination and planning necessary to develop fully the false alibi, and how often trail hunting occurs, suggest that it would be worth considering whether registered hunts undertaking trail hunting could be a type of atypical organised crime with elements of gang culture and corporate crime. This could be better combatted if the enforcement authorities recognised it as such.

The very design of trail hunting as defined by the hunting fraternity itself, via pro-hunt organisations since 2005, shows that it provides a perfect opportunity for false alibis and for sabotaging the enforcement of the Hunting Act 2004. This suggests that we are not talking about an activity that was 'corrupted' by a criminal component, but an activity that was designed to help criminality from the start.

The following table shows the components of trail hunting which facilitate a false alibi.

<u>Unique characteristics of trail hunting</u>	<u>Usefulness for false alibi purposes</u>
Objective is to make an activity look as similar as possible to hunting before the ban	Looking like 'illegal hunting' is no longer evidence of 'illegal hunting'
Considered a temporary activity only undertaken while there is a hunting ban	Conveying to enforcement authorities a sense that the accused are not criminals but are simply trying to 'right a wrong' temporarily
There are no written rules	Each accused is a 'free agent' that can claim he/she does 'trail hunting' in his/her own way, so each piece of evidence that may suggest illegal hunting may be claimed to be part of 'trail hunting', even if it is unusual
Animal-based scents	Hounds remain trained to follow mammal scents, and therefore 'accidents' (chasing a live mammal scent) can easily happen without the accused encouraging the chase
Hounds still trained to follow live quarry (trained with 'accidents' and cub hunting)	Hounds remain trained to follow mammal scents, and therefore 'accidents' (chasing a live mammal scent) can easily happen without the accused encouraging the chase
Hounds taken to search for the scent in areas known to have the live quarry the hunt used to hunt	Live mammal scents are likely to be picked up by the hounds, and therefore 'accidents' (chasing a live mammal scent) can easily happen without the accused encouraging the chase
Use the same territory, areas, meets and fields where pre-ban foxhunting took place	Live mammal scents are likely to be picked up by the hounds, and therefore 'accidents' (chasing a live mammal scent) can easily happen without the accused encouraging the chase
Huntsman and whipper-in deliberately not knowing where the scent was laid	Accused can claim they did not know the hounds were chasing a live mammal scent, and this is why they did not stop them
Focus on the hounds searching for a scent (no matter how long it takes to find it) rather than facilitating them to find it so the riders can then join the pursuit	Accused can explain long periods of inactivity when riders are waiting
No time limit about how much earlier the scent should have been laid before drawing the hounds to find it	Accused can explain the absence of anyone laying the trail by saying that someone did it many hours prior to the meet
Hunts operating with terriermen who follow the hunt but still pursue foxes underground 'independently'	Terriermen still able to bolt foxes from underground cover so the hounds can continue hunting them, while hunt officials claim they did not call them
Hounds being left out of control for longer periods which leads to 'accidents' when they chase or/and kill live prey	Accused explaining why hounds chasing a wild mammal were not stopped

The use of trail hunting by illegal hunters as a false alibi is a problem that can be solved in the following ways:

- conversion to drag hunting/bloodhounds hunting
- development of strict rules regulating the activity specifically designed to prevent it being used as a false alibi
- amendment of the laws that ban hunting to ensure that they do no longer allow trail hunting be used as a false alibi.

## 2. INTRODUCTION

This report is the result of a study on the role of trail hunting in preventing successful prosecutions against illegal hunters who use dogs to hunt mammals, contravening the current hunting bans. It covers as many aspects of this issue as possible. To make it clear to anyone unfamiliar with this subject we have defined most of the concepts used and included this introduction chapter to provide the necessary context.

This report has been produced by staff members of the London office of the International Fund for Animal Welfare (IFAW, 2015), an animal protection organisation founded in 1969 with the aim of saving individual animals, animal populations and habitats all over the world. It has campaigned on the issue of hunting with dogs since 1989.

### 2.1. Hunting with dogs

In the UK the term 'hunting' almost always means 'hunting with dogs'. There are other terms for other types of activities where wild mammals are killed for sport or consumption (i.e. shooting). In most cases the dogs (normally called hounds) are used to find the scent of the quarry, locate the quarry and then chase it until they themselves kill it or someone shoots it.

To increase efficiency a full pack of dogs is used most of the time. This increases the chances of the scent being found and the quarry taken. Someone (normally called the huntsman) will control the pack with visual, vocal or other acoustical methods (such as the use of a hunting horn). Other people will follow, often on horseback, sometimes on foot.

Traditional hunting as sport is a seasonal activity which takes place in the coldest months of the year. This is because scents evaporate faster in hot weather than in cold weather. In the UK (where hunting is more common in England than in Scotland, Wales or Northern Ireland) the most traditional day for hunting is Boxing Day.

Organised hunting with dogs is a bloodsport of British origin. Dating back some 800 years, it was traditionally enjoyed by royalty, the aristocracy, landowners and country-dwelling clergy. Dogs were trained to hunt foxes in the 1660s and the 'modern day' form of organised foxhunting was introduced in the 1750s.

While other 'sports' that involved the setting of dogs on other animals became unacceptable and were banned in the 19<sup>th</sup> century, the first attempts to ban fox and deer hunting were not made until much later. Today it is commonly practiced in the UK, but can also be found in other parts of Europe, USA and Commonwealth countries.

Hunting with dogs may happen in an improvised and unregulated way by individuals or groups, or be very organised following very specific rules as part of a registered hunt. There are several organisations that set up the rules (MFHA, b), regulate organised hunting, and represent the interests of their members. The most important in the UK (due to the number of registered hunts it covers, over 300) is the Master of Fox Hounds Association (MFHA), but there are others.

The MFHA features the three 'golden rules' of hunting at the heart of the hunting regulatory code on its website. (MFHA, b).

1. *Hunting as a practice is the hunting of a wild animal in its wild and natural state with a pack of hounds. Nothing must be done which in any way compromises this concept.*
2. *Hunting depends primarily on the goodwill of landholders and farmers. No one who goes hunting should do anything that might jeopardise this goodwill. It must be remembered that for most of a day's hunting you are a guest on someone else's land.*
3. *Masters of Hounds (i.e. those in charge of the hunt), or their appointed deputies, are solely responsible for the conduct of each day's hunting and are bound by the strict rules and instructions of their own governing body; their instructions must be willingly followed.*

The Countryside Alliance and the Council of Hunting Associations are the organisations that represent the hunting fraternity in lobbying and campaigning. The MFHA's hunting rules state: "*There is only one organisation that promotes and defends all country pursuits and that is the Countryside Alliance. Everyone who wishes to continue to go hunting is duty bound to be a member*".

Before the Hunting Act 2004 was enacted there were several types of hunting with dogs depending on the type of dog used or the type of quarry hunted.

## 1. Hunting animal quarry

- 1.1. Foxhunting with foxhounds
- 1.2. Foxhunting with harriers
- 1.3. Foxhunting with terriers
- 1.4. Hare hunting with harriers
- 1.5. Hare hunting with beagles (aka beagling)
- 1.6. Hare hunting with bassets
- 1.7. Hare hunting with lurchers
- 1.8. Stag hunting with staghounds
- 1.9. Mink hunting with otterhounds



Figure 1. Left, stag hunting before the ban. Right, mink hunting before the ban

## 2. Hunting non-animal quarry

### 2.1. Drag hunting with foxhounds

### 2.2. Hunting the clean-boot with bloodhounds (hunting human scent)



Figure 2. Left, bloodhounds. Right, foxhounds

As part of some of these types of hunting, or as an activity separate to them, some people use terriers to hunt wild mammals (mainly foxes or badgers) in underground burrows or setts. These people (generally known as 'terriermen', and their activities 'terrier work') form part of traditional foxhunting. They use the terriers to bolt the foxes out so the pack of hounds can continue the chase.



Figure 3. Terrierman on a quadbike. Terriers are often carried in the boxes in front or behind the bike

The MFHA states on its website (MFHA, b):

### Terrier work

*Terrier work plays an important role in fox control, especially on livestock farms and where game shooting takes place. It is the only legal method of controlling foxes underground.*

*If a fox is run to ground, digging may only take place with the expressed permission of the landowner or farmer. It can only be carried out by those licensed by the appropriate governing body. Normally*

*the terrierman will be accompanied by only one assistant. Due to the possible use of a humane killer (licensed firearm) and to avoid unnecessary noise and disturbance, participation is limited to the terrierman and his assistant with sometimes the presence of the relevant farmer or gamekeeper.*

### 2.1.1. A typical foxhunting day

The following is a generalised account of a foxhunt before it was banned in 2004 in Great Britain.

The main foxhunting season started with the opening meet which normally took place during the last week in October or during the first week in November, often on a Saturday. The season ran until 1<sup>st</sup> May although most hunts finished in March and early April.

During the night before or in the morning of the hunt, fox earths and badger setts in the coverts and surrounding areas where the hunting was due to take place, were blocked up or 'stopped'. This was carried out to prevent foxes from going back underground when they had been out during the night searching for food. It enabled the hounds to find and hunt them and also prevented hunted foxes from seeking refuge underground once the hunt was underway.

Entrances to fox earths and badger setts were stopped with soil, sticks, large stones or fertiliser bags and was carried out by 'earth stoppers' who were normally the terrier men for the hunt. The blocking of badger sett entrances would normally have amounted to an offence under Section 3 of the Protection of Badgers Act 1992, but was permitted by exemption under Section 8 of the Protection of Badgers Act, allowing badger setts to be blocked with materials in accordance with Section 14 of the Protection of Badgers Act.



Figure 4. Badger sett being stopped by a terrierman

The hunt would normally meet at 10.45 am at a pre-arranged place such as a farm, public house or village green. The hunt would then move off to the first covert to be drawn with the huntsman and hounds in front. The masters and the field would follow on behind while other followers on foot and in cars would find a suitable location from which to watch the hunt.

The hounds were put into covert and encouraged by the huntsman by use of horn and voice calls to search for a scent. While the hounds were searching for a scent the whipper-in and other followers would position themselves around the edge of the covert to look out for any fleeing foxes.



Figure 5. Typical configuration of a hunt just moving off after the meet, with the huntsman and the whipper-in in front with the hounds, and the Master behind

Occasionally the hounds may have come across a fox and killed it before it had a chance to run, known as a 'chop'.





Figure 6. Hounds chopping a fox. Top, a fox jumps a stone wall closely chased by a hound, below the pursuit continues, below the hound catches the fox and below the rest of the hounds join in

If the pack picked up the scent or line of a fox they would start 'speaking' (a high pitched barking) and pursue the fox. The huntsman and riders followed the hounds by the most direct route possible with the huntsman using voice and horn calls to encourage the hounds. Hunts in Cumbria and other upland areas conducted their activities on foot rather than on horseback due to the terrain.



Figure 7. Full pack of hounds and riders moving at speed on a field in a typical hunt

If the hounds lost the scent ('line') or 'checked' they would search around or 'cast' to re-find the line. The huntsman may have assisted the hounds by taking them to where he thought the line would be found and cast the hounds himself.

Sometimes hunt followers would assist the huntsman by signalling to him that they had seen the fox. This was carried out by use of a high pitched shout or 'holloa' (pronounced 'holler') and accompanied by a raised cap or arm pointing in the direction of where the fox had run. Occasionally a whistle would be blown instead of a holloa. The huntsman would then take the hounds over to the signaller in an attempt to pick up the line and, if successful, the hunting would continue.



Figure 8. Hunt supporters pointing in the direction of a fox so the huntsman knows where to direct his hounds

Sometimes the fox would escape the hounds altogether or the huntsman would allow the fox to escape, if for example, the fox had run onto land where the hunt was not permitted to enter. The huntsman would then take the hounds to another covert where the hounds would be drawn through in search of another fox. If the fox had not managed to lose the hounds, it would either be killed and torn apart ('broken up') by the hounds or it would try to evade the hounds by seeking refuge underground, known as 'going to ground'.

In the former case the tiring fox would eventually be out-run by the superior stamina of the hounds which would kill and tear the fox to pieces. The huntsman would arrive at the scene and use the horn to blow 'the kill' as a way of congratulating the hounds. He may also have made whooping sounds to excite and encourage the hounds as they tore up the fox. He may also have picked up the dead fox and ragged the hounds with it. The huntsman and hounds would then move off in search of another fox if time allowed before the hunt was due to finish.



Figure 9. Huntsman giving the body of a recently killed fox to the hounds as a reward

Often the fox would attempt to lose the hounds by going to ground in a fox earth, badger sett or a drain. Occasionally foxes would seek refuge in hay bales, stick piles or even in trees. The pursuing hounds would gather around the tunnel entrances sniffing, pawing at the ground and baying. This was known as 'marking to ground' and indicated to the huntsman where the fox had gone.

The huntsman would then use the horn to summon the terrier men, who were employees or supporters of the hunt responsible for dealing with foxes that had gone to ground. He would leave the hounds marking to ground until the terrier men had arrived to deter the fox from leaving. The huntsman would then take the hounds away to continue hunting while the terrier men were left to work. If the fox was to be bolted the huntsman would wait a short distance away with the hounds.

If it was decided to dig out and kill the fox, all but one of the holes would be blocked and a terrier released into the unblocked entrance. Before releasing the terrier below ground it would have been fitted with a locator collar which had a transmitter attached to it. This would emit a signal which was picked up by a receiver operated above ground by the terrier man so that the terrier could be located.

Once the fox had been found by the terrier it would either fight the fox or keep it at bay. The terrierman would then dig down to the fox. After removing the terrier, the fox would be killed, normally with a hand gun. Alternatively, nets may have been placed over the holes so that the fox could be bolted into one of the nets and dispatched.

If it was decided to bolt the fox so that it could be hunted again by the hounds the terrier would be used underground to flush out the fox. The holes would be left open to allow the fox to leave. Once the fox had bolted the terrier man would signal to the huntsman and the hounds would be released and the fox hunted once again.

During the hunting day several coverts would be drawn and at least one or more foxes could be hunted. A pursuit could last a few minutes or over half an hour. Occasionally the hunt would have a day when no foxes were found at all.

### 2.1.2. Cub hunting

Foxhunting was immediately preceded by cub hunting (often now referred to as autumn hunting). Unlike the main foxhunting season, where the main objective was to provide sport for the members of the hunt, cub hunting was instead, for the most part, a training period for the new hounds. The objective of cub hunting was threefold.

- To 'enter' the new, young hounds. Hounds would not naturally hunt foxes and needed to be trained to do so. They not only needed to be trained to hunt the scent of a fox, but had to learn not to hunt the scent of other animals. They also had to learn to work as part of a pack and to obey the huntsman's horn and voice calls. Cub hunting enabled the young hounds to get a taste of blood and rekindled the interest of the older more experienced hounds in hunting foxes.
- To reduce fox numbers and to disperse the fox cubs over a wider area so that there would be foxes in most coverts during the main hunting season. Young foxes are born in the spring and full-sized by autumn. Because they are not yet sexually mature and still living in their family group they are easier to catch than adult foxes. About half of all foxes killed by a hunt during one hunting season took place while cub hunting.
- To persuade the cubs that safety lay not in staying in covert but in running across open country thus giving the hunt a good run and sport during the main foxhunting season.

Cub hunting started anytime from late July to the end of September once harvesting was completed and lasted until the opening meet. In July and August the hunt would take place very early in the morning, as soon as it was light, when the scent was at its best and before it was dried up by the summer heat. Cub hunting occasionally took place in the evenings, when again the scent was stronger than during the day. Hunting in the early mornings and evenings was also less trying for the hounds that would otherwise have to work in thick covert during the heat of the day. As the weeks progressed the morning meets would get later, as first light came later.

The meets would involve a smaller number of followers than in the main foxhunting season and followers would be invited to attend by the master(s). Formal hunting dress was not worn during cub hunting and instead a tweed jacket or 'ratcatcher' was worn by the hunt servants, masters and riders. Cub hunting was not carried out to provide sport for the followers who instead had a role to play during the hunting. Cub hunting up until about mid-October would involve hunt followers on foot and on horseback surrounding or 'holding up' a covert so that cubs attempting to escape could be frightened back in.

If any cubs were seen trying to leave the covert, the followers on horseback would slap their saddles and boots with their riding crops and those on foot would shout, clap and wave their arms in the air. By keeping foxes in covert the young hounds could learn to hunt in covert and listen and follow the cry of the more experienced hounds without the distractions found in the open. It would also make the cubs easier to catch and kill, and would give the young hounds a taste of blood. The hunt would be out for about three or four hours during this period.

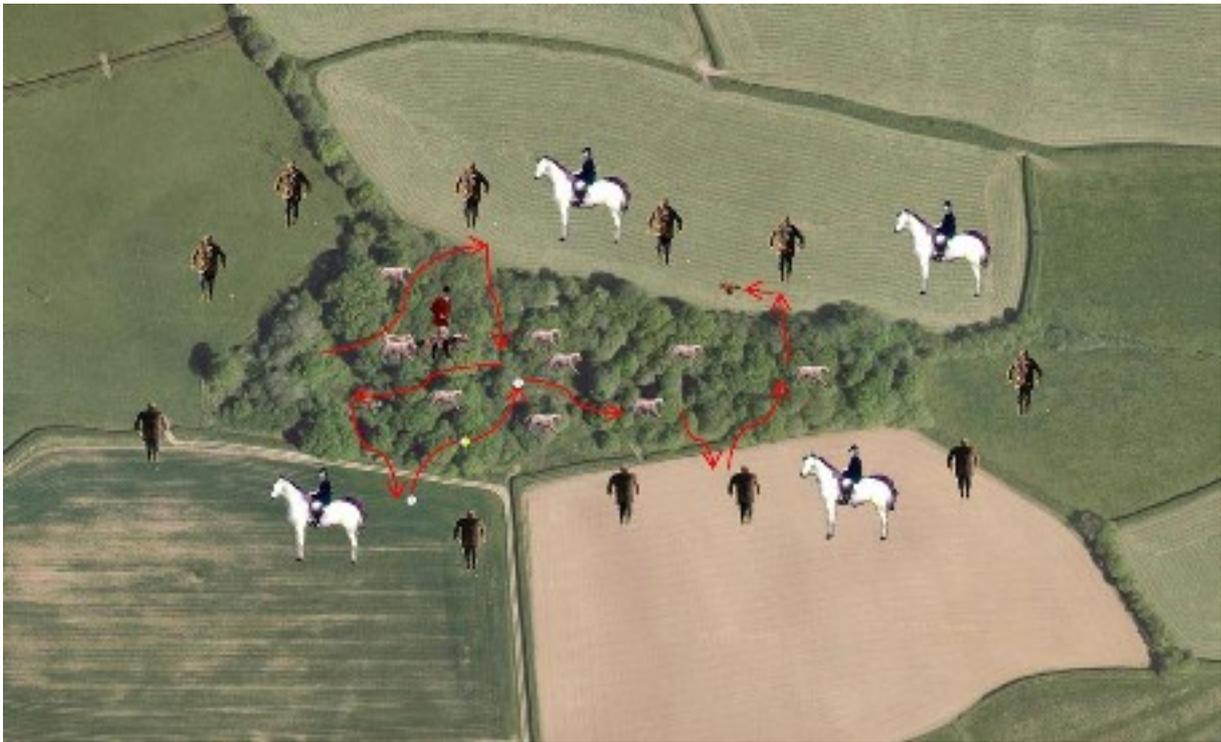


Figure 10. Diagram showing the typical configuration of cub hunting, in which stationary riders and foot supporters prevent foxes escaping from a copse (by making noises and abrupt gestures) where the huntsman and his hound can chase it. Copyright background map: Imagery @2015 Getmapping plc, Map data @2015 Google

From mid-October until the opening meet the cubs were encouraged to run across open country which both dispersed them and trained the young hounds to hunt the right line in the open. The cubs would also learn that safety was not found by staying in covert. This meant they would, in future, take flight at the sound of the huntsman's horn and provide a good run for the hunt. The hunting day was longer during this period, up to six hours, and started to resemble formal foxhunting.

Terriermen also had a role in cub hunting. Fox earths and badger setts were stopped the night before to keep foxes above ground and any foxes that did go to ground were dug out, killed and given to the hounds.

A young hound was considered to have entered into a pack once he or she had successfully joined a hunt in this fashion and had completed a season's hunting. Any young hounds that did not show suitable aptitude were removed from the pack and shot. Occasionally they were rehomed.

The MFHA's website describes cub hunting as follows (MFHA, b):

Autumn hunting (Prior to Opening Meets)

*Autumn hunting plays an important role in the management of the fox population. Its purpose is to disperse large concentrations of foxes and to cull a proportion of them, particularly the older and weaker ones. It is also the time when the young hounds are introduced to hunting - they learn by working with the more experienced and older ones.*

*For farming, fox control and safety reasons hunting may be confined to a limited area through either "lining-out" one or two sides of a wood or covert or "holding-up".*

*At such times it is also permissible for mounted or foot followers, who must be appointed and instructed by the Master, to discourage a fox from leaving covert.*

*Holding-up is carried out by the use of the voice and tapping with a stick or a whip. Aggressive holding up or excessive noise is against the rules and will not be tolerated.*

*Those that go out autumn hunting should not expect to be part of any holding-up that may have to be undertaken.*

### 2.1.3. Hunting roles

The following are description of the role of each person involved in a traditional hunt.

#### Huntsman

The huntsman is a hunt servant who hunts the hounds and is responsible for controlling and directing the pack during the day's hunting. He/she decides which coverts will be drawn, although the general plan for the day's hunting would have been discussed in advance with the master(s). In traditional live quarry hunting the huntsman would also decide which quarry would be hunted if more than one was found. They also decide which quarry would not be pursued, for example if the quarry was close to a busy road or heading for land where access had not been granted.

Significantly the huntsman is the only one to use the horn, which is used to encourage the hounds or otherwise control and direct them. The horn is also used to communicate to the whipper-in and hunt followers. The pack is also controlled by a variety of voice calls and the use of whips, both by the huntsman and whipper-in. The huntsman is also responsible for the welfare of the hounds and cleanliness of the kennels. The huntsman is normally professional and is paid.

Sometimes the master (or one of the masters) will hunt the hounds, in which case someone else, known as the kennel huntsman, will be responsible for the kennels. He/she will often be the whipper-in.



Figure 11. Huntsman using his horn

### The whipper-in

The huntsman is assisted by one or two whippers-in, who are also hunt servants. Their job is to assist the huntsman during the day's hunting, particularly in keeping the pack together and resolving any problems that occur during the day. His/her primary role is to keep the pack together and round up missing hounds. Even when hounds are hunting, the whipper-in could be some distance away collecting up stray hounds.

When the pack needs to be stopped or called off, the whipper-in will be with the huntsman helping him/her to stop the hounds. In traditional live quarry hunting the whipper-in would also be required to act as point rider so that he/she could alert the huntsman if the quarry was spotted.

### Kennel huntsman

The kennel huntsman is responsible for the hounds in kennels, for feeding and exercising them etc. A professional huntsman is his/her own kennel huntsman, but if the masters hunt the hounds themselves, then a kennel huntsman is employed who is normally also the whipper-in.

### Kennelman

The kennelman works in the kennels under the management of the kennel huntsman and looks after the hounds in kennels, assuring that all tasks are completed when the pack and hunt servants return from hunting.

### The master(s)

A hunt has one or more masters who are responsible for the overall management and conduct of the hunt, in particular for liaising with local farmers and landowners. The hunt servants act on their

orders. The huntsman will meet with one or more of the masters prior to a day's hunting to agree how the day will be conducted. However, not all masters will necessarily attend every meet, but at least one would act as the field master on the hunting day.

The field master is in charge of the field (those people who follow on horseback). His/her prime function is to stop the field over-running the hounds, hindering the hounds while they work. Field masters are also expected to prevent the field going to areas where access has been refused as well as minimising damage to crops and fences. The masters may belong to one of the masters' associations, but this is not statutory. However, if they are members they are bound by the association's rules and can be disciplined. The masters are directly responsible to the hunt committee.



Figure 12. Master, hunt staff and the field with the hounds

### The hunt committee

The hunt committee is elected by the subscribers (paid up members of the hunt) which in turn appoints the hunt master(s). The committee is responsible for the overall policy of the hunt and for raising funds to run the hunt. Running costs include: wages for hunt servants, food for the hounds, maintenance of the hunt premises and equipment, payment for damage to non-hunt property etc. Funds come from a number of sources such as subscriptions, cap, point to point races, merchandise etc.

### Hunt secretary

The hunt secretary is responsible for calling and recording committee meetings, liaising with the masters, collecting subscriptions and dealing with all the financial issues relating to the hunt, including the payment of the wages. He/she is the key person in the management and day-to-day running of the hunt.

## The field

This is the collective term for the mounted hunt followers. Members of the field may occasionally act as point riders. The field is normally distinguished from the hunt staff (masters, huntsman and whippers-in) because the latter wear different coloured clothes (often, but not always, red/pink).



Figure 13. Typical configuration of a hunt just 'moving off' just after the meet, with the huntsman in front with the hounds, the whipper-in and master behind, and the field following

## Field master

The field master is in charge of the field and will guide and manage the field during the day's hunting. His/her prime function is to stop the field from over-running the hounds, prevent the field from hindering the hounds while they work and prevent them from going into areas where access has been refused. The field master will always be introduced at the meet so the riders know who will be in charge of them during the day. The role of field master may be undertaken by different people on different days but will normally be one of the masters.

## Hunt followers/supporters

These are followers of the hunt that are not mounted. They will join the hunt staff in the meet and then follow the hunt on foot, by car, motorbike or on a quadbike. They are also collectively known as 'support'.



Figure 14. A variety of hunt supporters at a meet

## Terriermen

In traditional foxhunting the hunt would employ one or more terriermen. Their role was to stop or block fox earths and badger setts in the area where the hunting was to take place to prevent foxes from going to ground. They were also responsible for dealing with hunted foxes that had gone to ground. These foxes would be located using terriers and then dug out and shot or, alternatively, the fox would be bolted to be hunted again by the hounds.

Terrier men would have at least one terrier with them as well as equipment such as spades, nets and terrier locating devices. They normally followed the hunt on quadbikes but also in 4x4s or on foot

depending on the terrain. Hunts now refer to terriermen as 'countrymen' and say they are employed to open and close gates, repair fences and lay trails. Terriermen were also used during mink hunts and would use terriers to locate and bolt the mink that went to ground in holes in river banks.



Figure 15. Terrierman digging up a fox to kill it with the spade or a hand gun

## 2.2. Drag hunting and bloodhounds hunting

Drag hunting and hunting with bloodhounds are sports in which a pack of hounds follow either a manmade artificially laid scent or the scent of a human over a pre-determined route. Most drag hound and bloodhound packs are registered with the Masters of Draghounds and Bloodhounds Association (MDBA), which was formed in 1997 following a merger between the old MDHA and the MBHA. Its objective is: *“to promote the sport and fundamental ethic of drag hunting and hunting the ‘clean boot’ the essence of which involves the use of hounds to provide pleasure without the pursuit or killing of wild animals”* (MDBA, b).

Drag hunting originally developed in the UK in the early 1800s as a means of testing the speed and agility of hounds by laying a scent trail over a specified distance. This in turn encouraged the practice of following the hounds on horseback. There are currently 13 draghound packs in the UK registered with the MDBA, made up mainly of English foxhounds.

The 'quarry' of the draghounds is a 'drag'. This is normally a piece of absorbent material to which the scent is applied and laid across the ground by a rider or a runner. Scent is repeatedly applied to the drag *en route*.

A hunt is divided into 'legs', and each leg is 'scented' just prior to the huntsman casting the hounds, which find the scent and hunt it. At the end of a leg, the hounds are held in check while the next leg is scented. A variety of scents are used by the different drag hunts. Some scents used incorporate aniseed while others consist of a chemical crystal mixed with water and oil.

A drag hunt is similar in nature to a fast cross country ride and takes place over a predetermined course or line and is designed for fast rides over designated jumps and obstacles. The 'line layer' or 'drag man' will set off ahead of the hunt (perhaps half an hour depending of the length of the line). At the end of the line, which could be a distance of two to three miles, the drag will be then lifted so that the hunt can stop to rest before setting off again a short while later (MDBA, 2000).

In general between three and eight lines would be laid during the day covering a distance of 10 to 20 miles. The lines would be laid according to a route agreed in advance with the landowners. The route need not be known by the followers although the huntsman and field master would have an idea of the proposed course. As there are no long periods spent casting or looking for live quarry, drag hunts usually last about three hours.

The following photo sequence shows a typical drag hunt, from the moment the scent is added to the drag, to the moment the hounds pick up the drag that had been buried after having laid the trail.







Figure 16. A typical drag hunt. From top to bottom, drag layer soaking the drag with the scent; drag layer running pulling the drag; hounds picking up the scent of the drag; hunt staff and the field following the hounds, sometimes jumping obstacles; near the end, the hounds locate the drag buried on a field; all the grounds circle around the spot where the drag is; the huntsman is using the horn to signal that the hounds have found the drag; one of the hounds with the drag in its mouth

In 2005, Horse and Hound magazine described drag hunting as follows (Horse&Hound, 2005):

*"A runner is used to lay a scent about 20 minutes in advance of the hunt. The days when the scent was laid with aniseed are long gone. Nowadays a chemical crystal, mixed with water and oil, is used. The runner simply dips a cloth in the scent mixture and trails it along the ground behind him. The scent, repulsive to humans, is irresistible to hounds though bloodhounds follow the human scent of the runner (...) There is a field master who leads the riders, and a huntsman and several whippers-in who are in control of the hounds. Some hunt staff wear traditional red coats, while others have developed their own uniforms. (...) How are the hounds trained to follow the scent? It's in the dogs nature to pick up and follow a scent, and it takes a hound only a day or so to get the idea. (...) The day is divided into three or four lines. The hunt meets and then hacks to the start of the first line. On the signal of the master, the hounds are unleashed. Once they are moving, the hunt follows along a prearranged course, with built fences, for up to two miles. At the end of the line there is a pause to allow the riders to retrench, followed by a short hack to the start of the next line. Some people liken it to taking part in three or four hunter trials in an afternoon."*

Figures 17 and 18 show an extract of the Masters of Draghounds and Bloodhounds Association's submission to the committee of enquiry into Hunting with Dogs, describing a day with the Berks and Bucks Draghounds, and the Lynfi Vale Draghounds. Note that in the latter the hounds start looking for the scent 10 minutes after the line layers leave it.

<i>Meet at The Craven Arms Pub</i>	
12.30pm	Hounds met at the Craven Arms Pub. There was a field of 27 (Maximum they could accommodate would be about 60).
12.45pm	Huntsman blows and hounds move off to the first line which is encountered a short distance away
01.00pm	3 miles later and the completion of first line. There is a short break for the tail to catch up
01.10pm	Move off to second line.
01.20pm	Second line completed. Break for refreshments. The tail on this line is quite significant with stragglers finishing between five and ten minutes after the arrival of the hounds
02.15pm	Completion of the third line. Stragglers arrive within five minutes.
02.30pm	Return to the pub. Talk was of an exhilarating day. 9 miles in one and a half hours over their country provides a good test of quality for both horse and rider. Members pride themselves on the professionalism of their hunt, and are keen to compare notes on the successful negotiation of a variety of jumps.

Figure 17. Extract of the Masters of Draghounds and Bloodhounds Association's submission to the committee of enquiry into Hunting with Dogs, describing a day with the Berks and Bucks Draghounds

*Meet at the Fox and Hounds in Blackmill, February 13<sup>th</sup> 2000*

- 12.00pm Huntsman, hounds and followers arrive at the Fox and Hounds in Blackmill. In total 26 horses, including Mr Clive Jefferys Rees MFH MDH, and Mr David James MDH, both former Masters of the Banwen Miners Foxhounds and joint Masters of the Celtic Bloodhounds. Riders prepare themselves for the day ahead.
- 12.10pm Port is circulated, and the publicans welcome the hunt
- 12.15pm The 'line layers' leave the meet
- 12.25pm Field Master Mr Tony Hill gives an address, welcoming the riders, thanking the publican and instructing them on the day's events.
- 12.30pm Huntsman and hounds leave the meet, followed by riders. Two short lines are undertaken across the western side of Llangeinor mountain (300 acres) and through a softwood forest (100 acres). Half a dozen obstacles are encountered including a ditch. Alternatives are provided, which more than 80% of the field opt to take.
- 01.20pm The field arrive at the Llangeinor Arms - the first of the day's 'sherry breaks'. Drinks are handed out (about 5 bottles in total). Riders top-up at the Arms buying themselves additional drinks
- 01.30pm Line layers leave for the third line.
- 01.40pm Hounds and huntsman leave the Arms and head towards Llangeinor mountain - approx 4000 acres. Car followers convert to 4x4 vehicles and follow up onto the open mountain. There are no jumps in this part of the day.
- 02.10pm Car followers catch up and help a young rider remove some leg protectors.
- 02.15pm Field move off on another line
- 02.40pm Hounds hunt around the mountain, disappearing from sight and covering about 4 miles.
- 02.55pm Car followers catch up and the field takes another sherry break. Quite cold on top but weather remains dry. Another six bottles of sherry consumed.
- 03.10pm Huntsman and field move off for the last three lines.
- 03.20pm Meet up with car followers at the Llangeinor Arms. Another sherry break and more drinks at the Arms.
- 03.30pm Huntsman moves off for remaining 2 short lines.
- 03.50pm Arrive back at the Fox and Hounds in Blackmill. Horses put by. 48 riders and car followers have booked meals at the pub. Talk is of the day's ride. Masters are thanked for their efforts with a special thanks to Julian the huntsman/Master.
- 05.30pm Last of the followers leave the pub, some arranging to meet at the Llangeinor Arms at 7.00pm later that evening

Figure 18. Extract of the Masters of Draghounds and Bloodhounds Association's submission to the committee of enquiry into Hunting with Dogs, describing a day with the Lynfi Vale Draghounds

Bloodhound packs hunt human scent and follow the scent of a runner or the 'clean boot'. The way the hunt is organised is virtually identical to that of a drag hunt although it is usually slower and less ground is covered. There may be two or three runners out during the hunting day. When the bloodhounds catch their 'quarry' they receive a food reward and much praise to ensure they will remain keen to follow the scent next time. There are currently 13 bloodhound packs registered with the MDBA.



Figure 19. Typical bloodhounds hunt. From top to bottom, three runners (the quarry) running on a field; the bloodhounds follow their trail; hunt staff and the field follow them; bloodhounds are patted by the runners when the quarry is found

As far as the dogs are concerned, drag hunting packs use English foxhound, while the bloodhound packs obviously use bloodhounds. Bloodhounds are a distinctively different breed, with the reputation of having an excellent scenting ability.



Figure 20. Full pack of bloodhounds with their huntsman

Figure 21 shows an extract of the Masters of Draghounds and Bloodhounds Association's submission to the committee of enquiry into Hunting with Dogs, describing a day with the Cranweell Bloodhounds. Note the hounds are casted to find the scent 15 minutes after the 'quarry' starts the run.

<i>Meet on 6<sup>th</sup> February 2000 at Leadenham House, Leadenham</i>	
12.00pm	Hounds and supporters arrive Leadenham Village. The "quarry" is introduced to the hounds.
12.10pm	One of the quarry is transported to the entrance of Leadenham Park
12.30pm	Hounds, hunt staff and mounted field meet at Leadenham Park greeted by their hosts Mr and Mrs Peter Reeve who entertain them with mulled wine, sausage rolls and mince pies.
12.50pm	Master's address. Hounds move off and start hunting at the entrance to the park. The first hunt is of 9 miles over grass, plough, winter cereals, woodland and root crops. There are 11 'checks' (where hounds loose the scent and have to work hard to hold the line). Time taken 1hr 20 mins.
02.10pm	Break for sherry/port, sausage rolls and mince pies. Hounds given water.
02.15pm	Quarry taken to start of next run.
02.30pm	Hounds are cast across several fields until the scent of the runner is found and the hounds are in full cry again. This hunt is 6 miles. Time taken 50 mins. 6 checks (2 long) 25 optional fences.
03.30pm	Huntsman blows for home. All hounds on board. No injuries.
04.15pm	Supporters and quarry arrive back at the kennels for tea and cakes where the talk is of where the hounds/huntsman were at fault, which hound worked best, which horses and riders performed well, whose crops are growing the best, how many hares. Foxes and deer were viewed and general chat. 30 mounted supporters started and finished the day. There were approx. 30 car followers. Etiquette and standards are expected to be high.

Figure 21. Extract of the Masters of Draghounds and Bloodhounds Association's submission to the committee of enquiry into Hunting with Dogs, describing a day with Cranweell Bloodhounds

Drag hunting and 'hunting the clean boot' existed long before the banning of hunting in 2004 and are fundamentally different to trail hunting. We have never heard of a genuine drag hunt chasing any wild animal, nor do we know of any press reports which exist to relay such an incident. On the other hand we

have seen many reports of trail hunting where such 'accidents' have happened, and the submission to the Burns Inquiry from the MDBA in 2000 stated that " *the killing of a wild animal is almost unheard of by a draghound pack*" (NA, 2000) .

### 2.3. The hunting ban

On 18<sup>th</sup> November 2004 hunting with dogs was banned in England and Wales by The Hunting Act 2004 passed using of the Parliament Act. It became law three months later on 18<sup>th</sup> February 2005. The Protection of Wild Mammals (Scotland) Act 2002 that also banned hunting with dogs in Scotland had become law two years earlier. Hunting with dogs is still legal in Northern Ireland.



Figure 22. IFAW staff in animal costumes celebrating the passing of the Hunting Act 2004 in a photo stunt outside the Houses of Parliament

The language of the legislation in Scotland and that in England and Wales differs, but, simply put, it became illegal to chase and/or kill wild mammals (other than rats and rabbits) with dogs. If dogs are not used the ban does not apply.

Under Section 1 of the Hunting Act a person commits an offence if he hunts a wild mammal with dogs. This includes all wild mammals other than rats and rabbits. Foxes, deer, hare and mink, which had been regularly hunted by organised hunts, are included, regardless if the animals live in the wild or in captivity. Pursuing the mammal is an offence under the Act, regardless of whether the mammal is caught or killed.

Section 2 and 3 extends such offences to the owner of the dogs (or the person who controls them) and to the landowner where the hunting took place (or the occupier of the land), as long as they were aware of the offence being committed. Currently, a person guilty of an offence under the Act is liable on summary conviction for a fine not exceeding £5,000. In Scotland hunting offences can lead to custodial sentences, but this is not the case in England and Wales.

The Hunting Act states that engaging or participating in the pursuit of a wild mammal with dogs is banned hunting. However, in some special circumstances, some hunting with dogs is allowed as long as several specific conditions are fulfilled (known as 'exempt hunting'). In England these conditions often limit the number of dogs allowed to two. Such a limit is absent in the Scottish ban.

The following are listed as 'exempt hunting' in Schedule 1 of the Hunting Act 2004, as written in the Act itself:

Stalking and flushing out

1. (1) *Stalking a wild mammal, or flushing it out of cover, is exempt hunting if the conditions in this paragraph are satisfied.*

(2) *The first condition is that the stalking or flushing out is undertaken for the purpose of—*

(a) *preventing or reducing serious damage which the wild mammal would otherwise cause—*

(i) *to livestock,*

(ii) *to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)),*

(iii) *to food for livestock,*

(iv) *to crops (including vegetables and fruit),*

(v) *to growing timber,*

(vi) *to fisheries,*

(vii) *to other property, or*

(viii) *to the biological diversity of an area (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992),*

(b) *obtaining meat to be used for human or animal consumption, or*

(c) *participation in a field trial.*

(3) *In subparagraph (2)(c) "field trial" means a competition (other than a hare coursing event within the meaning of section 5) in which dogs—*

(a) *flush animals out of cover or retrieve animals that have been shot (or both), and*

(b) *are assessed as to their likely usefulness in connection with shooting.*

(4) *The second condition is that the stalking or flushing out takes place on land—*

(a) *which belongs to the person doing the stalking or flushing out, or*

(b) *which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.*

(5) *The third condition is that the stalking or flushing out does not involve the use of more than two dogs.*

(6) *The fourth condition is that the stalking or flushing out does not involve the use of a dog below ground otherwise than in accordance with paragraph 2 below.*

(7) *The fifth condition is that—*

(a) *reasonable steps are taken for the purpose of ensuring that as soon as possible after being found or flushed out the wild mammal is shot dead by a competent person, and*

*(b) in particular, each dog used in the stalking or flushing out is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).*

*Use of dogs below ground to protect birds for shooting*

*2. (1) The use of a dog below ground in the course of stalking or flushing out is in accordance with this paragraph if the conditions in this paragraph are satisfied.*

*(2) The first condition is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)) which a person is keeping or preserving for the purpose of their being shot.*

*(3) The second condition is that the person doing the stalking or flushing out—*

*(a) has with him written evidence—*

*(i) that the land on which the stalking or flushing out takes place belongs to him, or*

*(ii) that he has been given permission to use that land for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, and*

*(b) makes the evidence immediately available for inspection by a constable who asks to see it.*

*(4) The third condition is that the stalking or flushing out does not involve the use of more than one dog below ground at any one time.*

*(5) In so far as stalking or flushing out is undertaken with the use of a dog below ground in accordance with this paragraph, paragraph 1 shall have effect as if for the condition in paragraph 1(7) there were substituted the condition that—*

*(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is flushed out from below ground,*

*(b) reasonable steps are taken for the purpose of ensuring that as soon as possible after being flushed out from below ground the wild mammal is shot dead by a competent person,*

*(c) in particular, the dog is brought under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (b),*

*(d) reasonable steps are taken for the purpose of preventing injury to the dog, and*

*(e) the manner in which the dog is used complies with any code of practice which is issued or approved for the purpose of this paragraph by the Secretary of State.*

*Rats*

*3. The hunting of rats is exempt if it takes place on land—*

*(a) which belongs to the hunter, or*

*(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.*

*Rabbits*

*4. The hunting of rabbits is exempt if it takes place on land—*

*(a) which belongs to the hunter, or*

*(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.*

Retrieval of hares

5. The hunting of a hare which has been shot is exempt if it takes place on land—

(a) which belongs to the hunter, or

(b) which he has been given permission to use for the purpose of hunting hares by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Falconry

6. Flushing a wild mammal from cover is exempt hunting if undertaken—

(a) for the purpose of enabling a bird of prey to hunt the wild mammal, and

(b) on land which belongs to the hunter or which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Recapture of wild mammal

7. (1) The hunting of a wild mammal which has escaped or been released from captivity or confinement is exempt if the conditions in this paragraph are satisfied.

(2) The first condition is that the hunting takes place—

(a) on land which belongs to the hunter,

(b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or

(c) with the authority of a constable.

(3) The second condition is that—

(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is recaptured or shot dead by a competent person, and

(b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).

(4) The third condition is that the wild mammal—

(a) was not released for the purpose of being hunted, and

(b) was not, for that purpose, permitted to escape.

Rescue of wild mammal

8. (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied.

(2) The first condition is that the hunter reasonably believes that the wild mammal is or may be injured.

(3) The second condition is that the hunting is undertaken for the purpose of relieving the wild mammal's suffering.

(4) The third condition is that the hunting does not involve the use of more than two dogs.

(5) The fourth condition is that the hunting does not involve the use of a dog below ground.

(6) The fifth condition is that the hunting takes place—

(a) on land which belongs to the hunter,

*(b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or*

*(c) with the authority of a constable.*

*(7) The sixth condition is that—*

*(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after the wild mammal is found appropriate action (if any) is taken to relieve its suffering, and*

*(b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).*

*(8) The seventh condition is that the wild mammal was not harmed for the purpose of enabling it to be hunted in reliance upon this paragraph.*

*Research and observation*

*9. (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied.*

*(2) The first condition is that the hunting is undertaken for the purpose of or in connection with the observation or study of the wild mammal.*

*(3) The second condition is that the hunting does not involve the use of more than two dogs.*

*(4) The third condition is that the hunting does not involve the use of a dog below ground.*

*(5) The fourth condition is that the hunting takes place on land—*

*(a) which belongs to the hunter, or*

*(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.*

*(6) The fifth condition is that each dog used in the hunt is kept under sufficiently close control to ensure that it does not injure the wild mammal.*

Section 4 the Hunting Act states that " *It is a defence for a person charged with an offence under section 1 in respect of hunting to show that he reasonably believed that the hunting was exempt.*" Although with variations, the Protection of Wild Mammals (Scotland) Act 2002 similarly provides for exempt hunting, but without limiting the number of dogs. The Observation and Research exception is absent in the Scottish ban.

Section 5 the Hunting Act outlaws hare coursing, during which dogs such as greyhounds or lurchers pursue their quarry by sight rather than scent. The goal of hare coursing is not necessarily to capture and kill the hare, but rather it is a competition between two dogs to see which is better at chasing the hare.



Figure 23. Organised hare coursing. Officials taking a caught hare from the jaws of the winning greyhound

In addition to organised hare coursing as a competition, there is also hare coursing as a form of poaching, where hares are simply hunted to death by poachers' dogs on someone else's land. Anti-poaching laws could be used to prosecute these hare coursers, but often the Hunting Act has been used instead, because it has higher penalties.

Hunting Act prosecutions against poachers are often successful because landowners normally testify that they did not give permission for the hunting to take place. When the landowner will not testify against the accused, as happens often in Hunting Act cases involving organised hunts (also known as 'red coat hunting'), prosecutions are more difficult. This is why most prosecutions under the Act are against poachers.

The Countryside Alliance, an organisation representing the hunter's interests, has called for the hunting ban to be annulled as illegal. However, all legal challenges to date failed to achieve this:

15<sup>th</sup> Sep 2004 - The Hunting Bill is reintroduced to the Commons. MPs again vote by 339 to 155 to send the Hunting Bill containing a total ban to the House of Lords. Pro-hunt protesters are involved in violent confrontations with police outside Parliament and pro-hunt demonstrators manage to evade security and break into the House of Commons chamber.

18<sup>th</sup> Nov 2004 - After the 'ping pong' session between the Commons and the Lords, where a ban is rejected, the Speaker of the House of Commons invokes the Parliament Act 1949, which was designed to resolve these types of stalemates in favour of the Commons. The legislation is passed into law and receives Royal Assent.

23<sup>rd</sup> Dec 2004 - The Countryside Alliance launches a legal challenge to the Government over the use of the Parliament Act to pass the Hunting Act. The Government responds that it would not oppose a Countryside Alliance request for an injunction to delay the ban pending the result of the court case (25/26<sup>th</sup> January) regarding the legality of the Parliament Act 1949.

7<sup>th</sup> January 2005 - The Countryside Alliance mounts a challenge to the Hunting Act 2004 on human rights grounds.

25<sup>th</sup> January 2005 - The Countryside Alliance goes to the High Court to contest the legality of the Parliament Act when used to pass the Hunting Act.

28<sup>th</sup> January 2005 - The High Court judges reject the Countryside Alliance's challenge to the use of the 1949 Parliament Act. The Countryside Alliance appeals the decision.

16<sup>th</sup> February 2005 - The Countryside Alliance loses its appeal contesting the legality of the Hunting Act in the High Court. The Countryside Alliance lawyers request an injunction to delay the implementation of the Hunting Act, which was denied. The Countryside Alliance was granted leave to appeal to the House of Lords, where it lost in 2007.

15<sup>th</sup> December 2009 - The Countryside Alliance's appeals to the European Court of Justice and the European Court of Human Rights were also denied.

## 2.4. Enforcement of the hunting ban

The hunting fraternity, coordinated by the Countryside Alliance, vigorously opposed the ban and campaigned hard to stop it. They were successful many times until eventually the Act was passed. They tried many strategies, including threatening civil disobedience by mass signing of a declaration to that effect. It soon became apparent that the pledge to disobey the ban, which many hunters claim to have signed during the campaign, and the refusal of the hunting fraternity to convert to drag hunting or bloodhound hunting, was something more than just posturing. Indeed, immediately following the ban, no hunts were converted and allegations of illegal hunting were made all over the country.

There have been more than 400 successful prosecutions under the Hunting Act 2004, but only a minority of these are of people belonging to registered hunts. The following is a brief summary of some of the cases that have been reported in the press involving people connected with registered foxhunts:

Oct 2014: On 14th October 2014, three members of the College Valley and North Northumberland Hunt appeared before Berwick Magistrates' Court and were each found guilty of hunting a wild mammal with dogs, contrary to Section 1 of the Hunting Act 2004. Ian McKie, huntsman, was fined £1,150 and ordered to pay £385 costs and a victim surcharge of £115. Timothy Wyndham Basil Smalley, joint master, was fined £2,075 and ordered to pay £385 costs and a victim surcharge £120. Andrew Proe, kennel huntsman, was fined £480, ordered to pay £385 costs and a £48 victim surcharge. The offence took place on 27th February 2014 when the hunt met at West Kyloe, West Kyloe near Lowick, Northumberland. The case was brought by the Crown Prosecution Service following evidence supplied by the League Against Cruel Sports (LACS) and further investigation by Northumbria police.

Sep 2013: The huntsman for the Sussex based Crawley and Horsham Hunt appeared at Worthing Magistrates' Court and pleaded guilty to hunting a fox with dogs, contrary to Section 1 of the Hunting Act 2004. Nick Bycroft, 48, was given a 12-month conditional discharge, ordered to pay £150 costs and a £15 victim surcharge. In his mitigation the court was told that Bycroft "got carried away in the heat of the moment". The incident was filmed by an independent anti-hunt monitor who subsequently handed the footage to Sussex police. Nick Bycroft was fined £150 after admitting to

Public order offences and Criminal damage after an unprovoked attack on hunt saboteurs in November 2012.

Sep 2013: Huntsman for the Seavington Hunt pleaded guilty at Yeovil Magistrate's Court to hunting a fox with dogs, contrary to Section 1 of the Hunting Act 2004. David Parker, 39, was fined £500, ordered to pay £500 costs and a £50 victim surcharge. The defence's plea for a conditional discharge was dismissed by District Judge Lynne Matthews. The incident took place in January 2013 in the area of Causeway Lane, Winsham in Dorset and was filmed by investigators from the International Fund for Animal Welfare. The case was brought to court by the RSPCA.



Figure 24. Seavington Hunt's huntsman David Parker using his horn as part of one of the crucial recordings produced by IFAW Wildlife Crime Investigators that led to his conviction

Aug 2013: Four members of the Middleton Hunt, a registered hunt based in north Yorkshire, each pleaded guilty to an offence under Section 1 of the Hunting Act 2004 at York Magistrates Court. Joint master and huntsman Tom Holt was fined £200 and ordered to pay a £20 victim surcharge and £85 costs. Whipper-in Shaun Marles was fined £100 and ordered to pay a £20 victim surcharge of £20. Terrierman Lee Martin was fined £100 and ordered to pay a £20 victim surcharge and £85 cost. Amateur terrierman Brian Cuthbertson was given a 12-month conditional discharge and ordered to pay a £15 victim surcharge and £100 costs. The case concerned an incident that took place in December 2012 on land at Full Sutton in East Yorkshire and was filmed by LACS investigators. A fox had taken refuge in a stack of hay bales and attempts were made to flush it out using terriers. Eventually after about 25 minutes the fox was flushed out into the open, but was soon brought down and torn apart by the waiting pack of hounds. Holt used his hunting horn to blow the traditional call for a kill and then picked up the dead fox so the hounds could attack and rag the carcass.

Dec 2012: The Heythrop Hunt Ltd and two of its members, recently retired joint master Richard Sumner and former huntsman Julian Barnfield, pleaded guilty at Oxford Magistrates Court to four charges of illegally hunting foxes during the 2011/12 season. The case was prosecuted by the RSPCA and was the first time a hunt faced corporate charges. Extensive footage was supplied to the RSPCA by volunteer hunt monitors. After reviewing the evidence the RSPCA brought 52 charges against the

hunt and four of its members. Shortly before the case was to be heard the hunt and two of its members offered to plead guilty to 12 charges which the RSPCA accepted. District Judge Tim Pattinson fined the hunt £4000, Sumner £1,800 and Barnfield £1,000. The hunt also had to pay £15,000 towards the RSPCA legal costs, Sumner £2,500 and Barnfield £2,000. Each defendant had to pay a £15 victim surcharge.



Figure 25. Hounds closing on a fox in some of the crucial recordings from POWA that led to the Heythrop Hunt conviction

Aug 2012: Two members of the Meynell and South Staffordshire Hunt were found guilty at Southern Derbyshire Magistrates court of Hunting Act offences. Hunt master the Honourable John Edward Greenall, brother of the Baron of Daresbury, was fined £3000, ordered to pay £500 costs and a £15 victim surcharge. Glen Morris of Tutbury was fined £250, ordered to pay £250 and a £15 victim surcharge. The offences took place at Sutton Farm at Sutton on the Hill and were filmed by two anti-hunt campaigners. The footage was played to the court and showed hunt supporters surrounding a wood where the hounds could be heard hunting. When a fox tried to escape from the wood the supporters clapped and hit their boots and saddles with riding crops to frighten the fox back in. Morris was filmed clapping his hands and waving his arms. A second fox broke out of the wood and was followed by a number of riders, including Greenall.



Figure 26. Hunt supporters surrounding a copse during cub hunting in some of the crucial recordings from HSA that led to the Meynell and South Staffordshire Hunt convictions

May 2012: Three members of the Sussex-based Crawley and Horsham Hunt were found guilty of Hunting Act offences at Haywards Heath Magistrates court. Andrew Phillis, former huntsman, was convicted of two offences. Rachel Holdsworth, hunt secretary, was convicted of two offences. Neill Millard, joint master, was convicted of one offence. Video footage of hounds in full cry chasing a fox was shown to the court during a seven day trial. The three defendants claimed to have been legitimately trail hunting and that the pursuit of the foxes was accidental. However, District Judge Stephen Nicholls said he was "not satisfied" that this was the case. The footage showed Holdsworth, who was acting as trail layer on one of the days, holding a riding crop with a duster on the end as if laying an artificial trail. Judge Nicholls said this was done "for the benefit of the cameras". Phillis was fined £900 plus £2,500 costs; Holdsworth was fined £500 for each offence plus £2,500 costs and Millard was fined £1000 plus £2,500 costs.



Figure 27. Dead fox handed to the hounds by hunt staff from the Crawley and Horsham Hunt that led to the convictions

October 2011: Huntsman Derek Hopkins and terrierman Kevin Allen of the Leicestershire-based Fernie Hunt had their appeal dismissed at Leicester Crown court. They had each been found guilty at Harborough Magistrates court earlier in the year of hunting a wild mammal with a dog and interfering with a badger sett in current use during a meet of the Fernie Hunt in January 2010. The incident had been filmed by LACS investigators. Judge Michael Pert QC told the court that Hopkins was found to be "an unconvincing and unimpressive witness" and that Allen "was even less impressive" and "shifty and evasive". When previously convicted, Hopkins was fined £850, £15 victim surcharge and £1,250 costs. Allen was fined £650, £15 victim surcharge and £900 costs. The original sentences were confirmed on appeal but with additional costs: Hopkins £3,630 and Allen £2,730.

The Hunting Act 2004 allows fines up to £5,000, but using information from 99 convictions under the Act, we calculated that the average fine given was £430.66. The average cost paid to the prosecution by the accused was £748.15.

The hunting ban in the UK has a serious enforcement problem, and some say that it is unenforceable (Dominiczak, 2013). Despite the fact that most cases that end up in trial produce successful convictions, far too many allegations of illegal hunting are not properly investigated, and far too many cases are dropped.

This view is shared by experts, such as Stephen Wooler, a former Crown Prosecution Service (CPS) investigator, who undertook an independent review of the hunting prosecutions procedures of the RSPCA. He concluded in September 2014: *"The RSPCA found itself reacting to a thoroughly unsatisfactory situation where the evidence strongly indicated that it was "business as usual" for many hunts because enforcement of the 2004 legislation had become so difficult. The Society had not previously prosecuted any such cases but there was widespread scepticism as to the commitment of the police and CPS to do so."* (Wooler, 2014)

Therefore, although the ban is working well when properly enforced, and produces more prosecution than other wildlife crime legislation, the problem is the serious lack of proper enforcement, and therefore proper deterrence. Too much illegal hunting takes place and those responsible remain unpunished. This has led most of the anti-hunting organisations, including IFAW, to conclude that it is time to call for an improvement of the Act, to make its enforcement easier.

## 2.5. The NGOs' role in the enforcement of the ban

The creation of the League Against Cruel Sports (LACS) in 1924 was the start of organised hunting opposition by non-governmental organisations.

Before the ban anti-hunting campaigners could be divided into two types. These were those who believe in direct intervention to sabotage a hunt (known as 'hunt saboteurs' or just 'sabs') and those who watch the hunt to monitor for cruelty and report violations of animal welfare laws (known as 'hunt monitors').

Interventionists may lay false trails or use sound and visual distractions to prevent the hunters from being successful. Non-interventionists use video, photography and witness statements to support prosecution of hunters who commit offences, and to show hunting as cruel, ineffective or simply in a bad light.

Interventionists are often (but not always) members of the Hunt Saboteurs Association (HSA), while the non-interventionists are often members of LACS, Protect Our Wild Animals (POWA), the Hunt Monitors Association (HMA) or IFAW. Following the implementation of the Act, it was immediately clear there were few signs from the authorities that they would enforce this ban properly. It fell to the campaigning organisations to address the lack of enforcement.

Overnight, the hunt monitors who had gathered evidence for campaign purposes became Wildlife Crime Investigators, now obtaining evidence of illegal hunting to aid prosecutions. Soon campaigning organisations undertook the first prosecutions privately, with LACS leading this effort.

Simultaneously, the hunting fraternity began exploring ways to exploit the hunting exemptions in the Hunting Act. They developed trail hunting, which had not existed before the ban. Despite the hunting fraternity's constant efforts to prevent evidence of their activities being obtained (by hiding and harassing hunt monitors) several successful prosecutions were achieved, initially privately by NGOs, and eventually publicly by the police and CPS.

Several NGOs developed enforcement teams to monitor hunts and obtain evidence for potential prosecution. LACS, IFAW, the Hunt Monitors Association and the RSPCA are the most well-known. The RSPCA later concentrated their enforcement work more on prosecutions than on investigations. The other NGOs gathered evidence to pass to the RSPCA to develop private prosecutions.

Parallel to this, many members of the Hunt Saboteurs Association (HSA) who, until the ban, had concentrated their activities on disrupting hunts and trying to prevent them being successful in killing their quarry, started to split their activities. The focus became on gathering evidence and 'sabbing' illegal hunts once the ban was in place.

The supporters of hunting oppose the role of animal protection organisations in the enforcement of the ban. They believe this should be a matter for the police alone. They claim that involvement of animal charities in enforcement of animal protection legislation is far beyond their remit (Winter, 2014). However, it has not been uncommon in the UK that the enforcement of animal-related crime has been left to NGOs. This is exemplified by the RSPCA, which has dealt with most prosecutions involving animal abuse or neglect, especially of domestic animals. However, due to the pressure of the pro-hunting lobby, the RSPCA was forced to review its prosecution policies (Wooler, 2014).

Most of the milestones in enforcement of the Act were initiated by NGOs. The first successful prosecution under the Act was entirely run by LACS, as was the first prosecution of a foxhunt, a harrier's hunt and a stag hunt (LACSIFAWRSPCA, 2015). The RSPCA managed to get the first corporate conviction from evidence obtained by members of the HMA (Davies, 2012). IFAW achieved the first successful prosecution in Dorset with a case also prosecuted privately by the RSPCA (Birch, 2013). The first successful prosecution of a cub hunt was secured by evidence from members of the HSA (DerbyHuntsabs, 2012).



Figure 28. Footage captured by NGOs of hounds killing a fox during an illegal hunt

However, despite the involvement of the NGOs to compensate for the lack of real commitment to enforce the hunting ban by the authorities, most illegal hunters managed to get away unpunished. We estimate that there have been more than 100,000 illegal hunting events in Great Britain since the ban was enacted, during which the criminals got away with it.

This was not only caused by the limited resources of the NGOs involved which prevented them monitoring most of the hunt days of most of the hunts, but also because of trail hunting.

This report focuses on finding out what trail hunting is or is perceived to be, and its role in preventing successful prosecutions against illegal hunters in the UK. In this report we will test the hypothesis that trail hunting is in fact an elaborate false alibi to avoid prosecution, rather than the genuine cruelty-free sport the hunters say it is.

### 3. METHODS

This study combines bibliographical research; testimonies of first-hand witnesses and expert witnesses; statistical analysis of data obtained from quantifiable sources; analysis of documents (some of them obtained via the Freedom of Information Act); and court records. It also reviews audio-visual evidence.

#### 3.1. Bibliographical sources

We used the following primary bibliographic sources:

- Websites of registered hunts (210 sites)
- *Horse & Hound* magazine, which is published weekly, over the period from 2003 to 2015 (80 issues)
- *Baily's Hunting Directory*, 2002-2003 (pre ban) and 2006-2007 (ban) issues
- Documents produced for the Burns Inquiry on hunting with dogs published in the year 2000
- Websites and documents produced by the Countryside Alliance and hunt associations
- Website and documents produced by anti-hunt animal protection organisations
- Press articles
- Scientific publications

We took special care in obtaining information produced by the hunting fraternity. As we did not interview pro-hunt people, we reviewed pro-hunting publications for alternative interpretations of facts and events. The analysis of magazines such as *Horse & Hound* was particularly useful, as it often includes reports from hunts about specific hunting days. We analysed publications issued before and after the ban, in order to evaluate any changes in behaviour.

Equally, the study of hunts' websites allowed us to have a direct source for the hunts' descriptions of their activities. We tried to be as systematic as possible in our analysis of all these sources. This included looking at many websites, not just a few, reading a high number of magazines and looking for specific mentions of trail hunting, scents, geographical locations, etc. We also used the *Baily's Hunting Directory* as a source of information about the hunting fraternity – both its printed version (which ended in 2007) and online version.

#### 3.2. Testimony of first-hand witnesses

The testimony of first-hand witnesses comes mainly from these sources:

- hunt monitoring reports handed over to us by their authors
- written statements from witnesses of the hunting activities
- footage or photos of hunting activities handed over to us by those who produced them.

We sought witnesses with a great deal of experience and knowledge about hunting pre and post ban. On occasion we sought their testimony by asking them specific questions on issues of interest for this report, while at other times, we revisited the reports they had already produced. The views expressed by these witnesses do not necessarily reflect the views of the author or IFAW.

### 3.3. Expert opinion

The testimony of experts who gave us their opinion on a variety of subjects is from mainly these sources:

- experts on hunt monitoring
- experts on dog behaviour and training
- experts on criminology.

The use of expert opinion in this report has been based on engaging experts in particular fields and asking them specific questions of interest. We did not commission the production of reports from them, or remunerate them for their opinion. We judged their expertise on their qualifications and experience. The views expressed by these experts do not necessarily reflect the views of the author or IFAW.

### 3.4. Hunt monitoring reports

The quantifiable sources we used from which statistics were produced come mainly from three types of reports:

- hunt monitoring reports from IFAW's Wildlife Crime Investigators produced since 2005
- hunt monitoring reports produced by independent monitors or investigators not connected to IFAW
- records of prosecutions or attempts to prosecute from IFAW, the League Against Cruel Sport and the RSPCA.

IFAW's Wildlife Crime Investigators monitored hunts long before the Hunting Act 2004 was enacted. Since the ban their monitoring operations have become more professional, in order to obtain evidence for potential prosecutions. IFAW mainly operates several surveillance teams who try to observe the hunt's behaviour from a distance without being seen. Although occasionally some of the operations (or part of them) are made overtly, some have been made undercover in close proximity with the investigators posing as hunt supporters.

Long-distance surveillance methods with state of the art, high definition technology undertaken by professional investigations with great experience in rural surveillance (often ex-police or ex-army officers) provide the ideal investigation methods to detect trail hunting. As they cover greater areas than close-monitoring do, this increases the chances of detecting trail layers that may have left ahead of the hunt staff.

This means that if several teams have been deployed on the day from different strategic locations before the start of the meet, and have not detected anyone laying any trail after hours of observation, it would be very unlikely that they missed the trail layers. Consequently we can conclude it is likely nobody laid any trails.

The following is an example of the way IFAW's Wildlife Crime Investigators work to illustrate this point.

On 22<sup>nd</sup> November 2014 a team of five IFAW Wildlife Crime Investigators were deployed to monitor a hunt which intelligence had indicated was having a meet at a specific location in the West Country. It was believed that the hunt could possibly hunt illegally that day. There had been several allegations of illegal hunting made against them in the past (although they have not been prosecuted).

Although the meet was set to start at 11:00 AM, the teams were already in the field at 7:40 AM, having positioned themselves at several observation posts that gave them a wide view of the area around the meet. This would have allowed them not only to observe the hunt, but also to see anyone that might have left earlier to lay any trail. Figure 29 shows the location of the meet, with the area to which the surveillance team had visual access shown in purple.



Figure 29. Map showing an example of the area to which IFAW Wildlife Crime Investigators had visual access, around the meet area of a hunt. The location of the meet is marked with the red sign, and in purple the area to which the surveillance team had visual access. Copyright background map: Imagery ©2015 Getmapping plc, Map data ©2015 Google

The team stayed in the field for a total of 10 hours and produced over 37 hours of high definition footage, and in all this time they did not see anybody laying a trail. As figure 32 shows, from their positions they had good visibility of a great area, but their equipment still allowed them to zoom in on anyone detected to check what they were doing (each pair of photos was taken from the same camera at the same spot).



Figure 30. Images obtained by Wildlife Crime Investigators observing a hunt from static positions. The photos show how wide the visual area can be but also how clearly the activity of individual people in it can be observed. The images on the left were obtained with the same camera from the same location as the images on the right.

The location and time of each and every piece of footage made by the investigators is constantly being recorded with the help of a GPS, so there is no doubt about where and when events took place.



Figure 31. A GPS shot recorded by a Wildlife Crime Investigator showing the exact time and date which is picked up by the device directly from the satellite

The team saw the hunt operating in the areas they were observing, and they saw and heard them behaving as if they were hunting illegally. For instance, one of the investigators managed to record a conversation between members of the hunt (probably the huntsman) and hunt supporters. It suggests a fox had been spotted fleeing and the hunt supporters were telling the huntsman the direction he went (foxes are referred to as 'he' in hunting) so the huntsman could direct the hounds to chase him using voice and horn calls. This recording, which was made without being able to record the images of those speaking, included the following dialogue.

(Sound of horses galloping)

Voice 1: He came up here, didn't he?

Voice 2: He came up across the gate.

Voice 3: A little bit of guidance.

Voice 2: Yes Sir. Over Here Sir. He came across to the fence line, back into the bushing in front of me.

Voice 3: Hie!, hie! Come on.

Voice 4: He went through that?

Voice 2: Yeah.

Voice 3: Hie!, hie! Come on then. Come on! Yeu! Just here?

Voice 2: ??? Came through the fence, turned back in the bushes, haven't seen leave the bushes yet.

Voice 3: Ok. Yeu!, Yeu! ,Yeu! (sound of hounds panting) Yeu!, Yeu!

Voice 2: He may have (...)

Voice 3: Which side of the fence?

Voice 1: This side Sir.

Voice 3: Thank you. Yeu!. Sort of up fence round here?

Voice 2: Yeah, he turned left inside the bushes in front of you.

Voice 3: Between the bran (...) Ok Yeu!, Thanks (sound of the hunting horn and panting dogs). What, five minutes?

Voice 1: Yeah. Not that.

Voice 3: Yea!, Yea! ,Yea! Yeuuuhu! Yeuuuhu! Yea!, (sound of the hunting horn)

As shown in figure 32, another member of the team, at another time during the same day, recorded a rider 'on point' around a copse, waiting for something to come his way. For point of reference, having riders stationary around woods or copses is inconsistent with trail hunting. This is because the 'artificial scent' cannot suddenly appear from the covert. They were finally joined by some hounds. During this time the mounted field was waiting uphill.



Figure 32. Scenes recorded by Wildlife Crime Investigators of suspicious behaviour. From top to bottom, rider 'on point' around a wood with a hound close by; rider with some hounds searching for a scent around the woods; mounted field waiting uphill close to the woods

Despite all this evidence, it was considered that there was insufficient evidence to attempt a prosecution. This is because the investigators were not able to video record the fox fleeing. Since 2009, prosecutors cannot proceed on the basis of an 'unidentified' fox (LACSIFAWRSPCA, 2009). This example is also a good illustration of why, despite the many hours of evidence of suspicious behaviour hunt monitors may have managed to gather, the evidential requirement for prosecutions is so high that just a few cases make it to the police, and even fewer to the courts.

In addition to footage, IFAW's Wildlife Crime Investigators also write hunt monitoring reports based on structured forms including specific questions, which facilitate analysis and quantification. For example, the forms include questions as to whether they witnessed a trail being laid, how many riders they saw, whether they saw terriermen, whether they believed they witnessed illegal hunting, whether the police were called, etc.

While written reports were produced in the majority of hunt monitoring operations, no written report was produced in some operations, such as reconnaissance operations which tend to be made prior to actual operations.

We do not claim that IFAW's investigators are neutral on the hunting debate. However, we do believe that their reports were produced as objectively as possible, without letting personal views on the rights and wrongs of hunting affect the outcome. None of the investigators knew at the time that the reports would be analysed years later for the purpose of this study. Their reporting was intended to reflect as accurately as possible what was going on in the field, without exaggeration or glossing over.

Because of this, and considering the great wealth of experience such investigators have on hunting matters, we believe that the opinions expressed in their reports are likely to reflect the reality. However, we must stress that, unless backed with footage, such opinions remain just that, opinions, which although informed and reliable, are not fact and could nevertheless be mistaken.

Whenever possible, we have tried to calculate meaningful statistics even when samples may have not allowed testing for statistical significance, to give an indication of possible trends.

To preserve the professional integrity of Wildlife Crime Investigators and their methods, and the privacy and security of witnesses, we have avoided disclosing some tactical and logistical information which could put future investigations in jeopardy.

### 3.5. Documents

The documents used in this report fall into the following categories:

- correspondence sent to IFAW from official sources
- agreements between hunting organisations and public bodies
- data of hunting accidents on Ministry of Defence land
- official hunting statistics.

We used a Freedom of Information request for some of the documents. Some of the official data obtained comes from answers to Parliamentary questions.

## 4. RESULTS AND DISCUSSION

To test the hypothesis that trail hunting is a false alibi against allegations of illegal hunting, we need to find out what trail hunting is, study the criminality of hunting with dogs in the UK, and see how both connect theoretically and practically.

### 4.1. What is trail hunting?

Trail Hunting is a modern concept. It was invented in 2004 by the hunting fraternity as a response to the enactment of the Hunting Act 2004.

The term 'hound trailing' had been used before to describe a competition of hounds following artificial scent trails, rather than a type of hunting. In hound trailing, an artificial scent was laid out over a course, hounds were released in groups and the winner was the first hound to complete the course (BBS, a). Betting was an integral aspect of the activity. Drag hunting as a form of quarry-less hunting has existed for a long time, but trail hunting as a separate distinctive activity is modern, created only after the ban was enacted.

Although since 2005 the term trail hunting has been used often by both the hunting fraternity and the press, there are no independent official publications defining it. It is quite possible that different people have different understandings of what it actually is. Before describing what we know about it, it will be helpful to look at how other people have defined it, especially the hunters themselves.

#### 4.1.1. What the hunts say trail hunting is

Just before the Hunting Act 2004 was enacted the term trail hunting was already used by the hunting fraternity to describe what they were planning to do when the ban would be in place. However, at that stage, there seems to be no distinction between drag hunting and trail hunting. These press articles give a few examples:

*Bury Free Press (31/12/2004). Weather puts paid to Boxing Day hunt. More than 500 people braved the frost to see off possibly the last Boxing Day Suffolk Hunt near Wepstead on Monday. Despite strong support and vows to fight the hunting ban, due to start in February, it was the cold weather which put a halt to the hunt – frozen ground forced organisers at Hawstead Place to abandon the event. Master of the Suffolk Hunt James Aldous said: "We are not going to pack up, but we are going to act legally, by trail hunting, until we win the court cases (...)"*

*Times (6/12/2004). Hunt ban is a bit of a drag for Stowe pupils. Pupils at Stowe public school are to switch to drag hunting next season after the hunt ban. Dr Anthony Wallersteiner, the headmaster, wants to save the 52-year-old beagle pack with its strong bloodlines. The school will test various forms of drag or trail hunting to see which scent will be best for the hounds to follow (...) Dr Wallersteiner said: "There seems little point in breaking up the bloodline of a beagle pack that has been in existence for more than 50 years. So we will tough it out until the law is replaced..."*

The first time that the hunting fraternity came up with a description of trail hunting was with the publication of the *Countryside Alliance Hunting Handbook* (CountrysideAlliance, 2005) in October 2005, six months after the first hunting season under the ban had ended. In it, the Countryside Alliance wrote:

*Trail hunting*

*Any form of trail, simulated, or mock hunting should be promoted and seen as a measure to provide activity for hounds and their followers during the 'temporary' ban. The term drag hunting is to remain the property of the Masters of Drag and Bloodhounds Association. Our activities should not be confused with theirs. Hunts should liaise with their local drag hunt and not try to rival it.*

*Trail hunting is the hunting of a scent laid by man in such a way best to simulate traditional hunting activity. Advice on introducing hounds to trail hunting and the preparation of suitable scents and methods of laying the scent is available from the Hunting Office.*

*The less that the followers, or even the huntsman, know of the route of the trail, the more the hunting will mimic its traditional and challenging form.*

*Trail hunting and Public Relations.*

- *Trail hunting has no utilitarian value to farmers, nor does it contribute towards wildlife management or habitat conservation.*
- *It is an interim measure forced upon us by the Hunting Act that is necessary to maintain the infrastructure of hunting.*
- *It ensures that hound packs can survive in the medium term by keeping them exercised and content.*
- *The hounds will continue to hunt the scent of their normal quarry during the temporary ban so that they remain focused on their normal quarry.*

It is clear from this document that the hunting fraternity, via the Countryside Alliance, considers the following to be the case:

- trail hunting and drag hunting are not the same activity
- trail hunting is a 'simulation'
- trail hunting is a 'temporary' activity which is a response to the hunting ban, as opposed to a new 'sport' invented that may survive if the ban is repealed.
- the huntsman may not know where the trail is laid.

Whether the activity may be enjoyable or not to those participating, or whether it actually works in terms of being a sport of skill, seems secondary to the notion of appearing to resemble pre-ban hunting as much as possible. It is important to notice that the emphasis of the activity is to pretend to be doing something else, and that this something else is currently a crime.

We can also see that the notion that the huntsman may not know where the trail is laid already appears in this early description. This clearly sets trail hunting apart from drag hunting, and removes one of the most important safeguards that drag hunts have to avoid 'accidental' chases of live quarry.

Tim Easby, director of the MFHA, described trail hunting as follows in 2012 (MFHA, c):

*AIM The aim of trail hunting is to simulate traditional hunting as practised before the ban. (...)*

*DRAG HUNTING Vs TRAIL HUNTING. Many think drag hunting and trail hunting are the same activity – in reality they are poles apart. The term drag hunting is the property of the Masters of Drag and Bloodhounds Association. Drag hunting is an equestrian activity where the drag is laid over a pre-determined and generally known route taking in lines of often marked fences. Trail hunting is a hound-based activity where the trail is laid along the line a fox might take when moving across the countryside. The scent used by Drag Hunts varies enormously, but for trail hunting it should be a fox based scent.*

Since the publication of the *Countryside Alliance Hunting Handbook*, trail hunting has become very common in England and Wales, but not in Scotland (where exempt hunting under the Scottish ban is more common, especially in the form of *flushing to guns*). It is generally believed that today most hunts in England and Wales practice trail hunting (Brown, 2013).

Based on our review, a third of the current hunt websites in England and Wales mention trail hunting as one of the activities they undertake. More often than not it is just mentioned in passing, but on some occasions there is a more detailed explanation.

For example, the following is a description of trail hunting from the Exmoor Foxhounds website (ExmoorFoxhounds, a):

*“Since the 2004 Hunting Act came into force a huntsman has to be aware of what he is allowed to do with his hounds out in the hunting field. This isn’t as easy as it should be because even the legal profession have had problems interpreting this poorly drafted piece of legislation. So whether an exemption clause is to be used, or the hounds are to pursue a false trail, a huntsman has to be confident before he leaves the meet that he will have enough evidence to use in his favour should it be necessary to defend his actions in a court of law.*

*Preparation is the key to successful hunting, and this added to the skill of the huntsman, and a little luck, should lead to an Opening Meet and a hunting season being enjoyed by all. The hounds should be as fit as possible and weeks of summer exercise will pay dividends. Confidence between hounds and their handler out in the hunting field is of prime importance.*

*The Masters of the packs who have decided to follow a false trail will be trying to make the day seem as natural and as like an old fashioned hunting day as possible, with the hounds and the hunting being the focal point of the day. Where the pack is firstly taken to “draw” or search for a line is very important, and whether or not a trail has been laid at this place will leave the followers and the hounds guessing as to what is going to happen. A blank draw, where no line has been laid, can give hounds and horses chance to settle, and might not be such a bad thing. The focus should be on the hounds and their work. This illustrates one of the main differences in a days trail hunting to a days drag hunting, when the people who have paid money for an instant gallop on their horses on a drag hunt might well complain to the management should hounds have a blank draw!*

*A good way to end a false line is to stuff the trail down an old rabbit or fox hole, and when hounds reach the place they will “mark to ground” in much the same way as if a fox had been run to ground. Foxes might be viewed on a days trail hunting, and may even be seen crossing the line or going in a*

*similar direction to that of the laid trail before hounds arrive. Likewise, deer, sheep, cattle or horses might also cross or follow the route the line has taken and their scent too will mask that of the trail. These are all problems for the pack and their huntsman to overcome."*

The following is a description of what the Kimblewick Hunt says it is doing now (KimblewickHunt, a):

#### Hunting within the law

*The Joint Masters of the Kimblewick Hunt confirm that it is our intention to conduct our activities as follows until the Hunting Act is repealed:*

- *To act at all times within the law and according to the Hunt Constitution.*
- *To conduct legal activities that enable the Hunt to maintain its structure and integrity with regard to our staff, hounds, supporters, subscribers and members.*
- *To maintain good relationships with farmers and landowners in our hunt country, and to respect and abide by their wishes at all times.*

*We are planning to do this in several ways within the law, and with the consent and support of the farmers and landowners over whose land we hunt. The activities that we will be undertaking include:*

- *Hunting a fox-based scent: hunting an artificial line laid across natural country. Our intention will be to make this as realistic as possible so that it continues to be as unpredictable and thrilling as hunting a fox.*
- *Hound exercise: between individual lines and in areas of country where lines will not be suitable, hounds may be exercised on a pre-arranged or unplanned route.*
- *Discretionary fox control within the law, by arrangement with farmers and landowners.*

*Other information and instructions:*

- *If you see a fox, the mounted field, foot and car followers should not holloa or otherwise draw hounds' attention to it, but please raise your hat or otherwise quietly inform the huntsman so he can avoid the fox.*
- *The Hunt Staff will continue to wear their traditional tawny yellow hunt coats so that everyone knows who is in charge of the hounds.*
- *Hounds will be controlled by hunting horn and traditional methods.*
- *Those following hounds across country on horses or on foot must stay strictly with the Field Master on the designated route, unless you have been asked to help with the hounds.*
- *Should hounds begin to hunt a fox, please inform the nearest member of hunt staff or a hunt official, so that they can take the necessary steps to control hounds.*
- *Mounted and foot followers may be required to stand around a covert to stop hounds hunting a fox or other mammals.*

*Every effort will be made to ensure an entertaining day for all concerned. Please help us to fight for the future of hunting by continuing to support your hunt, and by observing the objectives and rules set out here.*

*Please note that all parties are intent on acting within the law as it stands at present whilst working towards getting the Hunting Act repealed.*

The following is a description of trail hunting from the South Shropshire Foxhounds website (Southshropshirehunt, 2015):

*Line – The scent trail. This is artificially laid since the hunting ban to copy the likely line of a fox across country. The aim of trail hunting is to simulate traditional hunting as practices before the ban. A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban. The trail is laid across the country taking a route that might be taken by a fox – i.e. through hedgerows and woods and along ditches in essence simulating the natural movement of a fox across the countryside. It is laid by dragging a scented rag along the ground. This is done from a horse, a quad-bike or on foot; though good results maybe best achieved using a combination of all three. The less that the hunt man or the followers know of the route of the trail, the more the hunting will mimic its realistic and challenging form. The general conduct of the hunt remains as it always has been and should mirror that of a day's fox hunting thus keeping the traditions and practices alive. In essence the only difference is that the huntsman now sets off with the intention of encouraging his hounds to find and hunt the trails rather than the live quarry.*

Trail hunting is not only confined to foxhunts. Hunts that traditionally hunted hares (such as beagle packs) also use it. The following is a description of trail hunting from the Derbyshire Nottinghamshire and Staffordshire Beagles website (DNSBeagles, a)

*Although the traditional quarry of beagles was the hare, we hunt within the law by laying a trail to simulate the running pattern of a hare. This is a skilled job requiring considerable knowledge of the creature and its life style. It is inevitable that live hares will be disturbed during hunting because natural and laid trails are often in the same area. It is very important for the hare's sake not to interfere or call out if you see this happen, the hunt staff will deal with the situation and if they require help they will ask. The etiquette of hare hunting remains, whatever the time of day we start in the 'morning' and finish with 'good night'. The hunted hare (trail) is referred to as 'she' as opposed to a fox who is 'he'. The Hunt Staff and Hounds take precedence in the field and must always be given way to and if required helped with access through gates etc. If hounds are finding scent difficult you may see hunt staff or officials standing with their caps held high in the air to signify to the Huntsman the approximate whereabouts of the trail.*



Figure 33. Beagle pack led by their huntsman during a hare hunt

All these descriptions are consistent with the Countryside Alliance definition of trail hunting as an attempt to imitate or mock what now is illegal hunting. Indeed, this 'emulation', 'mocking' or 'simulation' interpretation is very often seen on the hunts' websites. Here are a few more examples:

Bewcastle Foxhounds	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	Since the inception of the Hunting with Dogs Act, which became law in February 2005, The Haydon of course continues to hunt only within the legal constrictions imposed; following artificial trails skilfully laid by volunteer members and attempting, so far as is possible, to emulate the real thing.
Grafton Foxhounds	<a href="http://www.graftonhunt.co.uk/">http://www.graftonhunt.co.uk/</a>	While the Hunting Act (2004) remains in effect, the Grafton hounds hunt trails. These are laid, usually on horseback, so as to emulate as closely as possible coverts likely to be visited and lines likely to be taken by real foxes.
Haydon Hunt	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	The Haydon of course continues to hunt only within the legal constrictions imposed; following artificial trails skilfully laid by volunteer members and attempting, so far as is possible, to emulate the real thing. Simulated Hunting. We intend to hunt an artificial trail across natural country and exercise hounds between trails in order to simulate traditional hunting, while staying within the confines of the 2004 Hunting with Dogs Act. Lay trails across natural country, often starting from thick coverts, to allow the hounds to hunt with their noses. Trails will be laid by either a Quad bike rider, Mounted follower or someone on foot.
Puckeridge Foxhounds	<a href="http://www.puckeridgehunt.co.uk/">http://www.puckeridgehunt.co.uk/</a>	To this end we shall be undertaking legal activities, inclusively but not exclusively, hound exercise and trail hunting. More than one trail may be laid at any one time to simulate the activities of normal hunting, and to provide a challenge to hounds and huntsman.
Tynedale Foxhounds	<a href="http://www.tynedalehunt.org/">http://www.tynedalehunt.org/</a>	The law does not forbid us to go out into the countryside with hounds as before, or to hunt a trail, or to train young hounds to hunt, or to offer farmers a legal fox control service. We hope to teach the hounds; especially those young hounds that have never hunted before; to hunt an artificial trail and to discipline them to be exercised across open country. In this way we hope to prepare the hounds for 'simulated hunting', which will start at the Opening Meet. Simulated Hunting-Hunting an artificial trail laid across natural open country or in woodland and undergrowth.

Holcombe Harriers	<a href="http://www.holcombehunt.com/">http://www.holcombehunt.com/</a>	Trail (Simulated) Hunting. Hunting an artificial trail laid across natural country. We will hunt an artificial trail across natural country and exercise hounds between trails in order to simulate traditional hunting, while staying within the confines of the law. We hope to do the following: Meet at a pre-set time at a traditional Hunt venue. Dress Hunt staff in traditional uniform so that everyone is still aware who is in charge of the hounds. Control the hounds by hunting horn, voice and traditional methods. Lay trails across country, often using coverts, to get hounds to hunt by their noses. Trails will be laid by a pre-appointed Trail-Layer/s. Foot followers may be appointed to go forward and help with roads, control hounds and to report quietly to hunt staff any sightings of ground game so that they can be avoided. Hounds will be exercised across country where this is deemed safer, or when in danger of crossing any natural scent lines.
North Norfolk Harriers	<a href="http://www.orthnorfolkharriers.co.uk/">http://www.orthnorfolkharriers.co.uk/</a>	The Line - The scent left by the quarry. Hunting a unique scent: hunting an artificial line laid across natural country. Our intention will be to make this as realistic as possible so that it continues to be as unpredictable and thrilling as hunting a hare.
Banwen Miners Hunt	<a href="http://www.banwenminershunt.co.uk/">http://www.banwenminershunt.co.uk/</a>	The type of legal activities we have adopted includes exercising hounds, carrying out forms of trail, simulated and mock hunting, cross-country rides etc.

This interpretation of trail hunting is also shared by the Masters of Draghounds and Bloodhounds Association (MDBA, c):

*"How does the Sport differ from what Foxhound Packs are now doing?*

*As long as the hunting ban remains in force, foxhound packs are continuing to provide a useful service to farmers by hunting foxes within the law. E.g. by flushing foxes to strategically placed marksmen. Foxhound packs are also, in the main, simulating foxhunting as closely as they can by organising trail hunting. So whereas most draghunt lines start in open country at a known spot and follow a pre-determined route. Trail hunting involves simulating the search in cover for a scent to follow. The scent is generally a natural one so the hounds are kept ready to resume foxhunting when the ban is finally repealed."*

#### 4.1.2. What others believe trail hunting is

The main motivation for this study was to assess whether the enforcement of the hunting ban can be improved by identifying the causes of the enforcement problems and whether they can be changed. In testing whether trail hunting is one such cause, we have observed that different people have different opinions about what it is. Whereas above we have explained what the hunting fraternity says trail hunting is, we explore other interpretations below, and whether they have changed over time.

#### 4.1.2.1. Media and anti-hunting organisations

The first press mention of trail hunting as something that was already happening was a BBC article entitled "Hunting: What next for all sides?" published on 19<sup>th</sup> February 2005, precisely the day after the Hunting Act 2004 was enacted. The term was used synonymously with drag hunting (BBC, 2005):

##### *"LEGAL HUNTING*

*It is unlikely the scale of civil disobedience anticipated late last year will happen. Hundreds of thousands of hunt enthusiasts are expected to turn out in force on 19 February - the first Saturday after the ban comes into force. But the Countryside Alliance says most are meeting with the stated intention of hunting within the law. A spokesman said while some hunts may intend to break the law, the group's current advice was that there were so many "holes" in the legislation that they should simply "go out there and ridicule it".*

*Atherstone Hunt, based in Leicestershire, Warwickshire and Staffordshire, for example, said it plans to stick to activities such as "pleasure rides" and carrying out "pest control" for local farmers on its weekly Tuesday and Saturday hunts.*

*Drag hunting - chasing artificial scent laid by a runner or rider earlier in the day - is another option. There are currently 33 hunts registered with the Master of Bloodhounds and Draghounds Association.*

*But many pro-hunt supporters claim few landowners would allow hunts across their land without the "benefit" of killing foxes, while the hounds used have to be trained to hunt with just their noses and not their eyes.*

##### *WAYS TO HUNT LEGALLY*

*Hunting rabbits or rats instead of foxes or hares*

*Using no more than two dogs to flush out a fox to be shot*

*Drag or trail hunting (using an artificial scent to hunt with hounds)*

*Using hounds to flush out a mammal to be hunted by a bird of prey*

*Exercising packs of hounds without using them to hunt*

*Using terriers to flush and shoot foxes, to protect gamebirds*

##### *(...) "ACCIDENTAL" BREACHES*

*The Countryside Alliance says it will be easy for hunts to "accidentally" break the law -for example if the dogs pick up the scent of a real fox while out trail hunting.*

*When it is impossible for a huntsman to reach his dogs in time and they kill the animal, the Department for Environment, Food and Rural Affairs has said there will be no prosecution as there was not "the intent" of allowing hounds to chase and kill a fox.*

*Hunts are likely to run little risk of being punished as proving what was a genuine accident and what a deliberate breach might be very difficult for police and the courts."*

The last mention of the term trail hunting in this article suggests that the source of the term may have been the Countryside Alliance.

Soon after the publication of the BBC article, the press and the general public picked up on the term trail hunting, but again it was used as an interchangeable term with drag hunting. For instance:

*Melton Times (10/2/2005). Foxhunting Parade Through Town Planned - Hunts around Melton are planning a large-scale parade the day after foxhunting becomes illegal in the UK. About 350 riders, 80 hounds and a few hundred supporters on foot will march in the town centre on Saturday, February 19. Michael Clayton, chairman of the East Midlands branch of the Countryside Alliance, said the Quorn, Cottesmore and Belvoir hunts will take part (...) After the parade, the Belvoir, Quorn and Cottesmore will disperse to the countryside to hunt within the law through drag and trail hunting (...)*

*Driffield Post (2/3/2005) I look forward to Boxing Day meet and trail hunt - Peter Cartwright, of The Mount, Driffield, writes (...) I was very interested to read your article about the demise of hunting with dogs in last week's Driffield Times. So the Holderness Hunt will survive, according to Chris Richardson, joint master of the hunt. I am really glad to hear that they will now consider trail hunting instead of hunting a live fox because of the ban which has come into force. I have always believed that hunts should change to trail hunting and while I was on Driffield Town Council, it wrote every year to the Middleton Hunt who met in Driffield on Boxing Day and asked them to conduct a trail hunt rather than hunting a live fox. They always refused.*

In the second hunting season, after the publication of the Countryside Alliance Hunting Handbook in October 2005 in which trail hunting was defined, the press started describing trail hunts as 'simulated' hunting:

*Morpeth Herald (11/11/2005). First 'trail hunt' a success - The first official 'trail hunt' by the Morpeth Hunt has been hailed a success by riders. The method of dragging a false scent for hounds to pursue has replaced the traditional fox chase, following February's ban. Michael Jeans, Joint Master of the Morpeth Hounds, said after the hunt: "The trail hunting went okay, although I would call it a little unexciting compared to the traditional method (...)"*

*Leicester Mercury (7/11/2005). Hunting high and low as new season gets under way - Hundreds of people turned out as the county's hunts rode out for the official start of the hunting season. Most used birds of prey to kill the fox - a practice revealed by the Leicester Mercury last month. Fernie Hunt joint master, Joe Cowen, said: "We are using a red-tailed hawk to flush out foxes, and doing trail hunting to mimic a fox's scent (...) The Fernie, Quorn, Belvoir and Atherstone hunts have turned to using birds of prey to help the tradition survive, while the Cottesmore has begun trail hunting...."*

But soon the reports from hunt monitors suggested that hunts were breaking the law. And as more details were discovered about trail hunting (including the fact that hunts were using fox urine as scent) the idea that trail hunting was not a safe and law abiding concept started to emerge. This can be seen by these letters

sent to the press. The following letters are reprinted to show changing views of trail hunting, and not to suggest that the alleged events occurred or that referenced hunts or individuals broke the law:

Western Gazette (24/11/05). Hunting folk are pathetic people - Joint Master (...) of the (...) hunt, accuses me of "hatred" towards her and her members (letters 17 November). I do not hate them. However, I have nothing but contempt for them: the fox hunters, deer hunters and hare hunters who are deliberately flouting and mocking the law (...) I repeat: If trails of fox urine scents are laid across land where hunts have traditionally hunted foxes and where foxes are likely to be, there can be no accidental killing of foxes (...)

Bath Chronicle (5/12/05). *Least Hunt can do is keep away from private gardens – How long will it take for hunting devotees to realise that the Hunting Act means what it says? The (...) Hunt Master, whose hounds recently invaded a garden chasing a fox, claims that they were trail hunting and called off the hounds as soon as they realised they were chasing a fox. Where was the trail laid? This occurred near the A630 and why were the hounds not called back when they moved away from it or a fox scent? (...) The (...) Hunt faces prosecution for alleged illegal fox hunting, and the (...) Hunt recently took on audacious risk with a token kind of prey and a whole pack of hounds weed to "flush out" a fox - clearly not "falconry" therefore not exempt from the ban (...)*

Exeter Express & Echo (16/12/2005). *Disturbed by the death of a goat. – We were deeply disturbed to read about the havoc caused by the (...) Hunt when it allowed its hounds to stray on to private land and attack a pet goat, which later had to be put down. At the same time, one of the hounds plunged 100ft to its death. As an organisation concerned with monitoring the Hunting Act, we would like to ask what the hunt was doing near a cliff top. Surely, if they were trail hunting within the law, this havoc would not have occurred (...)*

During the second hunting season after the enactment of the ban, when evidence of wild mammals being chased by the hounds emerged, the combination of 'trail hunting' + 'accident' started to become 'standard'. It has continued to the present day. The following press reports are reprinted to show the offering of explanations that live prey were encountered by accident, and not to suggest that the alleged events occurred or that referenced hunts or individuals broke the law:

Somerset County Gazette (2/11/06). *Hunt horror on Hallowe'en (...) Shocked parents watched in horror as hunt dogs, one dripping with blood, rampaged through Hester-combe Gardens near Taunton during a children's Hallowe'en event on Tuesday. The dogs stormed through the gardens shortly after a terrified fox dashed through, just as children - all in fancy dress - were taking part in a Hallowe'en trail (...) garden so what were the dogs doing on it, especially with so many children around?" The hunt involved was the (...). Hunt Master (...) said: "We were hunting in the area and unfortunately the hounds were trail hunting and picked up the scent of the fox and took off after it. We tried to call them back but we were held up by an electric fence on a farm (...)" A spokesman for Hestercombe Gardens said: "We were aware there was some hounds in the gardens on Tuesday and have spoken to the master of the hunt. They have explained what happened and have apologised, which we have accepted (...)"*

BBC News (16/02/2007). *Fox killed by hounds during hunt. Police are investigating after a hunt admitted its hounds had killed a fox. The fox was caught by hounds from the (...) Hunt (...) who had been following a trail laid by a rider. (...) joint master of the hunt, said the fox's death was an "accident" and explained hounds had been distracted by the scent of the fox (...)*

The Courier (06/12/2013). *(...) hunt admits foxes may be chased in error. (...) said: "We have written to the Hunt to say we don't want them coming on to our land. They don't control what the hounds do so they end up running all over the place. We have let them know many times that they are not welcome." Mr (...), whose wife called the police to report the trespass, said that he has not found any fox remains, but he is still concerned that the dogs were chasing foxes. He said: "They are meant to be trail-hunting, but if they were doing that, they would be able to control their hounds." (...), chairman of the (...) Hunt, said: "I am extremely sorry that any hunters got on to this private land and I extend my apologies on behalf of the Hunt." He said he was not aware of any damage done, but added: "If there was, we would expect to put that right. "Our records show that our hunters went on to this private land in 2001, but this was the only time since then that this has happened." Mr (...) explained that the hunters - typically around 80 people on horses - follow fox scent-soaked rags, meaning that sometimes the hounds may chase actual foxes by accident. He said: "If this happens, then it is our job to make sure that they stop hunting that fox as fast as possible. That is what happened on Thursday. Every effort was made to get the hounds off the fox and this was successful."*

Chronicle Live (14/10/2014). *Northumberland huntsmen found guilty of hunting a live fox. (...) Joint Master Timothy Wyndham Basil Smalley, Huntsman Ian McKie and Kennel Huntsman Andrew Proe, of College Valley and North Northumberland Hunt, were all convicted of hunting a wild mammal with dogs following a trial at Berwick Magistrates' Court. (...) Mr Begley, sentencing, said: "I accept that a trail was laid at the start of the day but as events unfolded the offence occurred and as very experienced members of the hunt you should have known better. "The impact of these convictions on your good character and on the College Valley and North Northumberland Hunt is not lost on me, but all actions have consequences however dramatic." During his summing up, prosecutor Jonathan Moore said: "Going after the real thing accidentally is not an offence but going after the real thing intentionally is." He added: "They had every opportunity to gather the hounds together and stop them following a fox but they did not. "The idea of trail hunting is either shambolic or a sham. You lay fox urine to make the hounds able to fox hunt and if you come across a fox on your way you can then hunt it." However, Steven Welford, mitigating, argued that there was no evidence any of his clients intended to hunt a fox. He said: "Accidents happen and wildlife is disturbed - that is what happened."*

However, the international press and the general public still kept confusing trail hunting with drag hunting, and the well-established legal cruelty-free nature of the latter had an effect on the perception of the former:

New York Times (13/01/2007). *The Changing Times Take the Fox Out of the Fox Hunt - WIELD, England — On a quickly souring Hampshire morning in late December, (...) meandered in on a tall, brown horse, shepherding 40 barking hounds (...) The British Parliament's controversial Hunting Act in 2005 made the use of dogs to kill prey illegal. So to keep fox hunting alive (...) have resorted to drag hunting, or trail hunting, in which a scent is laid artificially (...)*

Anti-hunt campaigners' concerns about trail hunting continued to be raised with letters to the press, but with little effect in persuading the media to dig a bit deeper to try to find out what trail hunting really is.

Henley Standard (2/2/2007). *Putting people off the scent? - It is nice to read in the Standard that a variety of equestrian activities can be enjoyed in our area (...) What puzzles me is that, while trail hunting is claimed to be the current activity occupying hunters and their followers, not only is the scent apparently derived from fox secretions, but it is laid along or across busy roads, close to human habitation and through woodland that provides nought in the way of observation for followers or the body or riders left waiting away from the activity — just as in the bad old days of actual fox hunting (...)*

Evesham Journal (22/3/2007) *Hunt watch – After the invasion of Batsford Falconry by (...), panicking rare birds off their nests, can we accept trail hunting as a genuine attempt to hunt within the law? (...)*

This was not helped by the initial position of the main anti-hunting animal protection organisations such as the RSPCA, LACS and IFAW. In the first years of the ban they tended to avoid any public criticism of trail hunting or to highlight any weaknesses of the Hunting Act 2004. Their main focus was on trying to develop successful prosecutions in quite hostile conditions, and they did not want to fuel the opposition arguments that the ban was unworkable. They also occasionally still used drag and trail hunting as interchangeable terms. For instance, the following is a 2009 RSPCA brief which would be similar to those produced by the other two organisations at the time:

*It would seem that the Act has not had the dire economic and social consequences that some opponents had predicted – hunt supporters themselves are adamant that various forms of drag and trail hunting have apparently flourished. It is worth remembering that the Act did not stop foxes or other animals being killed: it banned the use of dogs in chasing and killing wild mammals. Thus fears about an 'explosion' in the number of foxes also so far seem to have been misplaced.*

*The RSPCA believes that the Hunting Act should be kept in place so that the cruelty of hunting wild mammals with dogs can continue to be addressed. The quality of legislation should not simply be judged by inaccurate perceptions about the number of prosecutions under it: laws are also there to express our collective values and to deter people from behaviour which society deems unacceptable. By this standard the Hunting Act has been successful, allowing people to continue to pursue traditional leisure activities whilst removing the element of animal cruelty previously associated with them.*

However, later on the position of LACS and IFAW change, due to the evidence that had accumulated that trail hunting was often being used as a cover for illegal hunting. This is what other organisations such as POWA had already been claiming from the very beginning:

*"The League believes there is no such sport as trail hunting and it is simply a cover for illegal hunting. When a wild mammal is chased and/or killed during a trail hunt, it is passed off as an accident. This defence is usually successful because the Act requires hunting to be an intentional activity. If a defendant is able to raise the possibility that they did not intend to chase or kill a wild mammal they are not guilty under the Act. Proving intent is very difficult." (LACS, 2015)*

*"Trail hunting was developed by hunters as a response to the ban on hunting with dogs and it is claimed that its aim is to replicate many of the aspects of live quarry hunting. Trail hunting differs from drag hunting in that it uses a fox-based scent rather than an artificial one. Also whilst a single trail is laid and then 'hunted' in drag hunting before another line is laid, trail hunting claims that it includes multiple trails being laid continuously at some hunts. Whereas the path of a drag hunt is pre-determined, trails in trail hunting are laid so that the huntsman does not know their whereabouts. The use of the scent of a dead fox or fox-based urine and the laying of multiple trails increases both the risk of 'accidents' during which dogs pursue and kill live quarry, and incidents of hunt havoc that would rarely occur during drag hunting. For all these reasons IFAW believes that "trail hunting" was in fact designed so hunters could provide false alibis to avoid prosecution of illegal hunting." (IFAW, 2015b)*

Quite early on, the hunting fraternity, faced with the scepticism of the anti-hunting movement, opted for secrecy and lack of transparency to try to control the speculation about trail hunting:

*Exeter Express & Echo (15/9/2007). Little Information about trail hunting – The dearth of information relating to so-called "trail" hunting, Points of view, August 31, does not stop with the access that hunts are prepared to allow to outsiders. As an anti-hunt campaigner, I receive from certain well-wishers copies of the magazines that hunts circulate to their members. After such a cataclysmic event as a ban on fox hunting, you would expect the hunt magazines to be full of interesting information about the retraining of the hounds to follow a trail instead of a running fox (...) Well, I can tell you that absolutely nothing, and I mean nothing, of the sort has been reported in the magazines I have seen. Instead I see "nudge, nudge, wink, wink" references to the "trails" involved in the hunts being described in the hunt reports (...)*

*Exeter Express & Echo (29/8/2007). Why can't hunts announce routes? Mr (...), Hunt critics need to get facts right, Points of view, August 25, asks those opposed to hunting to do some research about the subject. I would be pleased, therefore, if he could kindly confirm that it is a fact that hunts who undertake Trail Hunting do not publish their proposed route. The (...) starts at Exeter on (...). Details of the route, together with maps, may be seen on their website. This annual event attracts many hundred runners and supporters. What would the spectators have to say if the organisers refused to publish details of the route? (...)*

*Exeter Express & Echo (31/8/2007). What's the story on trail hunting? (...) Points of view, August 28. Unfortunately, there are many unanswered questions. Why are the hunters so coy about the intricacies of their new activity? (...) Some months ago I addressed many of these questions to one of*

*the joint masters of a local hunt. He said he didn't have to tell me any of these things. Of course, he is right. But why wouldn't he want to? (...)*

The assumption that trail hunting was more or less like drag hunting, just a bit different in form, eventually became the mainstream interpretation in the media, which continues until the present day. For example:

*Nagmag (01/11/2007). (...) Fox hunting was banned in England and Wales in 2004 and now the hunt exists by trail or drag hunting. All supporters of foxhunting believe that the ban is temporary and will be lifted in the near future. We will continue to fight for the ban to be repealed, until then, we must obey the law and participate in only legal forms of hunting.*

*The Mirror (06/01/15). Police spark outrage after suggesting fox died during New Year's Eve hunt after 'running into path of hounds'. Surrey Police has sparked outrage after suggesting a fox that died during a New Year's Eve hunt "ran into the path of dogs". The fox was found dead after a legal drag hunt in (...)*

*Horse & Hound (09/04/2015). The recreational value for hunting. There is the challenge of exercising cross-country skills - on horse back or on foot - while trying to match the wiles of the prey. Under the confines of the Hunting Act that prey is now in the form of a scent laid by a trail-layer who aims to replicate the natural movement of the wild mammal (...) This is the true adventure hunting provides, with its unpredictability and excitement - apprehension even. The experience of trying to keep with hounds following the scent of a live animal has a unique quality; when the day begins, no human being knows exactly where they will be taken. Not many human trail-layers or course-planners can quite reproduce the vagaries and fascination of the way scent lies: the behaviour of a wild animal who gives no quarter to human frailties. This vital element is absent from every other apparently similar challenge, such as drag-hunting, trail hunting, race riding, or team chasing. Under the current restrictions under the Hunting Act, we do not experience quite the same unpredictability and excitement that we did before the ban (...) Few people ever analyse exactly why they do things, especially something so complex as hunting. So, if challenged, quite often the response tends to be off the cuff, with comments perhaps incomplete, unconvincing or even damning in some people's eyes. For instance when asked why they don't want to go drag or trail-hunting instead, the most many will come up with is "It's not the same. It's not like the real thing," which of course is wide open to misunderstanding and suspicion of base motives. (...) Having seen how complex and varied the motivations are for going hunting (...) it is not surprising that we hear many inadequate responses. It is difficult when put on the spot to find the clear reason for this, but it could be said that drag and trail-hunting are not "a true adventure" because of their predictability, it lacks sense of contributing to the welfare and management of wildlife, the "good cause" (...)*

Trail hunting seemed to have established itself as the norm. Nobody in the mainstream media seemed to pick up anything wrong in developing a 'simulation' of a crime as a legitimate activity, even though it happened to make the enforcement of the hunting ban more difficult. Somehow, an element of sympathy with the hunters who had to live with the supposed constant threat of prosecution seemed to have developed. For example:

The Telegraph (31/10/2008). *Hunting booms three years after ban. The art of the trail hunt is to replicate as much as possible an actual fox hunt. "Hound work is essential for the trail hunt" (...)* "Before they pick up a trail, the huntsman spreads them out looking for the scent, keeping an eye on them at all times. He can tell when one of the hounds is getting close by the movement of his back. When this goes up and he speaks [hunt talk for bark], he has the scent of a trail and off they all go." A lot of preparation goes into ensuring the success of the hunt. [A] huntsman (...) still goes out in the morning to lay extra trails in case they should run into a fox, or the hounds can't find a trail. "I have the option to stop the hounds and take them a different route if a fox joins in with us," he says. "They are my insurance policy. I sometimes use the trails I have laid myself as part of the day's sport." But the real trail men act like human foxes. Four trail setters run across fields, through ditches, and over hedgerows in an effort to mirror the movements of a hunted animal. Working in twos, trail setters carry a scent to be picked up by the pack hounds. Unlike a drag hunt, where the scent is laid in a straight line, trailers will be trying to mirror the zigzag path of a hunted fox and will often lay many trails before they go out. The aim is to fool the dogs into believing this is just another normal hunt. Riding with a pack of hounds, moving quickly over the countryside and mimicking the chase, still keeps riders exhilarated. Yet, according to [another] hunt, the trail has benefits over the fox hunt. "We now don't have to hang around like we used to when the fox went to ground. We are following a trail that isn't going to try to hide so we can keep riding all day, sometimes much faster than we did before."

The Telegraph (28/12/2008). *Foxhunting: Hounded out but riding high. Some new hunters say they enjoy trail-hunting and admit they don't feel any need to bring back the pursuit and killing of a real fox. But [one hunter] speaks for many traditionalists who want the Hunting Act repealed because they say it is unworkable and unenforceable. "It was introduced by bigots who were fighting a class war and who wrongly thought that hunting was for toffs," he said. "I am a law-abiding, taxpaying citizen, like the vast majority of people who hunt. We act within the law but we find ourselves having to look over our shoulders for people with video cameras who are trying to criminalise us."*

Mail Online (25/12/2013). *The Countryside Alliance said hunts had attracted increasing numbers of children since the sport's profile was raised by the 2004 Hunting Act that banned hunting foxes with a pack of hounds. (...) [One] hunt's chairman, said: "There are more people taking part now than before the ban. We have seen a marked increase in children coming along with their parents or minders. Most of the gatherings practise trail-hunting, where huntsmen follow a trail across the countryside laid with a rag steeped in fox scent. Environment Secretary Owen Paterson has dismayed the hunting community by indicating there is no imminent prospect of the Tories delivering on their manifesto pledge to hold a vote on repealing the hunting ban."*

It was not until 2014 that the issue was revisited and IFAW and others started using the term 'false alibi' to describe trail hunting:

Huffington Post (29/12/14). *Media Take Note – Boxing Day Hunts: Tradition Is No Excuse for Cruelty - It's that time of year again, bellies full, another re-run of Only Fools and Horses on the telly and the annual media scramble around picturesque chocolate box villages up and down the country to report on the 'traditional' Boxing Day hunts, to marvel in the spectre of the noble red coats on their trusty steeds, at the well-groomed packs of hounds and crowds of good country folk celebrating an age old British tradition. Traditions involving cruelty are outdated. Yes, pro-hunters, it is actually cruel to chase a fox with hounds. It's time for the government, the 'blue' media, and country and city folk alike to wake up and make a change for good. Trail hunting provides a false alibi, the Hunting Act works and it is successful, but enforcement is the key (...) Philip Mansbridge, UK Director of the International Fund for Animal Welfare.*

**TRAIL OF LIES**

**FOX HUNTING – THE TRUTH**

- **Illegal hunting is a reality in the UK that we cannot ignore**
- **The Hunting Act 2004 banned hunting mammals with dogs, but this ban has not been properly enforced**
- **Trail Hunting was invented after the Hunting Act – it is a very different thing to Drag Hunting**
- **Trail hunting provides a false alibi some hunters use to avoid being successfully prosecuted**

IFAW works in Parliament, with the media and in the field to fight for better enforcement of the Hunting Act



Figure 34. IFAW's hunting leaflet produced in 2015

#### 4.1.2.2. National Trust

Although many landowners allow their land to be used for trail hunting, three major landowners only allow it under specific licences. The National Trust (a charity that works to preserve and protect historic places and spaces) is the only one of these that is not Government related.

This is the current official position of the National Trust on hunting, as expressed on its website (NationalTrust, a):

##### Hunting and Field Sports

*We recognise that hunting is an issue that polarises people's opinions and provokes strong reactions from them. Our core concern is looking after special places so that they can be enjoyed by everyone for ever. We appreciate the importance of rural traditions as part of the spirit of many of the places we look after. We allow field sports to take place on our property where traditionally practised, provided they are within the law and compatible with the Trust's purposes, which include public access and the protection of rare animals and birds and fragile habitats.*

*Following the Hunting Act of 2004 we grant licences for trail hunting, i.e. the following of an artificially laid scent, where this is compatible with local circumstances. We expect those to whom we grant trail hunting licences on our land to comply fully with the law and the terms of our licence. Anyone who suspects them of breaking the law should contact the local police force as the proper investigating authority. We will take, and have taken, strong action against license holders where the police and the legal process have found them guilty of breaking the law, or where our licence terms are broken.*

The National Trust has been involved in the hunting debate for quite some time: for example, in 1997, they had already banned stag hunting on their land (BBC, 1999).

After the Heythrop hunt was found guilty of illegal hunting the National Trust terminated their agreement with them and banned them from their land for a "breach of trust" (Gray, 2013).

#### 4.1.2.3. The Government

The Government reaction from the first day of the ban (when some of the legal challenges to it had not been resolved yet) can be seen in the following BBC article published the day after the ban was enacted (BBC, 2005):

##### *THE GOVERNMENT*

*Rural Affairs Minister Alun Michael has said that while hunt supporters have the right to demonstrate legally and to take court action they do not have the right to flout a law passed by MPs.*

*"The government has remained confident of its position throughout this challenge. We are also confident in respect of a quite separate action brought by the Alliance under human rights legislation," he said.*

*"It is important to realise that even if the Human Rights Act challenge were to succeed, this would not affect the continuing validity of the Hunting Act.*

*The hunting community have always said they are law-abiding members of the community and I expect them to keep to their word.*

*For now on, if people set out to hunt a wild mammal with dogs, whether it be a fox, a mink, a hare or a deer, they will be breaking the law. It will then be up to the police to investigate and to gather evidence for a prosecution.*

*In terms of policing the ban, it will be for chief constables to determine how this is done."*

The expectation thus was that all hunting would be, from then on, 'legal', taking the form of trail or drag hunting. This attitude may have had the effect of creating a 'denial' approach to the criminality of trail hunting which may have cemented it as a workable false alibi.

In June 2006, Barry Gardiner, the Defra Minister, wrote to IFAW explicitly recognising that trail hunting could be used as a false alibi (i.e., as a subterfuge for engaging in illegal activities): *"There have been concerns raised over the legality of some activities undertaken by hunts, but the Government has constantly emphasised that hunting is an intentional activity and there can be no such thing as unintentional hunting. Many hunts have adopted some form of trail hunting in place of quarry hunting. This is perfectly legal, provided no animal welfare or other laws were broken in the process of obtaining the scent. However, as Lord Bach said during the debate, while the Government welcomes this move to trail hunting, there is an onus on hunts to stay within the law and try not to use the practice as a subterfuge for engaging in illegal activities. Failure to prevent the dogs from chasing or killing a fox, and particularly a repeated failure to do so, could well be interpreted by the Courts as intent to break the law."*

There has not been any public statement from the current and last Government on trail hunting.

#### 4.1.2.4. The Police and CPS

From the very beginning of the ban signs that the police were not happy to have to enforce it had already emerged. For example, the following article describes what was reported to have been said by top police chiefs in 2005 just before the ban started (Townsend, 2005):

*Britain's most senior police officers have raised grave concerns that the imminent hunting ban is unenforceable, will erode morale, and could precipitate large-scale civil unrest, internal documents obtained by The Observer reveal. Records of meetings and in-house emails show the level of concern and confusion among senior officers on the eve of the ban, which this week prohibits fox hunting in England and Wales after almost 700 years. They show that any attempt to apprehend those who decide to continue hunting next weekend has already been dismissed as impractical.*

*An internal document circulated to senior members of the Association of Chief Police Officers (ACPO) also reveals that forces will give the ban a 'low priority', raising concerns that thousands of people who defy the ban will go unpunished.*

In the same article the recognition that some police officers may be too close to the hunts themselves was expressed:

*Other concerns outlined in material from Devon and Cornwall, and Avon and Somerset, constabularies - two forces with a high number of hunts in their areas - include worries that police forces are fundamentally weakened by officers who sympathise with fox hunting, or are hunters themselves. The documents from the two forces warn that the ban could undermine their 'policing style' and that should police try to enforce the ban, there could be widespread civil unrest and damaging violence. Potentially violent hunts are to be categorised in the same way as football matches, with provision for riot police.*

The article also recognised that trail hunting could become an obstacle for the proper enforcement of the ban:

*The documents also question how the Crown Prosecution Service will be able to prove intent 'if hunts switched to drag hunting and hounds take off after a fox'. The latest advice from ACPO advises that the offence is not a recordable offence, meaning that those convicted do not have a criminal record.*

In those early days the police, understandably, did not know the difference between trail hunting and drag hunting, but the confusion has persisted even until today.

The way different forces, or even different police officers, have approached the hunting ban has varied, and some forces have had a more proactive attitude towards solving the enforcement problems created by trail hunting and the Hunting Act loopholes. For instance, in 2014 Cumbria Police ran Operation Kilowatt to address the issue of crime during hunting, and to respond to allegations that police forces were not doing enough to enforce the ban (NewsandStar, 2014). Also, most forces have no problem in using the Hunting Act 2004 to prosecute poachers that hunt hares with dogs on somebody else's land (ITV, 2013).

Generally speaking, though, the reports from hunt monitors on the ground who have given intelligence and evidence to the police repeatedly are that they tend to believe that trail hunting is what the hunts say it is.

Sometimes the view of the police is that the Hunting Act 2004 is too difficult to enforce. Patrick Devereux, Safer Neighbourhoods Inspector, North Warwickshire Police, stated in a letter to POWA: *"The laws concerning fox hunting contain so many loop holes it is extremely hard to enforce and achieving a successful prosecution has proven to be very difficult indeed. It is true that some hunts are willing to exploit these loop holes to hunt unlawfully."* (CSHA, a)

It is very interesting to note that the Crown Prosecution Service (CPS) guidance on the Hunting Act 2004 does not mention even once the terms trail hunting or drag hunting (CPS, a). The CPS has at times seemed reluctant to take Hunting Act cases involving registered hunts, as exemplified by this press report detailing IFAW's allegation of illegal hunting and the CPS response. No charges were brought in this case (Bowcott, 2012):

*The hunt was on 8 October last year, near the village of Wraxall in west Dorset. IFAW monitors, at a distance, captured what they claim was evidence of hounds chasing a fox and no one calling dogs off the pursuit. The quality of the pictures means that individual hunt officials allegedly involved are not identifiable.*

*In its letter, the CPS official said: "Any arrest (...) would inevitably mean that they will be represented by specialist solicitors (...) funded by the Countryside Alliance. They will be advised to go 'no comment' and to decline to identify themselves on the footage obtained by your monitors. There would be insufficient evidence to convince a court beyond reasonable doubt (...) that the person standing before them committed the offence alleged. May I suggest that arrests and release without charge or, worse still, a failed prosecution, could, potentially, be a media disaster for your organisation? The (...) Hunt are very media savvy."*

*IFAW responded with a complaint to the CPS suggesting that the "methodology stated in the letter is surely contrary to the normal practice in dealing with cases". It continued: "We cannot imagine any other possible offence which could be dealt with in this way. Does the burglar in Dorset who always gives no comment and is legally represented not get investigated?" The fact that a hunt is "media savvy" should not, IFAW added, have any relevance to a decision on prosecutions.*

*But a CPS spokesperson said: "It is absolutely right for prosecutors to consider the most likely defence in deciding whether there is sufficient evidence for a realistic prospect of conviction. We accept, however, that this letter was somewhat clumsily worded."*

*(...)master of the (...) Hunt, said he had been unaware of the complaint. "Our intention is to hunt within the law and lay trails. We practise [legal] trail hunting," he said, and there had been no breach of the ban. "It's extraordinary. These people spend hours and hours monitoring. We hunt within the law."*

The courts have also commented on the Hunting Act 2004 and trail hunting in their judgments. For instance (CSHA, a):

- Judge Graham Cottle and two lay magistrates overturning the conviction of Tony Wright (the first huntsman ever prosecuted under the Hunting Act) said on 30<sup>th</sup> November 2007 *"We observe at the outset that the experience of this case has led us to the conclusion that the (Hunting Act) is far from simple to interpret or to apply: it seems to us that any given set of facts may be susceptible to differing interpretations. The result is an unhappy state of affairs which leaves all those involved in a position of uncertainty."*

- Judge Daniel Curtis in 2013 acquitted three members of the Holderness foxhounds of illegal hunting because of insufficient evidence of intent, stating: "*It is difficult to interpret and apply and difficult for the CPS to prosecute.*"

- Judge Michael Pert QC in 2011, when dismissing an appeal by two hunt employees convicted of breaching hunting laws, confirmed the convictions and accused the Fernie Hunt of using the cover of trail hunting "*as a cynical subterfuge.*"

#### 4.1.2.5. Forestry Commission and Ministry of Defence

Two of the three major landowners that allow trail hunting on their land under licence are Government bodies: the Forestry Commission and the Ministry of Defence (MoD).

The Forestry Commission is a non-ministerial government department responsible for forestry in England and Scotland. It allows trail hunting on its land, and has an agreement with the MFHA. The Commission's policy statement on this issue only uses the term drag hunting to describe any trail hunting, and seems not to make any distinction between the two activities.

##### *(EMGNC) DRAG HUNTING ENGLAND POLICY*

*1 September 2014 to 31 March 2015*

##### *BACKGROUND*

*Hunts can only operate as members of a Hunting Association with whom we hold a central agreement. The association will then share responsibility with us for the management and control of their member hunts. Agreements are held with two Associations.*

- *The MASTERS OF FOXHOUNDS ASSOCIATION. (MFHA). These are former Foxhunts, now permitted to draghunt only on the Forestry Commission Estate.*
- *The MASTERS OF DRAGHOUNDS AND BLOODHOUNDS ASSOCIATION (MDBA). These are traditional draghunts using Foxhounds who have held central permissions from us since the late 1990's.*

*(...)*

#### *4. Set trails*

*Provision is made in the agreement for permitting drag hunting only on predefined trails (Schedule 3). These routes can either be defined in the agreement, or agreed with the FC beforehand, and there should not be hunting taking place in Schedule 3 woods without the FC having agreed the trail line being used. This is a useful means of restricting drag hunting to the least sensitive areas, and minimising wildlife disturbance.*

*The majority of agreements entered into now are on set trails, and I do encourage this practice to ensure tighter control. The same hunts may practice exempt hunting on private land, and this*

*restriction helps make a very clear divide as to the limit of the permitted activity on the Forestry Commission Estate. MFHA will inform their members of the need to totally respect this divide and the possible consequences for all their members in failing to do so.*

The agreement between the MFHA and the FC mentioned follows below, still using only the term drag hunting (ForestryCommission, a):

1. The following are the terms and conditions whereby the Association and its registered Hunts may have access to Commission land for the purposes of drag hunting.
2. This agreement applies only to those Hunts that are registered with the Association.
3. Applications by the Association and its Registered Hunts for permission to use Commission land for drag hunting will be made in writing to the Forest Management Director in whose area the Hunt wishes to operate. A hunt may only apply to operate within its own Hunt boundaries.
4. Areas recognised as traditional former foxhunting areas will remain as they were at the cessation of fox hunting. The granting of drag hunting permissions will have no relevance whatsoever to determining traditional foxhunting areas if this is required in the future.
5. The decision as to whether a licence can be granted in the areas requested rests entirely with the Forest Management Director. He will take into account the suitability of the land, the other Commission management and recreation priorities, and the particular needs of the Hunt.
6. The Association shall ensure that Hunt servants carry identification and present it for inspection if requested by a Commission employee. All Hunts authorised to operate over Commission land under the terms of this agreement will at all times adhere to the Constitution and Code of Conduct of the Association, except as they may be expressly varied by the permission appended and forming part of this agreement.
7. The Association shall ensure that the Licensee will pay compensation or make good to the Forest Management Director's satisfaction all damage to Commission property caused by the exercise of any permission issued under this agreement. The Licensee will clear all equipment and litter brought onto Commission land by the Licensee, Hunt participants and spectators, to the satisfaction of the Forest Management Director.
8. The Association shall ensure that each Licensee will indemnify the Commission against all claims arising from any loss or damage, injury or death to participants, followers, spectators, Commission employees or any third parties arising from the use of Commission land for the Hunt's meet card or fixture list events.
9. The Association shall ensure that each Licensee will maintain an insurance policy for an amount of not less than £5 million in respect of anyone claim with a reputable insurer for the duration of the permission. The amount of such insurance shall not limit the liability of the Hunt to the Commission. The Master will produce the said insurance certificate and receipt for the premium paid, on request from the Commission.
10. The Association shall ensure that each Licensee provides the Commission with the names and addresses in writing of all Hunt servants not less than 14 days before the first meet or fixture. The Association will ensure that each Licensee provides notification of changes, in writing, to the Commission, one week in advance of any meet or fixture for which a new Hunt servant will act on Commission land.
11. The Association will ensure that Licensees do their utmost to restrict hunting close to the boundary of any private dwellings within the forest or on the boundaries of Commission land, where these areas are not specifically excluded under the terms of the permission.

12. The Licensee will ensure that members and followers are fully aware of the terms of this permission, in order to minimise disturbance and damage to Commission land and disturbance to other legitimate users, neighbours and their animals. The Licensee will also take appropriate steps to limit the number of followers, whether on foot, horse back or in vehicles, to a reasonable number in order to avoid such disturbance or damage. Vehicles must not be parked in gateways.
13. A charge for any permission issued under this agreement will be made in accordance with Appendix 1 appended and forming-part of this agreement.
14. It may be necessary to apply restrictions to drag hunting over parts of the forest at certain times in order to protect particular forest operational or other interests. The Forest Management Director will supply details of the land on which hunting may take place in accordance with Schedules I-VII of the attached permission. The Schedules will specify any restrictions that are to be imposed. In particular the recreation sites, as described in the maps in Schedules I-VII in the attached permission, are excluded from the areas in which drag hunting is permitted. The Forest Management Director may at his discretion and by advance notice to the Licensee, deny access to any of the land described in Schedules I-VII.
15. If the Commission's tenants and/or landlords or other persons having an interest in the land are likely to be affected by the activities of the Hunt, or their permission is required, then arrangements to obtain this permission will be made by the Master. The Commission will give the Master the names and addresses of those persons likely to be affected.
16. The scent used may be chemical or animal based. Under no circumstances should a carcass or part of one be used as the scent.
17. If hounds are to be given a 'reward' at the end of the line under no circumstances should it be a wild animal carcass i.e. fox.
18. The form of permission that will be issued to the Hunts under this agreement is attached at Appendix 2.
19. The Commission will undertake monitoring of the activities of the Hunts. From time to time the Commission will appoint officers to attend meets or fixtures, in order to ensure compliance with the terms of this agreement, associated permissions and the Commission byelaws. The Licensee will ensure that full cooperation is provided to the appointed officer. In the event of non-compliance the Commission will take appropriate action and will refer the issue to the Association for it to take additional action if necessary. Appropriate action may include immediate suspension or revocation of the permission to hunt. The decision of the Forest Management Director as to whether a condition of this agreement or any permission has been broken will be final.
20. In the event of a proven breach the Commission reserves the right to recover its costs of time investigated. Costs will be calculated with reference to the most up to date published Agency Rates for staff applicable on the date of the breach. Rates relevant at the date of the agreement will be set out in Schedule VIII of the permission.
21. An access only agreement is available to hunts who simply wish to cross identified FC land to access other land. Hounds must be under close control and the routes and dates clearly identified. The agreement is attached at Appendix 3.
22. This agreement will be for a period of one year from (...) unless terminated as provided below.
23. Either party reserves the right to revoke this agreement by giving one month's notice in writing. No refund of any fee paid in accordance with Clause 13 will be payable to the hunt or Association where the agreement is revoked. Where the fee is in arrears the hunt will remain liable to pay the amount due.

24. All permissions granted under this agreement shall terminate at the expiry or termination of this agreement. No refund of any fee paid in accordance with Clause 13 will be payable.

25. The expiry or termination of this agreement and of permissions under it shall not affect any rights or liabilities of the parties in respect of any act or omission before the date of expiry or termination.

26. The Commission may be obliged to release copies of this agreement and any written information it holds under the Freedom of Information Act.

The only condition of this agreement that specifies how trail hunting can take place on FC land, which is carried out in a different form than when it takes place elsewhere, is paragraph 16. Here it prevents an animal carcass or part of one to be used as the scent (something that has been tried in the past by the hunting fraternity).

These agreements do not show whether the FC is aware of the differences between drag hunting and trail hunting, so on 4<sup>th</sup> August 2015 IFAW wrote to the Forestry Commission with the following request.

As you are probably aware, after the Act was enacted the members of the Masters of Fox Hounds Associations (MFHA) had the option to convert to drag hunting, but most did not. Instead, most chose to undertake "exempt hunting" (hunting exempted from the main provisions of the Act for being included in the Schedule of the Act which lists which exemptions, and under which conditions, are lawful) or "Trail Hunting" (a new activity that was invented after the enactment of the Act).

I would like to point out that only those hunts registered under the Master of Draghounds and Bloodhounds Association (MDBA) are allowed to do drag hunting. Trail hunting is a very different activity, as it is recognised by the Countryside Alliance Hunting Handbook which states "*The term drag hunting is to remain the property of the Masters of Drag and Bloodhounds Association. Our activities should not be confused with theirs*".

We are concerned that you may not be fully aware of the differences between trail and drag hunting, and may have entered in agreements with the MFHA without having reached a meeting of minds, which may put the Forestry Commission in a vulnerable position especially if illegal hunting is being linked to one activity and not the other.

Would you be able to provide us with a detailed list of differences and similarities between drag hunting and trail hunting as the Forestry Commission understands them, so we can be reassured that you have not been misled and you are not unwillingly being used to support criminal activities without your knowledge?

On 26<sup>th</sup> August the reply we received from the Forestry Commission stated the following.

*(...) In addition to national agreements, each hunt must contact the local Forestry District to obtain permission before it can operate on the Estate (...) Any illegal activity would be a breach of the permission and could result in the withdrawal of the permission. How the activity is named would appear to us to be insignificant, as it is quite clearly set out in the agreement what activities we are giving consent to.*

They did not send any list of the differences or similarities as requested.

The Ministry of Defence (MoD) has a special relationship with hunting, as not only were traditional hunts previously allowed on its land, but some hunts are run by its members. Currently, the MoD also allows hunts to undertake trail hunting on its land under licence, based on an agreement with the MFHA.

The number of trail hunts that have taken place on Ministry of Defence land in each hunting season is not insignificant. Such numbers can be seen in the following table per season:

Season	# of trail units
2008-09	222
2009-10	132
2010-11	230
2011-12	156
1012-13	208
2013-14	248
2014-15	160+

The Agreement between the MoD and the MFHA is similar to the one shown above for the Forestry Commission, but it uses the term trail hunting instead of drag hunting. Regarding scent, it states: *"The Association will ensure that hunts are aware any scent used to lay is either to be artificial or derived from a legally obtained fox carcass. On no account will the shooting of foxes purely for trail hunting purposes be permitted, nor will the dragging of any part of fox carcass in order to lay a trail"*

In August 2015 we wrote to the MoD to enquire about what they had done to ensure that this condition above about the scent has been followed by the hunts that trail hunt on their land. We specifically asked for *"Copies of any correspondence between the MOD and any of the hunts it licenses to undertake trail hunting on its land, or any reports from MOD inspectors that inspected hunts' activities in which the nature of the scent used by the hunts is mentioned"*. On 21<sup>st</sup> September 2015, the MoD replied:

*"A search for information relating to correspondence or reports mentioning the nature of the scent used in trail hunting on MOD land has been completed within the Ministry of Defence, and I can confirm that no information in scope of your request is held."*

In the actual MoD licence trail hunting and drag hunting are defined as follows:

*1.5 'Drag hunting' means the following of either a human scent or an artificially-derived scent with a pack of hounds;*

*1.17. 'Trail hunting' means the following of a chemical scent or animal based scent with a pack of hounds;*

The licence also states:

*24. The Licensee shall ensure that only one Hunt Official shall carry a firearm whilst on the Land for the purposes of the humane destruction of any horse or hound or any wild mammal that is seriously injured, during the fixture. Any wild mammal injured as a result of the activity must be declared on the Notification of Mammal Kill form at Annex C. The nominated Hunt Official shall be properly licenced in accordance with firearms legislation currently in force. The Licensee will provide the name of the nominated Hunt Official to the DIO Local Office and the MOD Police in advance of the start of each fixture and along with proof that they are suitably licenced.*

We requested the *Notification of Mammal Kill* list which showed that three foxes had been killed during trail hunts on MoD land in circumstances described in the reports as accidental.

#### 4.1.3. What does trail hunting look like

Thus, looking at how trail hunting is defined by different types of people and organisations, it appears that there are three main interpretations:

Hunting fraternity interpretation	A temporary simulation of hunting before the ban
Anti-hunting movement interpretation	A false alibi to avoid prosecutions of illegal hunting
Authorities, media and general public interpretation	A slight variation of the cruelty-free sport of drag hunting

These interpretations are not automatically mutually exclusive, but it is possible that not all are based on reality. It is therefore useful to deconstruct trail hunting into its apparent components and find out the real facts behind them.

##### 4.1.3.1. The scent

According to the accounts of the trail hunters themselves, the scent normally used for trail hunting is mainly animal-based. Although there is little information on the exact composition of such scent, what seems consistent is that those used by the hunts that used to hunt foxes are fox-based scents. Here are some examples of quotes about the scents from hunt sources:

Ashford Valley Tickham Hunt	<a href="http://ashfordvalleyhunt.co.uk/">http://ashfordvalleyhunt.co.uk/</a>	The difference this time was that hounds were hunting an artificial line – a bundle of rags steeped in a pungent, fox-scented mixture of the huntsman’s devising, dragged across country behind a quad bike. It was the first time the Ashford Valley hounds had hunted an artificial scent, but it wasn’t the first time that the hunt had reinvented itself in order to keep hunting alive by adapting to changing times.
Exmoor Foxhounds	<a href="http://www.exmoorfoxhounds.co">http://www.exmoorfoxhounds.co</a>	Meet to trail hunt and hound exercise. Trail hunt – this involves using hounds to hunt a trail laid with a rag steeped in a fox based scent.

	<a href="#">m/</a>	
Grove and Rufford Hunt	<a href="http://www.groveruffordhunt.org.uk/">http://www.groveruffordhunt.org.uk/</a>	Under the Hunting Act, hunting and control of foxes with hounds is only permitted under certain restricted circumstances, and the main activity of the hunt will be hunting an artificial fox based scent.
Heythrop Foxhounds	<a href="http://heythropunt.com/">http://heythropunt.com/</a>	Trail Hunt - this involves using hounds to hunt a trail laid with a rag steeped in a fox-based scent. Line - The scent left by the quarry.
Kimblewick Hunt	<a href="http://www.kimblewickhunt.co.uk/">http://www.kimblewickhunt.co.uk/</a>	Hunting a fox-based scent: hunting an artificial line laid across natural country. Our intention will be to make this as realistic as possible so that it continues to be as unpredictable and thrilling as hunting a fox.
South Shropshire Foxhounds	<a href="http://www.southshropshirehunt.com/">http://www.southshropshirehunt.com/</a>	Line – The scent trail. This is artificially laid since the hunting ban to copy the likely line of a fox across country. The aim of trail hunting is to simulate traditional hunting as practices before the ban. A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban. The trail is laid across the country taking a route that might be taken by a fox – i.e. through hedgerows and woods and along ditches in essence simulating the natural movement of a fox across the countryside. It is laid by dragging a scented rag along the ground. This is done from a horse, a quad-bike or on foot; though good results maybe best achieved using a combination of all three. The less that the hunt man or the followers know of the route of the trail, the more the hunting will mimic its realistic and challenging form.
VWH Foxhounds	<a href="http://www.vwh-hunt.co.uk/">http://www.vwh-hunt.co.uk/</a>	Whilst the temporary Hunting Act is in place The Vale of the White Horse Hunt meet primarily to exercise the hounds. This is coupled with a fox-scented trail being laid in order to keep the pack working well together.
Monmouthshire Hunt	<a href="http://www.monmouthshirehunt.com/">http://www.monmouthshirehunt.com/</a>	Trail hunt - this involves using hounds to hunt a trail laid with a rag steeped in a fox-based scent.

Although during the first years of the ban, hunts experimented with different types of fox-based scent, including the use of fox carcasses (Robinson, 2007) or the liquid produced after boiling them (BBC, 2007), soon one ingredient seemed to dominate: fox urine. Fox urine is commercially available from the US, where it is used as a hunting masking agent or fox deterrent marking and is often obtained from fox farms for the fur industry (PredatorPee, a).

Indeed, the website of the MFHA mentions the fox urine (MFHA, c):

*“SCENT. A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban.”*

Here are some more examples of quotes from hunts mentioning fox urine:

Llangeinor Pentrych Hunt, Gilfach Goch, Glamorgan	<a href="http://www.theguardian.com/environment/2015/feb/18/has-hunting-act-stopped-cruelty-towards-foxes-10-years-on">A People's Hunt , Horse and Hound, 12/03/2015</a>	When asked what he used on the trail, trail-layer (...) produced a half-used bottle of fox urine from his pocket. "Eew! No wonder you're single (...)" was the response.
Kimblewick hunt	<a href="http://www.theguardian.com/environment/2015/feb/18/has-hunting-act-stopped-cruelty-towards-foxes-10-years-on">http://www.theguardian.com/environment/2015/feb/18/has-hunting-act-stopped-cruelty-towards-foxes-10-years-on</a>	Pursuits of live quarry have been replaced by 'trail hunting', a pantomime jaunt in which riders and dogs follow a pre-laid scent trail of fox urine on an arranged route. But this is just a place-holder, says (...), while they wait for a return to sanity (...)
Flint and Denbigh Hunt	<a href="http://www.denbighshirefreepress.co.uk/news/144579/hunting-debate-still-rages-10-years-on-from-ban.aspx">http://www.denbighshirefreepress.co.uk/news/144579/hunting-debate-still-rages-10-years-on-from-ban.aspx</a>	Master of the Flint and Denbigh Hunt, says he would like the law overturned (...) [He] wants a return to the days where fox hunting was fully legal. He believes despite what critics say, fox hunting is an effective way of controlling the population. He said: "When we set hunting trails, I use fox urine imported from America. That way we didn't need to re-train the hounds and if the law changes we won't need to re-train them then."
South Shropshire Foxhounds	<a href="http://www.southshropshirehunt.com/">http://www.southshropshirehunt.com/</a>	A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban.
	<a href="http://www.bbc.com/news/magazine-30940176">http://www.bbc.com/news/magazine-30940176</a>	Trail hunting, on the other hand, did not exist until the ban. It involves laying a fox's scent, usually its urine, for the dogs to follow. Hunt supporters say trail hunting means hounds, which are not trained by humans to hunt but pick it up from senior members of the pack, will not have forgotten to chase foxes if and when the ban is lifted.
Essex Foxhounds	<a href="http://www.essexfoxhounds.com/hunting-options/">http://www.essexfoxhounds.com/hunting-options/</a>	A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban.
College Valley and North Northumberland Hunt	<a href="http://www.berwickshirenews.co.uk/news/local-news/all-local-news/hunt-members-convicted-for-illegal-fox-hunting-1-3572511">http://www.berwickshirenews.co.uk/news/local-news/all-local-news/hunt-members-convicted-for-illegal-fox-hunting-1-3572511</a>	Joint Master Timothy Wyndham Basil Smalley, Huntsman Ian Robert McKie and Kennel Huntsman Andrew John Proe were found guilty of hunting a wild mammal with a dog following a two-day trial at Berwick Magistrates Court. (...) McKie, 56, of Wooler, Proe, 52, of Cornhill-on-Tweed, and Smalley, 53, of Lowick, claimed they were following a legal scent trail of fox urine laid that morning.

Thus, the hunts have claimed that the aim of using foxes' urine is to keep the hounds focused on the scent of their historical quarry while traditional hunting is banned.

Regarding the hunts that hunted hares before the ban (as with the beagle packs), it is not clear which scent they use in trail hunting today. It is possible that they also use hare/rabbit urine as it is also available commercially (Primetime, a). Indeed, at the beginning of the ban hunts officials were openly discussing the use of hare-base scent, as can be seen in this 2005 quote (Horse&Hound, 2005b):

*Stephen Lambert of the Council of Hunting Associations says: "Trials on fox- and hare-based scent have not gone well enough yet and in the next month we'll do more. The Americans have a good formula that we will try — it's important not to get the scent too strong, which makes hounds wild, but it must make hounds speak. We expect to able to give advice by mid-February."*

However, the few current accounts from this type of hunt that describe the scent they use no longer mention hare-based scent. We have found one that mentions aniseed:

Stour Valley Beagles	<a href="http://www.stourvalleybeagles.org.uk/">http://www.stourvalleybeagles.org.uk/</a>	Beagling is about watching hounds follow a scent trail, in the company of friends. The Hunting Act of 2004 bans hunting wild mammals with dogs. Since then, the hunt has managed to continue using various methods, including hound exercise, laying artificial (aniseed) trails, and working under exemptions to the Act Nos 3,4&5
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Figure 35. Pack of beagles following a scent during a hare hunt

It is also possible that some of the hunts that hunt hares do not do trail hunting, but rely on exempt hunting (as there is an exemption that allows hunting injured hares) or simply say that they are now hunting rabbits (which are not protected by the Hunting Act 2004).

#### 4.1.3.2. The terrain

After the ban hunts continued meeting every week during the hunting season, pretty much on the same days they used to meet before. This is shown by comparing the *Bailys Hunting Directories* (BHD, 2006) from the 2002-2003 season and 2006-2007 season. Seventy three percent of the meeting days are the same regarding the number of meets per week and which days of the week are used for hunting.

But is trail hunting practiced in the same locations and terrains as traditional hunting before the ban? It seems so. These areas are woodland, coverts, open fields and natural places where a fox may live or be. If the intention was to ensure the hunts follow the artificial trail and not a real mammal trail, it is likely that some of the areas used before the ban would have not been used again. Also, woods and coverts that are likely to contain foxes would have been avoided (as is the case of the areas used by drag hunts).

However, as the hunts justify trail hunting as a 'simulation' of hunting before the ban this may explain why they would go to the same places. It may also be a matter of access and permission from landowners, which may limit where they can go. Here are some comments from hunts' websites that illustrate that the terrain they use for trail hunting is the same as that used for live quarry hunting:

Exmoor Foxhounds	<a href="http://www.exmoorfoxhounds.com/">http://www.exmoorfoxhounds.com/</a>	The Masters of the packs who have decided to follow a false trail will be trying to make the day seem as natural and as like an old fashioned hunting day as possible, with the hounds and the hunting being the focal point of the day.
Grafton Foxhounds	<a href="http://www.graftonhunt.co.uk/">http://www.graftonhunt.co.uk/</a>	While the Hunting Act (2004) remains in effect, the Grafton hounds hunt trails. These are laid, usually on horseback, so as to emulate as closely as possible coverts likely to be visited and lines likely to be taken by real foxes.
Haydon Hunt	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	The Haydon of course continues to hunt only within the legal constrictions imposed; following artificial trails skilfully laid by volunteer members and attempting, so far as is possible, to emulate the real thing (...) Lay trails across natural country, often starting from thick coverts, to allow the hounds to hunt with their noses.
Morpeth Foxhounds	<a href="http://www.morpethfoxhounds.co.uk/">http://www.morpethfoxhounds.co.uk/</a>	Simulation of hunting by laying a trail across open country and in woodland.
New Forest Hounds	<a href="http://www.newforesthounds.co.uk/">http://www.newforesthounds.co.uk/</a>	Sometimes the trail may be found immediately and the chase begins in earnest, or the huntsman may have to move on from covert to covert, recasting his hounds several times before a trail is found.
North Tyne Foxhounds	<a href="http://www.tynedalehunt.org/">http://www.tynedalehunt.org/</a>	In this way we hope to prepare the hounds for 'simulated hunting', which will start at the Opening Meet. Lay trails in thick coverts, often before daylight, to teach the hounds to hunt by nose, not sight.
South Shropshire Foxhounds	<a href="http://www.southshropshirehunt.com/">http://www.southshropshirehunt.com/</a>	The aim of trail hunting is to simulate traditional hunting as practices before the ban. (...) The trail is laid across the country taking a route that might be taken by a fox – i.e. through hedgerows and woods and along ditches in essence simulating the natural movement of a fox across the countryside.

North Norfolk Harriers	<a href="http://www.northnorfolkharriers.co.uk/">http://www.northnorfolkharriers.co.uk/</a>	The Line - The scent left by the quarry. Hunting a unique sent: hunting an artificial line laid across natural country. Our intention will be to make this as realistic as possible so that it continues to be as unpredictable and thrilling as hunting a hare.
Old Berkeley Beagles	<a href="http://www.oldberkeleybeagles.co.uk/">http://www.oldberkeleybeagles.co.uk/</a>	Before we meet for a day's hunting, one of the whips attaches a lure soaked with a smelly concoction that attracts the hounds, to a piece of rope. He runs with this over the fields and through the woods making a trail.

However, before the ban foxes that were hunted would flee the terrain and escape using any available route, which often led them into gardens, roads, motorways, railways, etc. We should not expect trail hunting to be taking place in any of these areas, so when hounds are seen following a trail in such locations, this may be a good indicator that the hounds are following a live mammal scent.



Figure 36. Hounds crossing a railway line during a pre-ban hunt

Alastair Jackson (Director of the Hunting Office) summed up the different types of terrain between trail hunting and drag hunting.

*"While the Hunting Act is in place, one of the several legal alternatives to provide activity for Hunts is trail hunting. This is for hounds to follow an artificial scent, which has been laid in such a way as to mimic a real fox hunt. It would ideally not be the flat out gallop typical of drag hunting, would take in different types of country and be a challenge for the hounds. It is one of the ways to keep the infrastructure of Hunts intact until such time as repeal of the Hunting Act can be achieved."*

The size of the areas hunted does not seem to have changed either. As can be seen in later in the case studies of this report including maps, trail hunters often do not restrict themselves to a couple of fields close to the meet. They can end up covering a huge area of several miles during a hunting day.

### 4.1.3.3. The people

Most people that go hunting (as opposed to watch or support hunting) are part of the field that follows the hunt staff and hounds from a certain distance, and they are told what to do by those in charge. As far as such riders are concerned, their role and participation has not changed.

IFAW's Wildlife Crime Investigators' reports compiled during the last 10 years show that the average number of field members in the hunts investigated is 34.40 riders. When the investigators were asked how this number compared with before the ban they replied that numbers are the same or fewer, but hardly ever more (as can be seen in Figure 37):

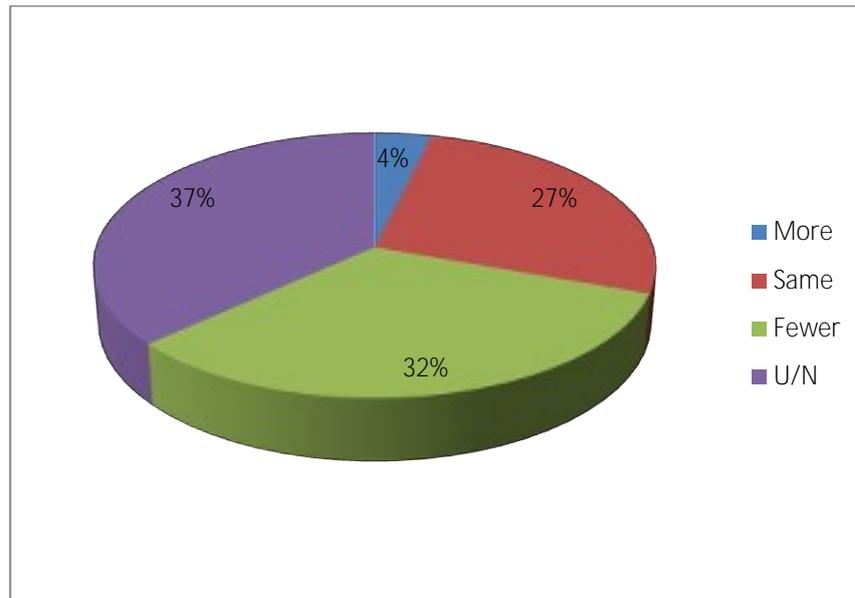


Figure 37. Relative frequency of answers of IFAW's Wildlife Crime Investigators' reports produced in the last 10 years, to the question of whether they believe there are now more or fewer riders attending the hunts investigated compared with before the ban

Regarding hunt staff, comparing the *Bailys Hunting Directory* (BHD, 2006) before and after the ban, we know that the same traditional hunt staff (huntsman and whipper-in) that were used before the ban have been used in trail hunting. The role of the hunt master has not changed either, and they are all still mentioned in their roles in the post-ban directories. The fact that hunts define trail hunting as a simulation of hunting before the ban is consistent with the idea that the traditional roles have not changed.

Indeed, the masters continue deciding which meets will take place and liaise with the landowners and the field. The huntsmen continue controlling the hounds and directing them to find the scent. The whippers-in continue assisting the huntsman, with a bit more emphasis on dealing with hounds that have left the pack or stopping them going to places where they should not go.

However, the key thing that has changed between traditional hunting and trail hunting is who knows where the scent is. Before the ban, any information indicating where the live quarry was would be passed immediately to hunt staff. They would use this information to instruct the hounds. For instance, if a hunt supporter saw a fox running he/she would 'holloa' and point and this information would be passed from supporter to supporter until it got to the huntsman. He would then either encourage the hounds to follow

the scent with the horn, voice commands or body language, or would stop them going in the direction of the fox (if he decided not to go for this one).

But as we have seen in the chapter about what the hunts believe trail hunting is, now the huntsman is normally not informed about where the artificial scent trail has been laid (which differs from drag hunting and hunting the clean boot). Often the rest of the hunt staff do not know either – i.e. *“The less that the followers, or even the huntsman, know of the route of the trail, the more the hunting will mimic its traditional and challenging form”* (CountrysideAlliance, 2005). This is quite significant, as those who make decisions during a hunt no longer have all the available information that would be required to make them properly, and the misjudgements this can cause can affect the lives of wild animals or even lead to a criminal conviction. Here are some examples from hunts’ website regarding knowledge of the location of the trail:

Exmoor Foxhounds	<a href="http://www.exmoorfcoxhounds.com/">http://www.exmoorfcoxhounds.com/</a>	The Masters of the packs who have decided to follow a false trail will be trying to make the day seem as natural and as like an old fashioned hunting day as possible, with the hounds and the hunting being the focal point of the day. Where the pack is firstly taken to “draw” or search for a line is very important, and whether or not a trail has been laid at this place will leave the followers and the hounds guessing as to what is going to happen.
Fitzwilliam (Milton) Foxhounds	<a href="http://www.fitzwilliamhunt.com/">http://www.fitzwilliamhunt.com/</a>	Trail hunting - the hunting of an artificial scent. There is no reason why huntsman or followers should know in advance the route hounds will take when following a trail, this closely matching hunting in its current form.
Meynell And South Staffordshire Foxhounds	<a href="http://www.mssh.co.uk/">http://www.mssh.co.uk/</a>	These days we follow a trail laid earlier, so that no one knows the route across country. The smell, indiscernible to the human nose, left by the person laying the line. The hounds also use the smell of the disturbed ground where the runners have been to stay on the line.
VWH Foxhounds	<a href="http://www.vwh-hunt.co.uk/">http://www.vwh-hunt.co.uk/</a>	The Master may also make other announcements, as well as giving an idea of where the trail has been laid, particularly useful for foot-followers.
West Somerset Vale Foxhounds	<a href="http://www.westsomersetvalehunt.co.uk/">http://www.westsomersetvalehunt.co.uk/</a>	The Master/Huntsman is responsible for the hounds and he and the Whipper-in ride up with the hounds, taking them to coverts, and encouraging them to ‘find’ a scent of the trail that has been laid.
Old Berkeley Beagles	<a href="http://www.oldberkeleybeagles.co.uk/">http://www.oldberkeleybeagles.co.uk/</a>	Before we meet for a day’s hunting, one of the whips attaches a lure soaked with a smelly concoction that attracts the hounds, to a piece of rope. He runs with this over the fields and through the woods making a trail. To add interest only the whip knows where the trail has been laid. At the beginning of the hunt, the Huntsman lays the hounds onto the trail which they follow and we follow them. The hounds will not always follow the trail, so the huntsman, by blowing his horn can encourage them back onto the right line, or if that doesn’t work, we will call to one of the whips to ‘turn’ the hounds back to where they should be.

Although the main hunt staff roles have not changed, there are two roles it is worth discussing more as one of them seems out of place in trail hunting while the other is definitely new: terriermen and trail layers.

Before the ban, terriermen blocked holes that foxes could use to hide. They used terriers to bolt foxes from underground or to locate and dig foxes to be shot. It is difficult to imagine which roles terriermen could now play in trail hunting and we should not expect to find them with trail hunts. However, IFAW's Wildlife Crime Investigators' hunt monitoring reports, produced during the 10 years of the ban, show that terriermen were seen with the hunt in at least 78% of the hunt monitoring operations, as shown in Figure 38:

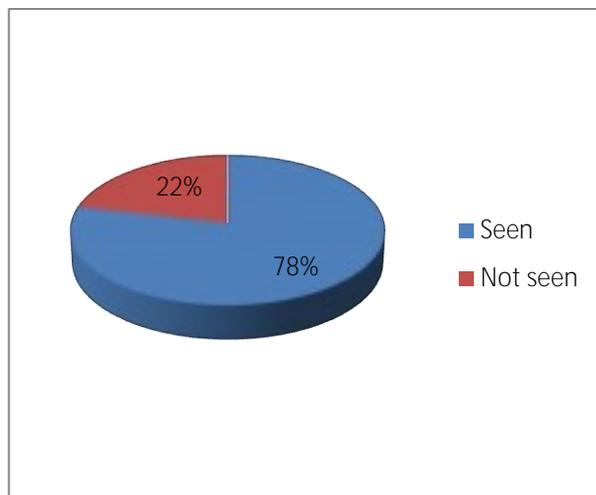


Figure 38. Relative frequency of answers from IFAW's Wildlife Crime Investigators' hunt monitoring reports produced during the 10 years of the ban to the question of whether terriermen were seen during a trail hunt.

In fact, the presence of terriermen has been confirmed in several successful prosecutions against people connected to the hunt. And such terriermen have themselves been convicted for offences related to their activities connected with hunts (although when this is the case the hunts tend to deny such connections), as shown in the following table.

Hunt	Accused	Role	Investigators	Prosecutors	Verdict	Fine to pay	Costs to pay	Court
Flint & Denbigh Hunt	William Francis Armstrong	Terrierman	Police	CPS	guilty	£200	£60	Prestatyn Magistrates
Fernie Foxhounds	Kevin Allen	Terrierman	LACS	CPS	guilty	£650	£900	Leicester Magistrates
Middelton Hunt	Lee Martin	Terrierman	LACS	CPS	guilty	£100	£85	York Magistrates Court
Ross Harriers Hunt	Alan Hill	Terrierman	Police	RSPCA	guilty	£330	£500	Hereford Magistrates' Court
Ross Harriers Hunt	James Smith	Terrierman	Police	RSPCA	guilty	£165	£500	Hereford Magistrates' Court
Ross Harriers Hunt	Jack Hudd	Terrierman	Police	RSPCA	guilty	£165	£500	Hereford Magistrates' Court
Cottesmore Hunt	Dean Jones	Terrierman	LACS	CPS	guilty	£250	£400	Leicester Magistrates Court.

It is possible that terriermen play different roles in trail hunting (i.e. laying trails on quadbikes) and that is why these days, they tend to be called countrymen. This, however, may be just a euphemism to hide their true purpose). Alternatively they may be simply a token presence aimed to 'simulate' the hunt before the ban when they always were part of the meet. But this justification seems unlikely as hunt monitors have

seen them very active, operating basically as they used to operate before the ban. This includes carrying their terriers in their quadbikes, which would be unnecessary if they are just for show. Also, often terriermen in today's trail hunts cover their faces with balaclavas and sometimes use quadbikes without number plates. This certainly suggests that they are trying to hide something. Examples of terriermen in trail hunts (or claimed trail hunts) can be seen in the case studies shown towards the end of this report.



Figure 39. Terriermen on quadbikes during a supposed trail hunt

The new role created for trail hunting is the 'trail layer'. This person (or persons) sets up the artificial scent trails before the hunt meets or during the hunting day. As we have seen above they do not tell the huntsman (or often the other hunt staff) where they have done it. They can do it on foot, on quadbikes or on a horse.

Often trail layers are volunteers (not members of the hunt staff). In some cases the whipper-in may be the person taking this role. But this is rare, and may be limited to beagling as we have only seen evidence of this in a beagle pack. Sometimes the trail layers are referred to as quarry (as clean boot hunters refer to the runner). And sometimes there is a person in charge (the line master) that coordinates all the trails. Here are some extracts from hunt websites that talk about trail layers:

Barlow Foxhounds	<a href="http://www.barlowhunt.org.uk/Pages/default.aspx">http://www.barlowhunt.org.uk/Pages/default.aspx</a>	Last season our groom (...) did most of the trail laying for us. (...) the first time (...) had trail laid side saddle and he was very good. A large mounted field enjoyed a good day watching hounds follow the trail (...)
Bewcastle Foxhounds	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	Since the inception of the Hunting with Dogs Act, which became law in February 2005, The Haydon of course continues to hunt only within the legal constrictions imposed; following artificial trails skilfully laid by volunteer members and attempting, so far as is possible, to emulate the real thing.

East Devon Foxhounds	<a href="http://eastdevonhunt.co.uk/">http://eastdevonhunt.co.uk/</a>	Drag hunting is the hunting of an artificial scent usually on a rag dragged by a runner or rider.
Grafton Foxhounds	<a href="http://www.graftonhunt.co.uk/">http://www.graftonhunt.co.uk/</a>	While the Hunting Act (2004) remains in effect, the Grafton hounds hunt trails. These are laid, usually on horseback, so as to emulate as closely as possible coverts likely to be visited and lines likely to be taken by real foxes.
Grove and Rufford Hunt	<a href="http://www.groveruffordhunt.org.uk/">http://www.groveruffordhunt.org.uk/</a>	Hounds will hunt one or more lines which will be laid by nominated members of the Hunt under the control of (...) the "Line Master".
Haydon Hunt	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	Following artificial trails skilfully laid by volunteer members and attempting, so far as is possible, to emulate the real thing. (...) Trails will be laid by either a Quad bike rider, Mounted follower or someone on foot.
Percy Foxhounds	<a href="http://www.percyhunt.com/">http://www.percyhunt.com/</a>	Our main trail layers for the season (...) did a very good job in keeping the trail laid in some very interesting places in some very interesting ways.
Quorn Foxhounds	<a href="http://www.quorn-hunt.co.uk/">http://www.quorn-hunt.co.uk/</a>	These days we follow a trail laid by a rider who has surreptitiously left earlier, so that no one knows his route across country.
South Shropshire Foxhounds	<a href="http://www.southshropshirehunt.com/">http://www.southshropshirehunt.com/</a>	The trail is laid across the country taking a route that might be taken by a fox – i.e. through hedgerows and woods and along ditches in essence simulating the natural movement of a fox across the countryside. It is laid by dragging a scented rag along the ground. This is done from a horse, a quad-bike or on foot; though good results maybe best achieved using a combination of all three.
Royal Agricultural College Beagles	<a href="http://www.rau.ac.uk/student-life/leisure/beagles">http://www.rau.ac.uk/student-life/leisure/beagles</a>	Since the ban in 2005, artificial scent is used and laid by a runner. Prior to this, the beagles hunted hare.
Old Berkeley Beagles	<a href="http://www.oldberkeleybeagles.co.uk/">http://www.oldberkeleybeagles.co.uk/</a>	This is what we do: before we meet for a day's hunting, one of the whips attaches a lure soaked with a smelly concoction that attracts the hounds, to a piece of rope. He runs with this over the fields and through the woods making a trail. To add interest only the whip knows where the trail has been laid.

What seems clear is that the new role of trail layer is not performed by outsiders, or by anyone that has been specially trained to do so. It is carried out by members of the hunt in question who try to do it, perhaps in an improvised manner, learning from trial and error. We have never seen any trail laying courses, or any sort of training, guide or book about it, advertised anywhere.

The remaining people involved in trail hunting are hunt supporters who follow the hunt on foot or in their vehicles, to observe it from a distance. They also occasionally help out by passing information to hunters, opening gates, etc. Hunt supporters still go out with the hunt, observing the activities. However one major difference in their behaviour is that now they also participate in all the activities aimed at preventing hunt monitors and other witnesses from observing the hunts. For example, they often tell hunt staff where hunt monitors are, take photos of monitors to distribute to other hunts, block their vehicles, intimidate them, assault them, steal their equipment, etc. Examples are given in the chapter 'Hunting as organised crime' below.

#### 4.1.3.4. The hounds

Since the ban was enacted hunts have retained their hunt packs. If we compare the average number of hounds per pack before the ban with after the ban based on the information published in the *Baily's Hunting Directory* (BHD, 2006), the numbers are very similar (26.9 couples before the ban versus 31.3 after). However, the question is whether the hounds are the same today as they were before the ban in their ability to hunt. The hunts themselves have already stated that one of the reasons why trail hunting was created as a 'simulated' hunt is for the hounds to retain the scenting ability for wild quarry. This is in the hope that the Hunting Act would be repealed. As the MFHA website says, "*A trail is laid using a fox based scent – usually founded on fox urine. This is important because the aim is to keep the hounds focused on the scent of their historical quarry during the time of this ban*" (MFHA, c).

Because the average hound in a hunt is put down after six or seven years (Fanshawe, 2000), after 10 years of the ban we should expect that none of the hounds trail hunting today have ever hunted a real mammal. Although there is no evidence of this, we do know that some hunts feel that their hounds have somehow changed:

Cottesmore Foxhounds	<a href="http://www.cottesmore-hunt.co.uk/">http://www.cottesmore-hunt.co.uk/</a>	Those familiar with the area will realise that the country has changed a bit since then. But the Cottesmore's famous hounds have more than kept pace with these changes: they are lighter and more athletic than their forebears and are better able to follow a weak scent amid exhaust fumes and the distractions of modern agriculture.
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#### 4.1.3.5. The procedure

Despite there being hundreds of books about hunting with dogs, there is not an established procedure, protocol or any written rules about how trail hunting should be undertaken. Hunts themselves choose the way they want to do it. However, at a minimum we know that essentially the procedure must be something like the following:

1. Someone needs to create the scent used and put it on a drag.
2. The trail layer needs to be laying at least one trail (carried out in such a way as to mirror the movements of hunted live quarry) dragging the scent's drag (on foot, on a quadbike or on a horse).
3. The hounds are then drawn by the huntsman to find such a scent.
4. If the hounds follow the scent, all the riders follow them.
5. If the hounds do not lose the scent, they may be rewarded in one way or another in the end, where the trail stops.

It is not often known how long it is before the hounds are drawn from the time the trail is laid, how many trails are laid, how exactly they are laid, how the hounds are rewarded at the end of the trail and what happens if the hounds do not find the scent. The reasons why will be revealed in the next two chapters, but this is what we have found about procedure on the hunts' websites:

Ashford Valley Tickham Hunt	<a href="http://ashfordvalleyhunt.co.uk/">http://ashfordvalleyhunt.co.uk/</a>	The difference this time was that hounds were hunting an artificial line – a bundle of rags steeped in a pungent, fox-scented mixture of the huntsman's devising, dragged across country behind a quad bike.
East Cornwall Foxhounds	<a href="http://www.eastcornwallhunt.com/">http://www.eastcornwallhunt.com/</a>	The East Cornwall Hunt will operate within the confines of the Hunting Act 2004. Our days will therefore consist of a combination of hound exercise and trail hunting.
East Kent with West Street	<a href="http://eastkenthunt.com/">http://eastkenthunt.com/</a>	The Masters and Hunt Staff will do everything they can to hunt within the law so trails will be laid and photographed or filmed each day.
Grove and Rufford Hunt	<a href="http://www.groveruffordhunt.org.uk/">http://www.groveruffordhunt.org.uk/</a>	Hounds will hunt one or more lines which will be laid by nominated members of the Hunt under the control of (...) the "Line Master".
Haydon Hunt	<a href="http://www.haydonhunt.com/">http://www.haydonhunt.com/</a>	We intend to hunt an artificial trail across natural country and exercise hounds between trails in order to simulate traditional hunting.
Quorn Foxhounds	<a href="http://www.quornhunt.co.uk/">http://www.quornhunt.co.uk/</a>	The pack will 'mark' at the point where the object of an artificial scent trail is finally buried (formerly this would occur at the point where the quarry had gone to ground, often in a rabbit hole or badger sett). The cry of the chase is replaced by a more intense barking sound.

Exmoor Foxhounds	<a href="http://www.exmoorfoxhounds.com/">http://www.exmoorfoxhounds.com/</a>	Meet to trail hunt and hound exercise. Trail hunt – this involves using hounds to hunt a trail laid with a rag steeped in a fox based scent. The Masters of the packs who have decided to follow a false trail will be trying to make the day seem as natural and as like an old fashioned hunting day as possible, with the hounds and the hunting being the focal point of the day. Where the pack is firstly taken to “draw” or search for a line is very important, and whether or not a trail has been laid at this place will leave the followers and the hounds guessing as to what is going to happen. A blank draw, where no line has been laid, can give hounds and horses a chance to settle, and might not be such a bad thing (...) A good way to end a false line is to stuff the trail down an old rabbit or fox hole, and when hounds reach the place they will “mark to ground” in much the same way as if a fox had been run to ground.
North Tyne Foxhounds	<a href="http://www.tynedalehunt.org/">http://www.tynedalehunt.org/</a>	Lay trails in thick coverts, often before daylight, to teach the hounds to hunt by nose, not sight. 1. Simulated Hunting. Hunting an artificial trail laid across natural open country or in woodland and undergrowth. 2. Hound Exercise. Between individual trails and in areas of country where trails will not be suitable, hounds will be exercised on a pre-arranged route, for which directions will be issued at the meet.
South Shropshire Foxhounds	<a href="http://www.southshropshirehunt.com/">http://www.southshropshirehunt.com/</a>	Our Trails are laid regularly throughout the days hunting, and although the hounds can hunt a trail laid more than 24 hours before, we like to hunt trails laid just a few hours earlier. This ensures we keep a good pace, and don't spend too much time on one farm. The majority of our trail laying is done on horseback, but certain areas require them to be laid on foot, and sometimes even from off quad bike.
Holcombe Harriers	<a href="http://www.holcombehunt.com/">http://www.holcombehunt.com/</a>	We will hunt an artificial trail across natural country and exercise hounds between trails in order to simulate traditional hunting, while staying within the confines of the law. We hope to do the following: Meet at a pre-set time at a traditional Hunt venue. Dress Hunt staff in traditional uniform so that everyone is still aware who is in charge of the hounds. Control the hounds by hunting horn, voice and traditional methods. Lay trails across country, often using coverts, to get hounds to hunt by their noses. Trails will be laid by a pre-appointed Trail-Layer/s. Foot followers may be appointed to go forward and help with roads, control hounds and to report quietly to hunt staff any sightings of ground game so that they can be avoided. Hounds will be exercised across country where this is deemed safer, or when in danger of crossing any natural scent lines.

Derbyshire Nottinghamshire and Staffordshire Beagles	<a href="http://www.dnsbeagles.com/HomePage.html">http://www.dnsbeagles.com/HomePage.html</a>	Although the traditional quarry of beagles was the hare, we hunt within the law by laying a trail to simulate the running pattern of a hare. This is a skilled job requiring considerable knowledge of the creature and its life style. It is inevitable that live hares will be disturbed during hunting because natural and laid trails are often in the same area. (...) The hunted hare (trail) is referred to as 'she' as opposed to a fox who is 'he' (...) If hounds are finding scent difficult you may see hunt staff or officials standing with their caps held high in the air to signify to the Huntsman the approximate whereabouts of the trail.
Old Berkeley Beagle	<a href="http://www.olderberkeleybeagles.co.uk/">http://www.olderberkeleybeagles.co.uk/</a>	This is what we do: before we meet for a day's hunting, one of the whips attaches a lure soaked with a smelly concoction that attracts the hounds, to a piece of rope. He runs with this over the fields and through the woods making a trail. To add interest only the whip knows where the trail has been laid. At the beginning of the hunt, the Huntsman lays the hounds onto the trail which they follow and we follow them. The hounds will not always follow the trail, so the huntsman, by blowing his horn can encourage them back onto the right line, or if that doesn't work, we will call to one of the whips to 'turn' the hounds back to where they should be.

Note that the hunts often claim that they do trail hunting and hound exercising in the same event. Taking the hounds out 'for a walk' as a pack is what most people would understand hound exercising is, as this is what happens in the summer and spring when the season had not started yet. However, it is very difficult to conceive the concept of hounds exercising in conjunction with trail hunting, as with the latter the hounds are already being fully exercised. We believe that adding hound exercising to the 'declaration' of what hunts are set up to do may provide illegal hunters an alternative alibi if the evidence contradicts the trail hunting alibi.

Because trail hunting is claimed to be designed to replicate live quarry hunting as much as possible, the trail may not be laid in a continuous way as live foxes trails often seem to disappear when a fox hides or suddenly changes direction. As the Director of the Masters of Foxhounds Association Tim Easby states on the MFHA website (MFHA, a):

*"The trail is laid across the country taking a route that might be taken by a fox - i.e. through hedgerows and woods and along ditches in essence simulating the natural movement of a fox across the countryside. It is laid by dragging a scent infected sock/cloth/sack along the ground. This can be done from a horse, a quad bike or on foot, though good results maybe best achieved using a combination of all three. Common sense dictates that it is easier to walk or run through thick cover than to try to ride a bike through it.*

*The trail is not laid constantly, but is occasionally lifted for a distance of, say, 400 yards and then dropped again thus allowing the hounds to cast (i.e. to fan out to search (using their noses) for the scent) as they would have done when hunting live quarry. The less the Huntsman or the followers know of the route of the trail, the more the hunting will mimic its realistic and challenging form."*

We could not find any evidence of what constitutes the reward that the hounds may receive if they follow the trail in the end, or that they receive a reward at all.

## 4.2. Trail hunting used as an alibi in criminal investigations

Before assessing whether trail hunting is a false alibi, we need to explore first if it is an alibi at all. Let's begin defining what we mean by 'alibi'.

An alibi is a form of defence against an allegation of having committed a crime whereby a defendant provides a specific explanation to avoid blame or justify action. In this report we do not necessarily mean that an alibi is only when the defendant attempts to prove that he or she was elsewhere when the crime in question was committed. We mean simply that he/she was doing something else other than what was alleged to have been done, which led to his/her charge.

To determine whether trail hunting has ever been used as an alibi in criminal investigations, we needed to review all the known cases in which suspects/accused that belonged to a registered hunt (who therefore could conceivably be trail hunters) were investigated for allegations of illegal hunting. We then needed to assess which defence/explanation they used.

Regarding prosecutions under the Hunting Act 2004, we know that from 2005 to 2014 there have been 590 defendants proceeded against for offences under the Act. As figure 40 shows, the numbers have been steadily increasing over time. Figure 41 shows the ratio of conviction has normally been high, although it decreased since 2012, with a current average of 64% (RSPCA, 2014) (ParliamentUK, 2015) :

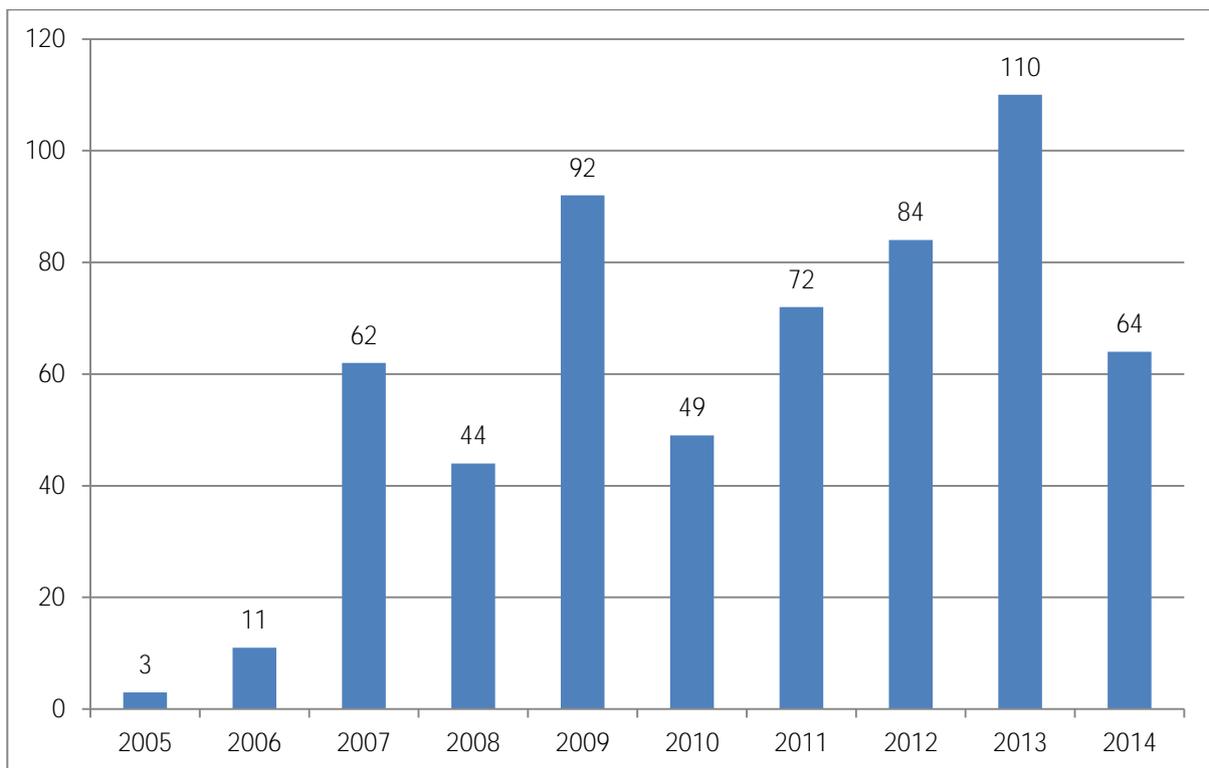


Figure 40. Number of defendants proceeded against for offences under the Hunting Act 2004 per year

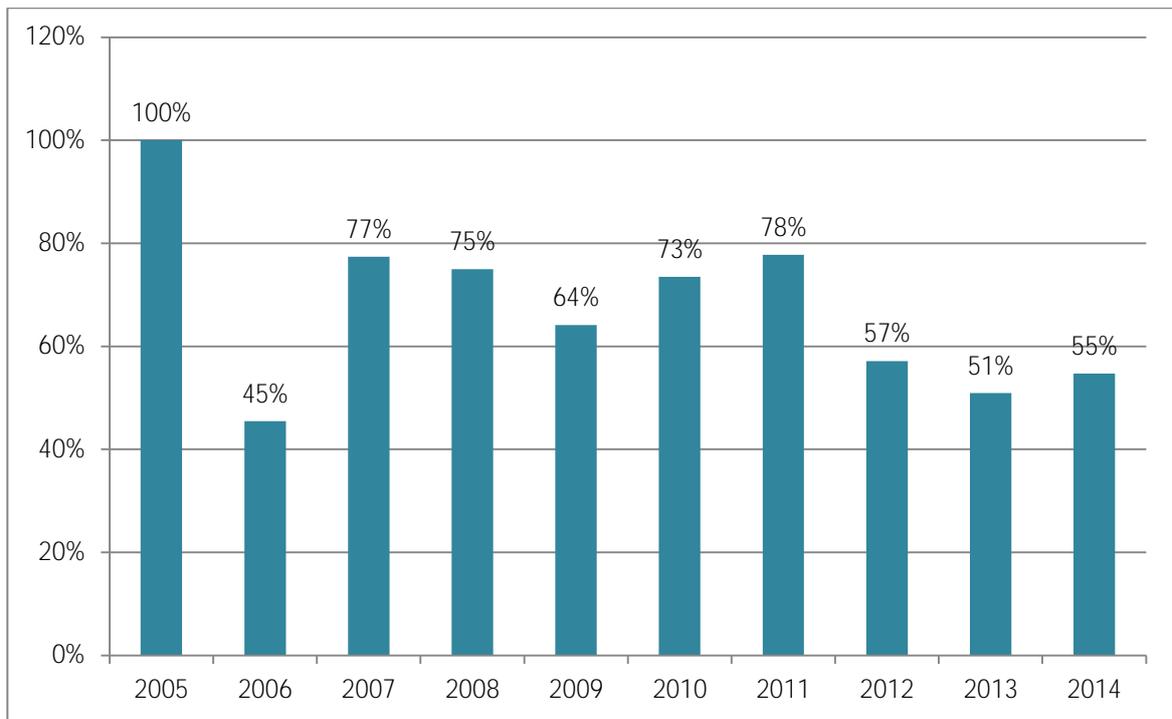


Figure 41. Percentage of conviction of defendants proceeded against for offences under the Hunting Act 2004 per year

However, most of these cases are against poachers that used dogs rather than members of registered hunts that may do trail hunting. To assess how often trail hunting is used as a defence we will have to look beyond actual court cases into evidence-based allegations of illegal hunting that may or may not have ended up in completed proceedings.

We analysed IFAW's cases in which evidence compiled by our Wildlife Crime Investigators was given to enforcement agencies (either Police/CPS or RSPCA) for the purpose of seeking a prosecution on a Hunting Act 2004 offence. Regardless of whether anyone was eventually charged, or whether or not the case progressed in court, we recorded, when known, which defence the suspects/accused put forward.

We asked the LACS and the RSPCA for the same information, and we analysed all the data together. This amounted to 63 investigations/prosecutions, referring 139 suspects/accused, linked to 44 different registered hunts.

Figures 42 and 43 show the results of this analysis. Trail hunting was used as an alibi at least once in most (54%) hunt prosecution attempts. It was also the most common alibi used by most of the suspects/accused, by a great margin. We calculated hunt prosecution attempts and suspects separately because some prosecution attempts involved several suspects, not all of them claiming the same type of defence. We wanted to check that not only was the trail hunting alibi used by at least one suspect in the majority of hunt prosecution attempts, but also by the majority of suspects.

It should be noted that if, in all the cases in which we do not currently know the alibi given (shown as 'unknown' in Figures 42 and 43), the alibi given was in fact trail hunting (which is likely as it is the most common alibi), the results would show that in up to 79% of hunt prosecutions attempts at least one accused used the trail hunting alibi, or that up to 75% of the suspects/accused did.

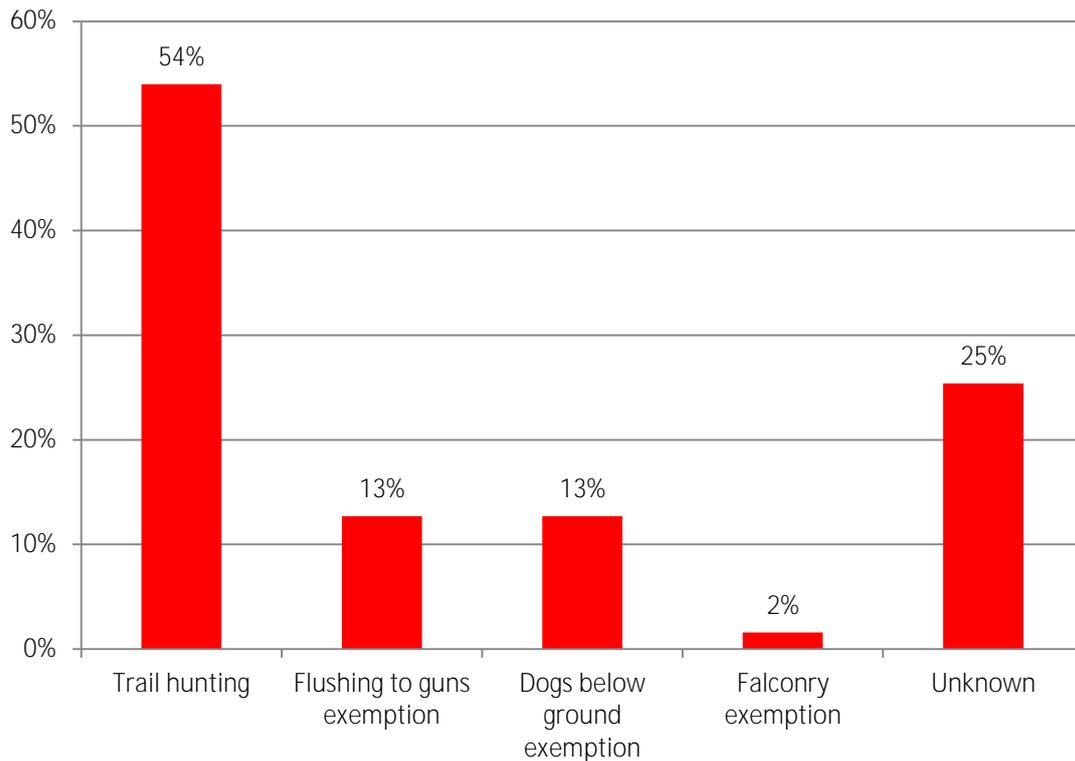


Figure 42. Percentage of investigations or prosecutions of hunts where some suspects/accused were considered for potential charges of Hunting Act 2004 offences, when such accused were associated with registered hunts in England or Wales, per type of alibi given by at least one suspect. In some cases it is believed the accused may have given more than one defence, and this is why all percentages add up to more than 100%. (N=63)

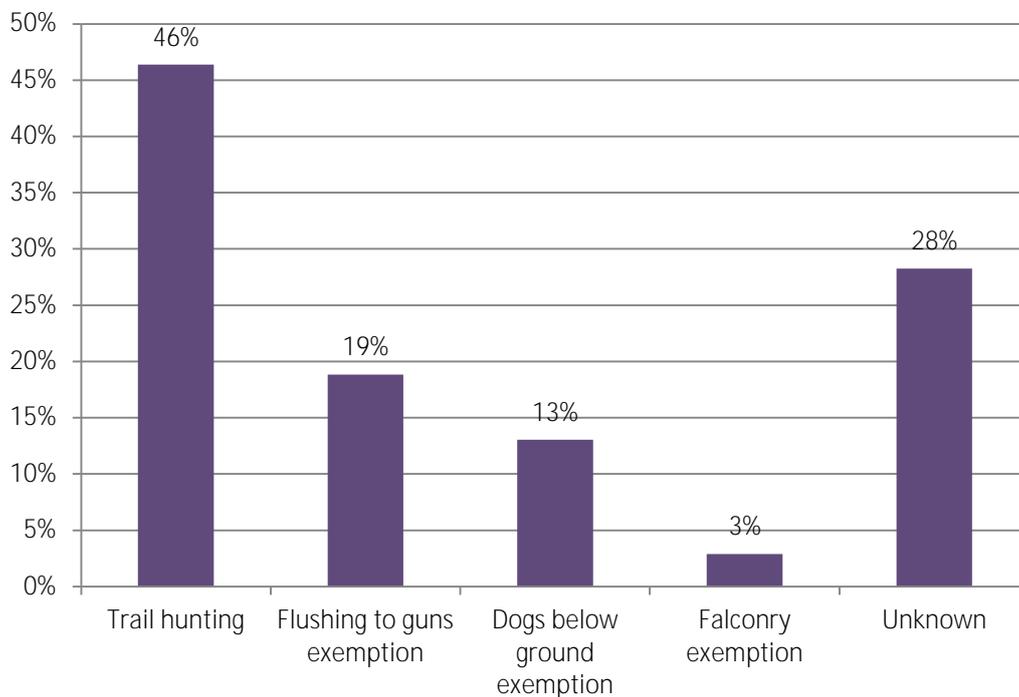


Figure 43. Percentage of suspects/accused of potential charges of Hunting Act 2004 offences, when such accused were associated to registered hunts in England or Wales, per type of alibi given. In some cases it is believed the accused may have given more than one defence, and this is why all percentages add up to more than 100% (N=139). This graph is different than the previous one because some hunt prosecution attempts involved several suspects, not all of them claiming the same type of defence.

Below are extracts from the District Judge Stephen Nichol's ruling on the R v Andrew Phillis, Rachel Holdsworth and Neil Millart case. This is an example of a prosecution in which trail hunting was used as an

alibi. Members of the Crawley and Horsham Hunt were found guilty of Hunting Act 2004 offences in a trial heard over 23<sup>rd</sup>, 27<sup>th</sup>, 30<sup>th</sup> April, and 1<sup>st</sup> May 2012 at Haywards Heath Magistrates Court (Bowcott, 2012b). Paragraphs 1, 3-15, 16 (b)-(e), 17, 18 (c), 19-21, 22(b) and 24 onwards have been omitted for simplification:

2. (a) The Crown's case in respect of each of these offences: AP was the Huntsman on all three dates, RH was a trail layer on the 18/01/11, a Whipper-in on the 25/01/11 and NM was a field master on the 25/01/11.  
(...)

16.(a) The next prosecution witness was Professor Stephen Harris. He had prepared three detailed written reports concerning the three days concerning the incidents with the Crawley & Horsham Hunt. Professor Harris has a First Class Degree in Zoology (1971) from the University of Bristol, a PhD from the University of London (1977) for his research on foxes. He is an international expert on foxes, has many publications, he writes and edits publications on foxes. He started following fox hunts in the 1970's, accompanying terrier men during a day's hunting. He has attended several hundred fox hunts. Though he has attended many hunts in the UK he did not recall ever having attended the Crawley & Horsham Hunt. He was familiar with the use of hounds, the use of the whip, and the commands to the hounds. He confirmed that he was aware that terrier men would be part of a hunt to dig out foxes that have gone to ground and send in the terriers either to kill the fox or flush out the fox. He said that he has been used as an expert by the CPS, RSPCA and League Against Cruel Sports. He was not a member of a hunt or anti-hunt organisation.  
(...)

(f) Professor Harris was familiar with trail hunting; it was different to drag hunting which had predated the Hunting Act. Drag hunting usually done in the open tends to be a moderately fast activity with a scent dragged along by someone on foot or horseback. Trail hunting had commenced as a sport after the Hunting Act came into force to replicate fox hunting before the Act came into force. A trail was laid with either fox urine or there were available artificial scents from North America. Most of the hounds seen here used by the Crawley & Horsham Hunt were some 5-6 years old and would not have had experience of hunting foxes before the Act came into force. He said there was a lot of organisation involved in setting a trail hunt. He has had experience of laying a trail for bio barrier purposes. The scent or odour will persist on the ground or in the air depending on the climatic conditions. A trail layer will try to lay a scent about 20 minutes in advance of a hunt. Artificial scents may last longer than scents produced by foxes. With a fresh scent the hounds are likely to run faster, with an old scent the hounds will be slower in following it with their noses closer to the ground.

(g) Having viewed the video footage he could not see any evidence of trail laying. The footage of the 18/01/11 exhibit SJW/2 at 12.02.39 at Trawlers Farm Woodgetters shows AP with pack riding across a field and instructs RH to "lay a trail towards Woodgetters" RH rides off with a riding crop held out in her right hand. The rag or duster that could be seen on an earlier clip at 11.42.14 SJW/2 is no longer visible. Professor Harris was of the view that if she was laying a trail with a scented rag or duster the hounds that can be seen would be taking an interest in her and they are not doing so. If a trail was being laid through thick cover and vegetation then one might expect to see moss on clothing, he notes that she looks spotless and it is difficult to believe that she has been laying a trail.  
(...)

18.(a) The defendants' interviews were in part read out and, by agreement between the parties, by reference to the Crown's opening note and the details of what were said in each interview. AP provided a prepared statement. He said that on most occasions when he was the Huntsman of the Crawley & Horsham Hunt he took part in trail hunting. The Master would make arrangements for the trail to be laid on horseback, quad bike or on foot. He may have discussed this with trail layers. If he was aware of the hounds pursuing mammals he would do what he could to stop the hounds. He would not comment on the videos as he had not seen them, they were shown to his solicitor before interview. He accepted he may have picked up a dead fox. He could not recall any kills; he declined to answer any further questions.

(b) NM said he was joint master of the Crawley & Horsham Hunt since 2002. He had responsibility for the hunt's own six horses and to a lesser extent the kennels. He explained that the Huntsman controlled the hounds by his voice and with the use of the horn. He said that since HA 2004 they had recreated hunting by following a trailed scent. He said it was not their intention to hunt foxes, if they became aware of them they would try to stop the hounds, but often it was not possible because they were too far away. The huntsman has his horn and two assistants, he may be able to get in front of the hounds to stop them. If the hounds did kill it was a great surprise and they would contact the police. He explained the purpose of terriers; they only rarely used them, then only if a gamekeeper requested to protect game from foxes. He explained the use of trails and training the hounds to follow a trail. Sometimes a trail is laid through thick undergrowth, the length of scent varies and it can last up to 4 hours. He would sometimes send out a trail layer an hour or two before. He said that it was not possible to avoid laying a trail in thick undergrowth where foxes may be "otherwise we'd hardly end up with anything", they would not want it to be over too quickly. There is no map setting out the route, the person with the scent stays with the hunt all day. The rag with the scent does not need to touch the ground. He is shown the footage of the incident at Shermanbury Place on the 25/01/11. He denied that it showed the hunt deliberately following a fox. He was shown footage of the quad bikes and denied there were terriers in the boxes on the back of the bikes. He denied that he was aware of any illegal hunting on that day.

(...)

(d) RH An interview was arranged for the 06/07/11, it did not take place. In correspondence dated 08/07/11 from her solicitor to PS Trevis, indicating that her role in the Hunt was the joint Hunt Secretary, she was out with the hunt on the 18/01/11 as a trail layer and on the 25/01/11 as an additional whipper-in helping to keep the hounds under control and out of harm's way.

(...)

22.(a) In respect of the matters on the 18/01/11 having considered all the evidence. The video footage SJW/2 at 11.42.14 of RH riding off with a duster on her crop, the defence contention is RH is laying a trail. The video footage at Trawlers Farm Woodgetters of AP riding across a field and instructs RH to lay a trail towards Woodgetters. RH is seen to ride off, the hounds are still in that field as she rides off, as Professor Harris noted in his evidence, the hounds take no interest in RH as she holds out her riding crop with, as is contended by the defence, a duster attached to it. I take the view that this was done for the benefit of the cameras which RH and AP were aware were filming them. I am not satisfied that she was laying a trail. The sequence of CT's video evidence that sees the fox cross the field to the north of Crookhorn Farm at 16:52:00 followed some 19 seconds later by the pack of hounds on the line the fox has taken is evidence that the hunt have sighted and are pursuing a fox. With reference to the video of MG filming the fox 12.27.17, the hounds cross in the same direction 12.40.22, and RH rides past MG in the direction of the hounds in the woods. Again further evidence that the hunt are clearly aware that the hounds are following a fox. In AP's prepared statement when interviewed, it reads:

"As the Huntsman I was not told exactly where the trail was to be laid. Trail layers would be told the general area in which to take the hounds in order to pick up the trail that had been laid. During a Hunting day sometimes a mounted follower would lay trails, my solicitor has told me that there is a part of the video where the trail layer is speaking to someone who monitors have identified as me. I may well have discussed with the trail layer the orders she received from the Master. If I gave any directions myself to the trail layer then it's clear that I did not intend to immediately hunt the trail she was laying as I would have been too close to her for that to be realistic."

(...)

(c) Taken together, the video footage of the alleged trail laying, the combined evidence from SW, CT, JW, MG & Mrs Pattenden together with the evidence of Professor Harris, I am satisfied so that I am sure that the defendants AP and RH were fox hunting, they knew that the hounds were on a scent of a fox, that they continued to follow the fox for sometime around the area of Marlpost Woods and to the north of Crookhorn Farm. I do not accept that there was any trail hunting in the dense undergrowth seen on CT and MG's videos, which forms part of these woods. The defendants were made aware that they were following a fox and whilst I accept that clearly there was no sympathy between the hunt members and the hunt monitors, there is no evidence that the hunt monitors made false or repeated unreliable assertions to the hunt on this day. Whilst because of the background of the two groups there might be little co-operation between the two the defendants did not take any steps to call off the hounds. Throughout the time covered by the prosecution witnesses there was no evidence of any sustained attempt or otherwise to call off the hounds.

(...)

23. The second incident on the 25/01/11 at Shermanbury Place. The hunt move across a field with quad bikes, riders and hounds, they are then seen near to the River Adur. On SW/01 video there is the conversation between SW and RH at 15.02.16 in a field to the north of Nyman's Farm. The hounds run towards the River Adur including the quad bikes; on the back of one is a terrier, the hounds are in and about this area when a fox is seen near to the pack and runs towards the people on horseback including the huntsman AP. RH is also nearby, NM as Field Master is also nearby. In interview this sequence is played to NM; I accept that he was not shown the final video that was produced in evidence where it has been frozen at 15.06.01. He denied that the hunt was following a fox. AP does not deal with this incident specifically as he was not shown the video. RH was not interviewed or shown the video. There is no effort made to call off the hunt. It appears that the hounds are in fact encouraged by the huntsman by the use of his horn and verbally. A call is made of "Tally Ho" the hunt rides off. The direction that the fox has run off in is into dense undergrowth I accept the evidence of SW, JW and Professor Harris and I am satisfied so that I am sure that AP and RH and NM were hunting contrary to Section 1 Hunting Act 2004.

### 4.3. Trail hunting as a false alibi for illegal hunting

For the purpose of this report we define false alibi as any specific explanation given to avoid blame or justify action as a defence against an allegation of criminal behaviour, which has been purposely constructed with false evidence or untruthful statements, or knowingly relies on wrong assumptions, misleading facts, or deceptive testimonies, used to pervert the course of justice.

In the last chapter we saw that trail hunting is the most common alibi used in criminal investigations involving members of a registered hunt accused of Hunting Act 2004 offences. However, how often do such alibis turn out to be 'false'? We can assess this by counting how many of those that have been found guilty in successful prosecutions used such alibis. We also need to assess how likely it is that such alibis were simply constructed to avoid prosecution, based on their form, design, and what we know about them.

When giving the alibi did not prevent a prosecution from going forward, Figure 44 and 45 show that trail hunting was used as an alibi in most (58%) hunt prosecutions in which some of the accused were nevertheless found guilty. This means that the judges did not believe the alibis. Trail hunting was also the most common alibi (62%) used by the accused associated with a registered hunt who were found guilty in such prosecutions. (There are two different graphs because some hunt prosecution attempts involved several suspects, not all of them claiming the same type of defence.) So we know that, at least in these cases, trail hunting was definitively used as a false alibi.

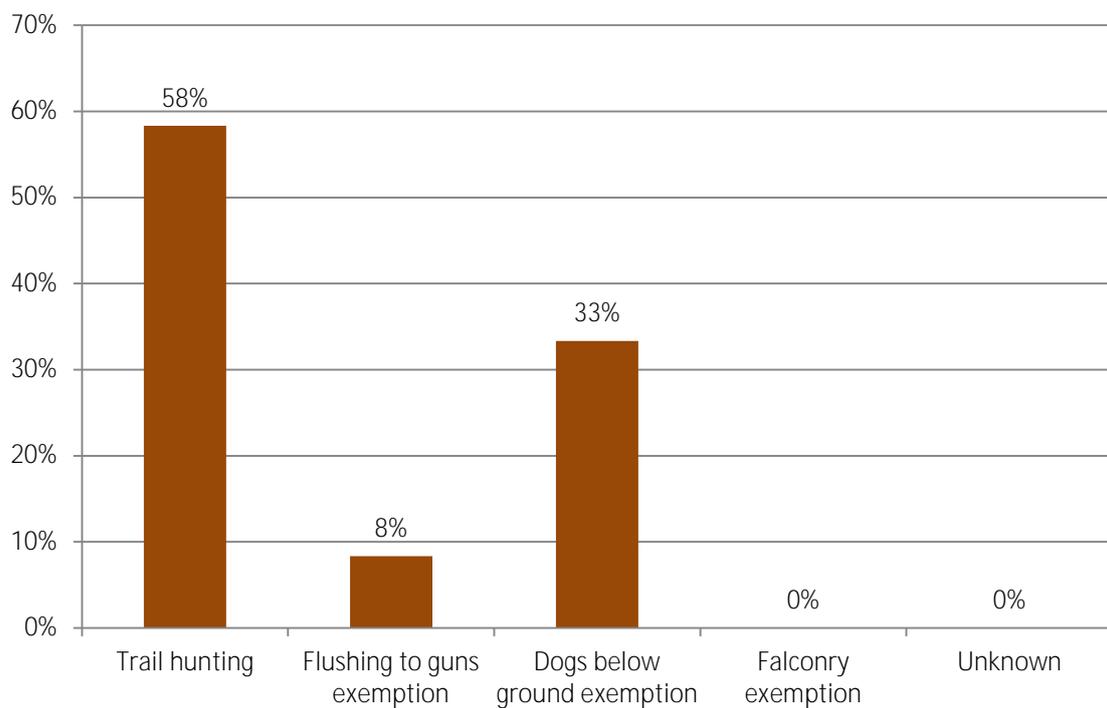


Figure 44. Percentage of Hunting Act 2004 hunt prosecutions with some guilty verdicts, when accused were associated to registered hunts in England or Wales, per type of alibi given by at least one of such accused. (N=12)

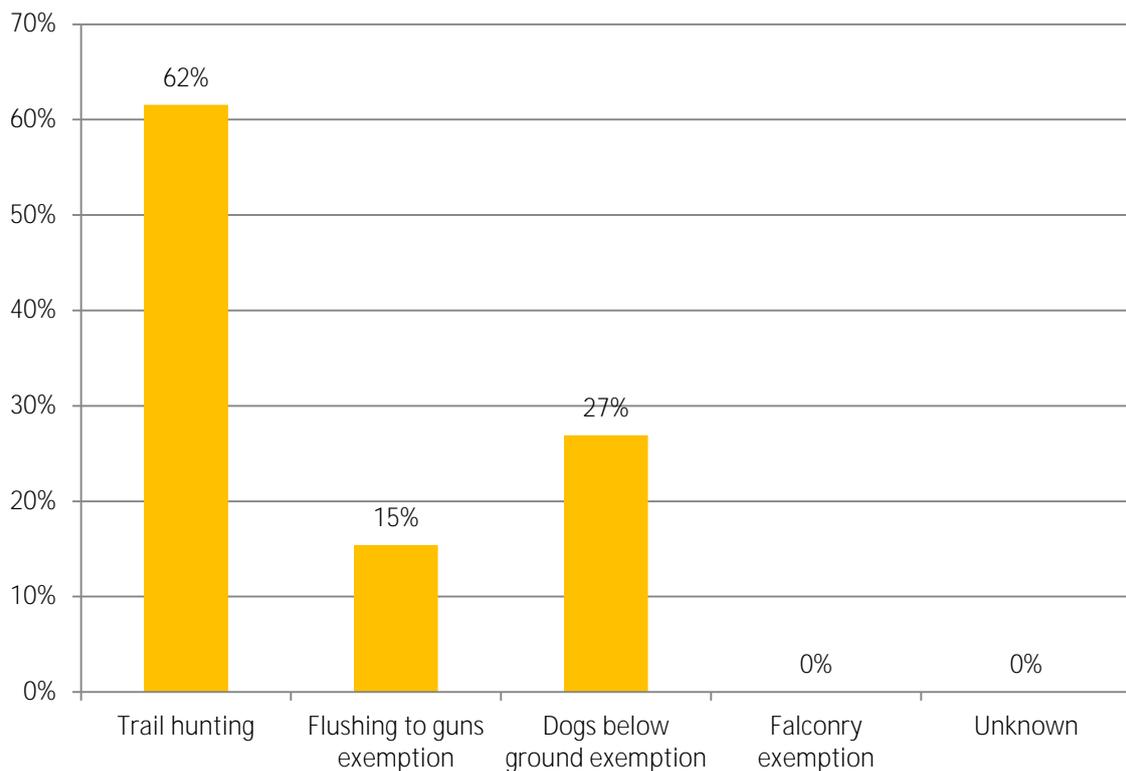


Figure 45. Percentage of accused of Hunting Act 2004 offences who were found guilty of Hunting Act 2004 offences, when such accused were associated to registered hunts in England or Wales, per type of alibi given by such accused (N=26). This graph is different than the previous one because some hunt prosecutions involved several suspects, not all of them claiming the same type of defence.

The question now is whether such cases were the exception or the norm and whether trail hunting is a legitimate activity which is occasionally used as a false alibi, or in fact it is a false alibi only occasionally exposed as such?

Without being directly involved in a case, it is difficult to ascertain the actual reason an investigation was dropped prior the main court hearings. Thus, we cannot be certain about whether the effective use of a false alibi was the main cause in every instance. But what we can do is analyse in detail the trail hunting alibi. This will determine whether, by design, it is more likely to be false than real. We can then assess all the information we have about trail hunting being performed to see if it informs us about whether it is a real sport or a cunningly constructed false alibi.

IFAW's Wildlife Crime Investigators have been going out in the field since trail hunting was invented in 2005, to investigate the activity and to ascertain if it is a real sport or something different. It was hoped that sufficient footage could be obtained to distinguish genuine trail hunting as a legitimate sport from trail hunting used fraudulently as a false alibi quickly and effectively. This evidence could then be used as the base of investigation against illegal hunting, and help the police enforce the Hunting Act 2004.

However after 10 years monitoring hunts for six months a year, week after week, they could not witness sufficient cases of genuine trail hunting to be able to make the comparison. In fact the absence of trail hunting witnessed in hunt monitoring reports produced from all these investigations already answers the question of whether trail hunting is what the hunts say it is, or is instead a false alibi.

IFAW has compiled 478 hunt monitoring reports since the Hunting Act 2004 was enacted covering 45 different registered hunts in England and Wales. These reports are from unannounced hunt monitoring operations during which IFAW's investigators tried to observe the hunts without being seen. This was to discover what hunts actually do when they go hunting rather than when they are showcasing their activities in front of journalists (such as during well-publicised Boxing Day meets). Figure 46 shows the evidence in these reports of anyone laying a possible genuine trail having been witnessed by the investigators.

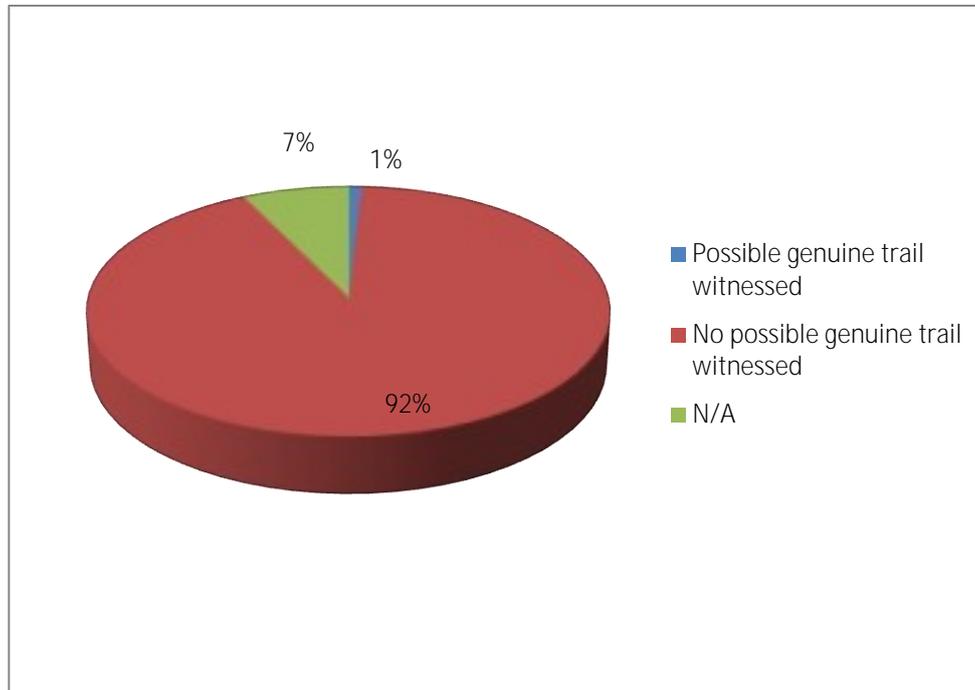


Figure 46. Percentage of IFAW's hunt monitors reports showing possible genuine trail laying being witnessed, from 478 reports covering 45 different hunts in a period of 10 years. N/A cases are hunts that do not claim they do trail hunting, such as stag hunts. N=478

Our Wildlife Crime Investigators typically start their hunt monitoring operations before the hunt has started. But only in eight of the 478 hunt monitoring reports (2%) did the monitors report having seen someone laying something that could be interpreted as a drag for trail hunting.

As to those 2%, the investigators sometimes saw other evidence suggesting that the trail was not genuine. For example, if the hounds completely ignored the drag when passing close to it as if it had no scent on it. There were only four reports (1%) in which the investigators reported something that could potentially be genuine trail hunting.

If we discount all operations in which trail hunting is not claimed (such as stag hunting cases), the results show that in 98% (N= 443) of the hunt monitors' reports on alleged trail hunts, the investigators reported not witnessing anybody laying any trail. If we discount all operations in which any trail laying was considered not genuine trail hunting by the investigators, then in 99% of the hunt monitors' reports on alleged trail hunts, the investigators reported not having witnessed anybody laying any potentially genuine trail.

It is important to consider that if one observes genuine trail hunting, one would expect to witness someone laying a trail several times in different locations during the entire day. A trail laid in early morning in one

place is unlikely to still be found by the hounds during late afternoon, when hunting is still going on. The sun will have evaporated the scent.

Consequently, if Wildlife Crime Investigators do not see any trail laying from before the hunt starts in the morning to when it stops in the late afternoon, that fact is significant. It discredits claims by the hunt that the trail layer was just missed by the investigators.

Even in those cases in which the investigators reported seeing what they believed could be the laying of a genuine trail (1% of reports), it may not necessarily be the case that no hunting law was broken. The goal in such hunts could be the inducement of an accident (see MO4 type, discussed below).

IFAW's data is not confined to a handful of hunts that could be considered to be 'bad apples', unrepresentative of the 'standard' of the hunting fraternity. The data covers 45 different hunts from 28 different counties in England and Wales. Although the selection of the hunts investigated was by no means random, and therefore it is not possible to state that any results from the analysis of IFAW's hunt monitoring reports are statistically significant, nevertheless the hunts investigated represent 16% of those registered and they operate in 50% of the counties in England and Wales, which are considerable percentages.

Moreover, other animal protection organisations have monitored other hunts from other counties, and their data suggests that our conclusions may apply beyond the hunts that IFAW investigated. Indeed, our investigators' reports are consistent with the accounts of investigators from other organisations including the LACS, HMA (Hunt Monitoring Association) or POWA (Protect Our Wild Animals). Those groups have told us that, in most of their hunt monitoring operations, their monitors have also not witnessed what appears to be genuine trail hunting.

For instance, Paul Tillsley, Head of Investigations at LACS, said: "*Since the Hunting Act was enacted we have monitored hundreds of days hunting across the length and breadth of the country and we have only seen a handful of hunts laying trails and trying to follow them*".

Penny Little is a very experienced monitor of the Oxfordshire and Gloucestershire hunt monitoring group associated with HMA. Her evidence helped to secure the first successful conviction of a hunt as a corporate body. She recently wrote to us stating that "*In the last 10 years, the Oxfordshire and Gloucestershire monitors group monitored approximately 700 hunt days from 11 different hunts, and we never, ever saw genuine trail hunting taking place.*"

Furthermore, Simon Wild, an experienced independent monitor whose evidence also secured convictions of illegal hunting of offenders connected with foxhunts, stated: "*I have mainly looked at three different fox hunts and have attended 300 plus hunt meets in the last 10 years. Only one hunt tried genuine trail hunting, but even that one soon lapsed. That hunt is trail hunting for short show sessions, but it is not genuine as the hounds are soon allowed to go their own way. I have spoken to the huntsman of that hunt, and he claims: 'how do you tell the difference when they are following a fox trail or our trail?' The other two hunts keep a rag in a box with a bottle of fox urine. They would lay a trail over a field if a TV camera was near, but otherwise never bother laying a trail. And all hunts have had terrier-men following and flushing or digging the fox out that has run to ground.*"

Graham Forsyth, an independent hunt monitor who has monitored six different hunts over 200 times since the ban was enacted, stated to us: "*I have never seen a trail being laid apart from a man walking along a road that went through forestry commission land with a rag on a piece of string. The rag was dry and did not*

*smell of anything, but again gave the hunt an alibi when videoed or photographed.*" Similar accounts come from members of the Hunt Saboteurs Association.

The question is then, what have they witnessed? We believe that the vast majority of hunts claiming to go trail hunting actually undertake illegal hunting under the smokescreen of an effective false alibi. Some judges who have analysed Hunting Act cases have already correctly described the true nature of trail hunting in those cases. The following is from Judge Michael Pert QC at Leicester Crown Court on 14<sup>th</sup> October 2011 confirming the guilty verdict of members of the Fernie Hunt who had used the alibi of trail hunting (Pert, 2011):

*"Charles Millington told us that he was asked at about 1.15 to lay a third trail starting in the vicinity of Stonton Wood. He did so, starting at about 1.35. He described the trail that he laid including the point at which it crossed the Harborough Road and continued southwards. At the conclusion of his trail-laying, he went home without telling anyone where his trail had gone. It's hardly a surprise therefore that the hounds were following a live fox alongside the Harborough Road at 2.45 and that no steps were taken to alert the Hunt. While of course accidents will happen and the hounds in a well-run hunt may start after live prey, this is, to our mind, an example of the use of a trail to mask the fact that along the route the hounds picked up and followed the scent of a live fox and that that was the intention of those pursuing it. (...)*

*The Masters of Draghounds and Bloodhounds' submissions to a Government Inquiry, cited by Professor Harris in his report, make two important points about the use of hounds to hunt an artificial scent. Firstly, dedication of the highest level is required to prevent hounds hunting a wild animal. Secondly, hunting an artificial scent provides an ideal conduit by which an individual could hunt covertly. We are perfectly satisfied that no real attempt was made to prevent the Hunt from hunting a wild animal. The reason for this was indeed that the notion of trail hunting was a cover. (...)*

*It may be that these appellants feel that they have the support of a significant number of people and it may be in that they are correct. It may be they feel that a day will come when this Act is repealed and in that they may be correct. But the law is the law and no worthy cause is well-served by cynical subterfuge which, in our view, is what we have seen in this case. We have directed ourselves appropriately as to the burden and standard of proof and are quite satisfied that each appellant is guilty on each charge and each appeal is accordingly dismissed."*

Although obviously the judge made this comment about a particular case, we believe that it summarises our conclusions regarding hundreds of cases about which we have seen information.

There have been occasions when skilful journalists have managed to extract a confession from hunters explaining the deception behind trail hunting. The following is from a huntsman whose identity was not made public, published in The Economist in 2015 (Bagehot, 2015):

*RISING on his stirrups, somewhere in the west of England, the huntsman issued the same statement he, impeccable in red coat and white stock, gives every Saturday morning of the season. "We will hunt today within the law," he told the assembled riders, who were sipping from tiny port glasses*

*astride their champing steeds, with hounds boiling beneath them. (...) What lessons should be drawn from this farrago? The obvious one is that politicians make the laws they deserve. Ill-conceived and illogical, the ban is unworkable. It allows hunts to follow an artificial scent-trail—because an outright ban could criminalise anyone taking his pet dog for a walk in the country. And because it would not be illegal for that pooch to kill, peradventure, a fox, it follows that if the hounds veer onto a real scent and make a kill, no law has been broken. The huntsman who welcomed your columnist explained that, in practice, this means that before a hunt one of his helpers films himself laying a pretend scent-trail—by dragging a rag theoretically, but not actually, soaked in fox scent, from a quad bike—to provide evidence for a possible defence in court. Then the hunt goes out and hunts as it always has, but illegally. The police—one of whose officers was riding with the hounds that wintry day—understand this, but do not much care. Animal rights activists know it, and it makes them mad, but it is so hard to collect evidence of lawbreaking, in the form of video footage showing a huntsman urging hounds on to a fox, that prosecutions are rare. Only a couple of dozen huntsmen have been convicted for contravening the ban, for which they mostly received small fines.*

In conclusion, although there may be exceptions, we believe that the available evidence suggests that trail hunting, in general, is primarily a false alibi to avoid prosecutions of illegal hunting, rather than a harmless temporary simulation of hunting before the ban, or a slight variation of the cruelty-free sport of drag hunting, as many want us to believe.

Specifically, we believe that this false alibi may take four different forms, namely: not laying trails; producing false evidence; faking an activity, and deliberately causing accidents. We call all these forms MOs (*Modus Operandi*, i.e., a particular way or method of doing something). Each of them will be discussed in the following chapter. Cases studies to illustrate each of these MOs can be found further along in this report.

#### 4.3.1. MO1 –Laying no trail

This Modus Operandi is based on the hunts not making any attempt to lay any trail and simply relying on the authorities believing that they have done so. To fully operate this MO requires the following four phases, which can be developed over time, and repeated if necessary:

1. Announcement: The hunt publicly stating they will be trail hunting when they meet.
2. Showcase: They invite media to show they are laying trails, usually on Boxing Day.
3. Crime: When the public, police and authorities already believe that they hunt 'legally' now, there is no further need for the pretence of laying trails and they go hunting as before the ban.
4. Deception: If evidence is obtained of the hounds chasing live quarry, simply state that the hunt was trail hunting, and hope the case will be dropped.

Considering that in 98% of IFAW's hunt monitoring reports trail laying was not observed, it is possible that this is the most common MO used by trail hunters. However, is it possible that the Wildlife Crime

Investigators simply missed the trail layers who laid all the trails many hours before the investigator turned up?

We do not believe so. If the hunts want their hounds to find the scent it would be unreasonable to lay the trail many hours earlier. This is despite some hunts claiming they may have laid their trails as early as 24 hours before the meet. For instance, the South Shropshire Hunt website states: "*Our trails are laid regularly throughout the day's hunting, and although the hounds can hunt a trail laid more than 24 hours before, we like to hunt trails laid just a few hours earlier*" (Southshropshirehunt, 2015b).

We asked Ian McParland, a former Metropolitan Police Dog School trainer currently working as a forensic canine behaviourist, the following question: "*If you were asked to design a new activity based on a pack of foxhounds (used to find foxes) finding and then following a scent trail laid in the British Countryside in winter, while at the same time doing as much as reasonably possible to avoid such hounds chasing the trail of a live fox instead, what would be your recommended time to lay the artificial scent trail relative to the time the hounds are casted to find it, and why?*" He replied with the following:

*This would depend upon the exact conditions prevalent on the day in question. A sunny day in December that is above the seasonal norm will be different from an overcast one that is below seasonal norm. The scent will evaporate more quickly in warmer weather; this therefore should be closer to the moment at which the dogs are put to search. In practice as long as the track / scent layer is out of sight of the animals following (so as not to encourage a predatory chase) then it could be laid almost immediately beforehand. If the track layer wishes to challenge the abilities of the hounds then this may be done by increasing the time, or reducing the amount of scent laid (either through reduced contact with the floor or less scent placed on the dragged object). I cannot envisage any situation where a period of more than two hours would be required. The closer from the time of 'laying' to the time of being worked the less the hounds will have to work to find the scent and the faster they will follow. It is therefore possible to adjust the speed of the dogs by varying the times between laying and following. This can make the 'chase' more or less exciting or challenging for the riders.*

IFAW's Wildlife Crime Investigators normally start their monitoring operations before the meet starts in the morning and leave after it has finished in the afternoon. The meets they monitor last an average of 4 hours and 37 minutes (n= 387). So if actual trails had been laid for the hounds to find in the afternoon, and they laid these trails sensibly and responsibly, the investigators would have seen the trail layers doing it. However, they did not see them in 98% of the trail hunt monitoring operations; this suggests that no genuine trails were laid in most of these.

A case study about this MO using a Seavington Hunt prosecution is discussed below.

#### 4.3.2. MO2 –creating false evidence

This Modus Operandi is based on the hunts occasionally creating some evidence to support their alibi, and keeping it for further use in the future while normally hunting as before the ban. To fully operate this MO requires the following five phases, which can be developed over time, and repeated if necessary:

1. Announcement: The hunt publicly stating they will be trail hunting when they meet.
2. Showcase: They invite media to show they are laying trails, usually on Boxing Day.
3. False evidence: The hunt sometimes film themselves laying a trail with a drag (with or without any scent in it), and keep the footage for later use.
4. Crime: Go hunting as before the ban.
5. Deception: If evidence is obtained of the hounds chasing live quarry, they produce the video recording to falsely claim the trail was laid and hope the case will be dropped.

In this MO they could simply record the trail without a date/time or any direct evidence of when or where such a trail was recorded. This is in the hopes that the authorities may believe that it happened on the day of the alleged offence.

Alternatively, they may not hide that the evidence was recorded another day, in the hopes that the authorities may conclude a hunt could not hunt illegally one day if it had hunted legally another. It is also possible to record such videos on the days on which hunt monitors may have been spotted by hunt supporters, so they can record them witnessing the trail laying.

It is possible that the hunts IFAW's investigators monitored without witnessing any evidence of a trail being laid are using this MO rather than MO1. This is perhaps as the video recording of the laying had been produced a day where IFAW monitors were not present.

A case study about this MO using a Cattistock Hunt case can be found further along in this report.

#### 4.3.3. MO3 –faking it

This Modus Operandi is based on systematically creating some evidence of trail laying to support the alibi, but nevertheless hunting as before the ban because the evidence is not of genuine trail hunting, but rather is fake. To fully operate this requires the following five phases, which can be developed over time, and repeated if necessary.

1. Announcement: The hunt publicly stating they will be trail hunting when they meet.
2. Showcase: They invite media to show they are laying trails, usually on Boxing Day.
3. Pretence: When going out on an advertised meet, someone lays a pretend trail with a drag (with or without any scent in it). The hope is that hunt monitors or police will witness this trail laying.
4. Crime: Go hunting as before the ban.

5. Deception: If evidence is obtained of the hounds chasing live quarry, the hunt refers to the mock laying of the trail that day. This is in the hope that hunt monitors or the police may have recorded it as genuine, and that the case will be dropped.

As IFAW investigators only reported witnessing anyone laying trails in 2% of the hunt monitoring operations, at least in the case of the 45 hunts investigated, this MO is not the most common. It could, however, be common practice with other hunts that were not investigated.

#### 4.3.4. MO4 –causing accidents

This Modus Operandi is based on developing some sort of real trail hunting while at the same time inducing the hounds to hunt a live mammal without fear of prosecution. In these conditions, a hunt in which a real fox is chased could be claimed as an 'accident'. Inducing an accident by design is not really accidental.

The overall activity should still be considered illegitimate as the 'accident' was indirectly provoked on purpose and not prevented when it could have been prevented. Therefore the trail hunting component still operates as an alibi to cover up an intention to break the law. This is by claiming that something was an accident when it was not (and therefore a false alibi because although the activity may be real it does not remove the blame of those directing it). To fully operate this requires the following six phases, which can be developed over time, and repeated if necessary.

1. Announcement: The hunt publicly stating they will be trail hunting when they meet.
2. Showcase: They invite media to show they are laying trails, usually on Boxing Day.
3. Alibi building: At every meet someone lays a trail with a drag soaked in fox urine in areas where foxes are likely to be.
4. Inducing an 'accident': The huntsman sends the hounds to areas where foxes are likely to live and the urine trail was laid. He lets the hounds find one scent (the urine scent or a real mammal scent), but keeps a certain distance from them so he may not easily see if there is a wild mammal fleeing ahead. He encourages the hounds to follow this scent while claiming that he does not know whether the scent is from a real fox or from the urine trail. If it turns out that it is the scent of a live mammal, he then claims that it is too late and he cannot stop the hounds.
5. Crime: deliberately allow the hunts to chase or kill a wild mammal.
6. Deception: If evidence is obtained of the hounds chasing live quarry, simply state that it was an 'accident', and hope the case will be dropped.

A variation of this MO is when the hounds start following the urine trail and then deviate on to a wild mammal trail. This is likely to happen because the mammals live there and their scent will be fresher and more powerful than the bottled urine. The huntsman will also be aware of this. He may have seen the animal fleeing or realised the trail could not have gone through thick hedges or busy roads. However, he pretends he is not aware and continues encouraging the hounds while claiming ignorance.

IFAW investigators only reported witnessing anyone laying trails in 2% of the trail hunt monitoring operations. So at least in the case of the 45 hunts investigated, this MO is not the most common. It could, however, be common practice with other hunts that were not investigated.

We do know, though, that contrary to drag hunting in which actual accidents are very rare, 'accidents' are common in trail hunting. Here are some examples from press articles.

29/12/2005. *An animal lover yesterday told of her horror at seeing huntsmen let dogs tear apart a fox - in apparent open defiance of the law. [She] said of the bloodbath just yards from her parents' home: "The hounds literally ripped the fox to bits in seconds. It was barbaric."*

*But she is dismayed police have not even bothered to see her to probe the incident, with officers admitting that stopping illegal hunting is "not a top priority" (Llakers, 2005).*

17/02/2006. *Secretary of [a hunt] admitted that in recent weeks the hunt had accidentally killed a fox in the (...) Valley (...) But he denied that the hunt had done anything unlawful. "The huntsman blew his horn and tried to call the hounds off but some of the hounds had been taking the kill," he said (Thewestmorlandgazette, 2006).*

18/02/2006. *"About 50 foxes have been killed. These have been accidents and inadvertent kills - it can be hard to stop foxhounds doing what comes naturally (WMN, 2006)."*

18/02/2006. *About seven foxes have been accidently killed by hounds in the hunting field (...) said: "(...) There has been the odd accident where a fox has been killed when the hounds have got ahead of the huntsman, but nobody has flouted the law" (HDM, 2006).*

29/11/2007. *A woman and her grandson have been left traumatised after a fox was torn to shreds by hunting hounds in their Worcestershire garden. (...) "We were suddenly surrounded by a pack of very noisy and excited fox hounds tearing around our garden, trampling over flower beds, pushing through fencing and terrorising my grandson who was lost among the pack of hounds," she said (Fry, 2007).*

13/02/2008. *Hounds chased a fox into an empty house in a Northamptonshire village before cornering and killing the animal in the bathroom. Villagers said dogs from the (...) Hunt gained access to the house (...) through an open backdoor before pursuing the fox inside and then killing it, leaving behind what one called a "bit of a bloodbath" (NorthamptonChronicle, 2008).*

21/11/2009. (...) Hounds were following a scented trail along the side of covert at GD SU 084485 when a fox came up into the path of the hounds. The fox appeared to not be sound and may have been either elderly or suffering from prior illness or injury. Hounds killed the fox immediately before the Hunt servants had time to intervene to prevent them (MOD, 2009).

02/01/2011. Yesterday at a meet (...) Hunt Monitors witnessed the (...) Hunt chase and kill a fox. The Hunt was heard encouraging the hounds and blowing for the kill yet still had the cheek to tell Hunt Monitors it was only an accident. The Hunt threw the fox to the Hounds. Hunt Monitors made their presence known and the fox was given to a quadbike rider. He panicked and drove off leaving a monitor to grab the fox. Seconds later the Hunt returned with supporters to obtain possession of the fox. They placed it into a bag and dumped it somewhere. (...) (WSACIT, 2011).

12/12/2011. A family has spoken of their horror and disgust after they watched a huntsman club a fox to death on a garden patio. (...) The graphic designer, along with a friend and his teenager son, looked on in horror as a member of the (...) Hunt strolled across the patio before clubbing the fox to death just feet from where they were stood watching (...) Hunt has denied that the fox was clubbed to death. (...) A senior huntsman, said: "It was a horrible situation where we virtually had to watch and could not intervene. The fox was killed by the dogs - there is no way that the hounds would do half a job. I can see how it would have looked like that to a bystander and the would have been horrendous. The huntmaster was whipping the pack to get the dead fox from them. We have apologised to the owner of the garden and they have accepted the apology." [A] Police spokesman said: "They were hunting with a bird of prey and the pack accidentally picked up on the scent of a fox which attracted the hounds." The hunt mistress was spoken to by police. "Officers have also spoken to the owners who are satisfied with police action - there was no offence committed on the hunt, which was legal (TheTelegraph, 2011)."

05/01/2012. (...) [A landowner] from Sidmouth, and a young passer-by fought in vain to save the wounded animal from a pack of dogs after it sought refuge on land she owns at Shute. Police are investigating the incident which is alleged to have happened at just after 4pm on Boxing Day. Members of the (...) Hunt have admitted being in the area at the time. A spokeswoman for the hunt said they had been legally hunting there, using a false scent trail as permitted under the law. But she said it was possible one of the foxes living in the area might jump out and become an unintentional target for the hounds (Carson, 2012).

21/01/2012. A HUNT master has made another apology after hounds ran out of control for the second time in recent weeks. Complaints have been made to the (...) Hunt after hounds ran through gardens and private fields in (...) last Tuesday. (...) Joint master of the (...) Hunt, apologised for last week's disruption. He said he wasn't riding with the hunt, which was out with around 34 hounds, last Tuesday but was aware of the incident. "We would not deliberately go onto ground where people don't want us – we endeavour to make every effort to stop this from happening. Unfortunately, there

*are times when the hounds deviate onto live quarry or when wind shifts the trail," [he] said. "The hunt is making an extra effort to ensure this doesn't happen again. Our trail layers have been told in words of one syllable (Manning, 2012)".*

*19/02/2013. Police are investigating after a fox was killed by hunting hounds on a busy main road in Carmarthenshire. The fox had apparently been chased onto the A40 in the village of Abergwili, near Carmarthen, on Saturday. But the local (...) Hunt denied responsibility and said its foxhounds were 20 miles away at the time (BBC, 2013).*

*06/01/2015. Surrey Police has sparked outrage after suggesting a fox that died during a New Year's Eve hunt "ran into the path of dogs". The fox was found dead after a legal drag hunt (...) But when police were called, the Surrey force said: "It is understood the fox died after it ran into the path of dogs following a pre-laid trail in Godalming" (Best, 2015).*

It is important to note that hunts which claim they do genuine trail hunting, are able to prove they lay a trail every day they meet, and that the hounds do follow such a trail, could still be using the MO4 of false alibis if:

- a) they insist on using animal based scent
- b) they draw their hounds in areas where the wild mammals they used to hunt still live, and
- c) they design their trail hunting with the key hunt staff not knowing where the trails were laid.

Thus, it is perfectly possible that today the majority of hunts have been actually involved in illegal hunting by using false alibis in any of the four MO forms. There could be, however, hunts that have genuinely developed a form of trail hunting that does not involve these three components. For example, some beagle packs could perhaps be doing this as there is information suggesting some may be using non-animal scent, or that the huntsman may know where the trail is. A case on the old (2014) website of the Old Berkeley Beagles suggested that the huntsman is aware of where the trail goes so he can stop the hounds if they deviate from it (OldBerkeleyBeagles, 2015):

*(...) hunting is now more popular than it has ever been. How have we prospered? The answer is trail hunting. This is a great challenge to the skill of the Huntsman and will help maintain the tradition of hunting until more enlightened times return when the ancient sport of hunting can be resumed once more in full. Since the introduction of the ban, the Old Berkeley Beagles have, like other packs, hunted a trail. This is what we do: before we meet for a day's hunting, one of the whips attaches a lure soaked with a smelly concoction that attracts the hounds, to a piece of rope. He runs with this over the fields and through the woods making a trail. To add interest only the whip knows where the trail has been laid. At the beginning of the hunt, the Huntsman lays the hounds onto the trail which they follow and we follow them. The hounds will not always follow the trail, so the huntsman, by blowing his horn can encourage them back onto the right line, or if that doesn't work, we will call to one of the whips to 'turn' the hounds back to where they should be.*

However, this is no longer on their current website, and we have not found any other example like this. So if there are genuine trail hunting hunts out there not following the three conditions mentioned

above, they seem to be quite discreet about it as they are very difficult to find. Perhaps their discretion is based on not wanting to be seen as breaking ranks with the majority – those hunts choosing the defiance route.

## 4.4. The criminality of trail hunters

Through the preceding information – public opinion of trail hunting and hunt monitor testimony – we have made the case that trail hunting is often used as a false alibi against allegations of illegal hunting rather than being the law-abiding activity the hunts say it is.

This conclusion is reinforced by the circumstances around trail hunting, which are conducive to criminality. We have assessed whether the hunts have sufficient motives, means and opportunities to break the law and hide their actions behind trail hunting.

Motives are the reasons the defendant committed the crime. Means are the defendant's ability to commit the crime. Opportunities are whether the defendant had the chance to commit the crime.

We also have considered the issue of intent and the collective nature of illegal hunting.

### 4.4.1. Motive

Motive is generally defined as "an idea, belief, or emotion that impels a person to act in accordance with that state of mind" (LL, 2015). In a legal context it is the reason the defendant committed the crime. Why would registered hunts choose to create an activity that is a smokescreen for illegal hunting rather than simply converting to drag hunting, or creating a different activity that ensures that 'accidents' do not occur?

We believe that because the hunting fraternity does not accept the hunting ban as a legitimate law and considers it to be temporary, it takes a defiant attitude towards it and wants to sabotage its enforcement.

#### 4.4.1.1. Hunting Declaration

The intention to break the law on hunting may have been a collective decision taken by those representing the hunting fraternity. It may also have been individual decision taken by many hunters. Evidence suggests that before the Hunting Act 2004 was passed many hunters directly expressed this intention by signing a written declaration stating that they would break the law if the ban was enacted.

The declaration concept may have begun in 1999 when Arnold Garvey, the then Editor of *Horse & Hound* magazine, expressed his defiance of the proposed ban and the intent of hunters to break it if passed. As the BBC reported on 16<sup>th</sup> September of that year (BBC, 1999b):

*The editor of Horse and Hound magazine says that thousands of people are prepared to defy any ban on hunting with hounds. "Thousands of us are prepared to go to jail over this issue," Arnold Garvey wrote in Country Life on 10 August. He said that any banning of fox hunting would raise serious civil liberty issues, adding: "Tony Blair, the man who two years ago promised unity and preached tolerance, has now proved himself an utter hypocrite who has kept his faith with the people of Kosovo but betrayed his own countrymen." Huntsman with the Cotswold Hunt, Julian Barnfield, counts himself as one of those thousands, saying: "I will not stop hunting, I am proud of what I do*

*and I lead a very privileged life. I am prepared to go to jail for that life as well, several times if necessary."*

Soon after, Robin Page, prominent countryside broadcaster, and Jennie Loriston-Clarke, an international dressage trainer, also pledged to join the civil disobedience campaign (Horse&Hound, 2000). In 2003, Prof. Roger Scruton and others founded the *Hunting Declaration Initiative*, encouraging hunt supporters to sign a declaration. The declaration pledged that, if a ban came into force, they would disobey the law and continue to hunt, risking criminal conviction (Clover, 2002). The website (now deleted) [www.huntingdeclaration.org](http://www.huntingdeclaration.org) was created to promote this initiative.

In 2003, the organisers of the initiative named 1<sup>st</sup> November 2003 as the Declaration Day, when a series of events were organised so hunters could physically and publicly sign the declaration.



Figure 47. Hunting Declaration leaflet handed out by a hunt supporter during a pro-hunt march in London

The Council of Hunting Associations and the Countryside Alliance (CA) organised 12 venues for Declaration Day, where people would meet to sign the document. This extract from a press article explains the connection with the CA (Horse&Hound, 2003):

*Venues have been announced for mass meets on "Declaration Day", in which hunts from across England and Wales will gather to rally against the Hunting Bill.*

*The 12 meets, ranging from Caldbeck in Cumbria to Badminton in Gloucestershire, (pictured) will be held on 1 November at 10am, and aim to increase media attention on the Hunting Bill.*

*The north-east area will be meeting in Trimdon, Tony Blair's home village. Countryside Alliance regional officer Richard Dodd says: "A supporter has offered 100 acres of land in the village for the gathering and we are expecting more than 1,000 supporters."*

*Many will sign the Hunting Declaration at the mass meets. This commits signatories to refuse to cooperate with a hunting ban and then submit themselves to the legal consequences.*

*The alliance is extending the invitation to attend Declaration Day to all field sports supporters, as well as those who support the right to hunt as a basic freedom.*

*Simon Hart, chief executive of the alliance, explains: "The gatherings will give individuals the opportunity to make clear their intention to take part in a peaceful but committed civil disobedience, should a hunting ban be imposed."*

*The CA, which has organised this event in conjunction with the Council of Hunting Associations, has arranged a hotline for all 12 areas.*

The following is a post from an online forum published 10<sup>th</sup> October 2003 with the details of all the events (Tim1, 2003):

*"DECLARATION DAY - Saturday 1st November.*

*There has been unprecedented support for this event with a record number of emails and calls following the announcement of the date. This goes to show that the battle for a just solution to the hunting debate concerns not only those who hunt but all who value freedom and the proper working of democracy.*

*What You Can Do To Help Spread the Word*

*\*\*\* Leaflets are available from your local hunt- leaflet your village, put in tack shops, fishing clubs, gun shops, pubs, clubs and B and Bs, racecourses etc. Available on the website or for quantities please contact the Action Office as below.*

*\*\*\* Get a team together to sponsor an advert in your local paper (templates are available)*

*\*\*\* Q & A Brief is now on the HD website with some frequently asked questions answered.*

*\*\*\* If you organised a coach for the March would you do so again for Declaration Day? An event advertising coaches has the subliminal effect of making people think they HAVE TO BE THERE!*

*\*\*\* Print off a Hunting Declaration for a friend who is not online.*

*Venues and Hotlines:*

*East Midlands Melton Aerodrome*

*South East Lower Hayesden, Nr Tonbridge*

*Southern Newbury Showground*

*South West Honiton Showground*

*Wessex Worcester Lodge, Badminton*

*West Midlands The Big Ham, Powick, Worcester*

*North West To be confirmed*

*North East Trimdon*

*Yorkshire Birdsall*

*Cheshire & North Wales Eaton Aerodrome (tbc)*

*East Higham Point-to-Point Course*

*Central & Royal Welsh Showground,*

*South Wales Builth Wells*

*If you cannot be there, where will you be?*

*Wherever it is take copies of the Hunting Declaration with you. Are you going shooting? - take some with you...*

*For more information please ring 01367 850488  
or email [grassroute@countryside-alliance.org](mailto:grassroute@countryside-alliance.org)*

Copies of the Hunting Declaration are available from [www.huntingdeclaration.org](http://www.huntingdeclaration.org)  
(<http://www.huntingdeclaration.org>)”

The following is the complete text of a copy of the Hunting Declaration that we have on file:

### The Hunting Declaration

In recent years a substantial number of MPs have demonstrated a cynical determination to ignore all reasoned, fair and objective advice concerning the proposed need for legislation relating to hunting with dogs. On the 21st March 2002, Mr Gerald Kaufman (MP for Manchester Gorton) (Column 462 Hansard Report of the day) addressed the Rural Affairs Minister, Alun Michael, with the following carefully chosen words -

“Let us assume that after the consultation period, the Government introduced a Bill that contains some exceptions, and that the House of Commons on a free vote decides to remove all these exceptions and to impose a complete ban on all forms of hunting with dogs, in those circumstances will my Right Hon. Friend give me the clear assurance that that would be the Bill for which the Parliament Act would be invoked?”

The implied threat in this statement is clear. The process of objective debate leading to a democratic and balanced solution has been usurped by vindictive and oppressive majority who do not subscribe to the recent words of the Prime Minister (Newsnight interview 6 May 2002) in which he stated -

“.. the Labour Party is a democratic social party and it believes.....we should live in a society where there is tolerance and respect for people.”

We do not believe that there is any likelihood of such tolerance and respect. It is a settled democratic principle that laws should have the consent of the law-abiding communities that are affected by them, and that they should be guided by natural justice. Those who hunt or support hunting would be the only people whose lives would be adversely affected by a ban on hunting. This Declaration clearly and unequivocally demonstrates that such a proposed law does not have their consent.

There have been Members of both sides of the House of Commons who have in its history put their personal freedom in the balance to assist oppressive and ill considered laws. We intend to follow in this honourable tradition of civil disobedience, a tradition endorsed in law-abiding communities in both Britain and elsewhere. We believe that by publicly declaring our position before any Bill is introduced to Parliament we are upholding true democratic principles and the spirit of tolerance.

Consequently, we the undersigned declare our intention peacefully to disobey any law purporting to ban hunting. We do this with sadness and recognizing that our defiance inevitably threatens our freedoms and livelihoods. We believe that to date we have clearly demonstrated our respect for the law and its institutions. We do not take such action with any expectation of escaping punishment, but rather in the hope of persuading both the legislators and our fellow citizens of the injustice of a ban. We feel it appropriate to put our personal freedoms at risk in this belief.

We call upon the Government to recognise that it must uphold and affirm the rights of law abiding minorities if the rule of law and the sense of community(?) are to endure. We ask those that govern us to reconsider introducing such ill-considered and subjective legislation, the consequences of which will be that large numbers of law-abiding rural people are made, simply by following the traditional way of life, into criminals.

\_\_\_\_\_  
Surname.....

First/Given Names.....

Postcode.....

Profession/Trade (it is vital that you are precise about this description)

Contact: email.....

Tel no (optional).....

Please enclose a cheque for £10 made out to Hunting Declaration with your form so that we can pay for a national advertising campaign to ensure our message gets wide coverage. Thank you, we can do it!

Signed.....

**HUNTING DECLARATION, PO BOX 2376, CHIPPENHAM, SN15 5XZ**

[huntingdeclaration@hushmail.com](mailto:huntingdeclaration@hushmail.com)

The Declaration Day events took place, and the press reported that around 37,000 people had signed the declaration on that day alone.

*HUNDREDS of hunt supporters signed up for civil disobedience at a rally held near Fakenham at the weekend. More than 1,000 people, ranging from children to a 100-year-old veteran enthusiast, massed at Gateley Hall, home of Earl Cathcart, before a joint outing for the West Norfolk Hunt and North Norfolk Harriers. Around 600 protestors signed a declaration promising to break any future law which would ban hunting with dogs. Nationwide some 37,000 supporters pledged peaceful disobedience and to accept the consequences of doing so. There were a number of rallies nationally on Saturday, branded Declaration Day and backed by the Countryside Alliance, which said the event followed on from the massive rally in London on September 22, when 409,971 people gathered in London to show their support for rural life. Mr Simon Hart, chief executive of the alliance, said: "Civil disobedience is a very serious step, and breaking the law is wrong. But in the case of patently unjust legislation which ignores evidence and principle, we believe that someone who has examined their conscience and is satisfied that what they are doing is not inherently wrong, has a social right to draw attention to the injustice by breaking the law." (Lynnews, 2003)*

*MORE than 1,000 fell foxhunting enthusiasts, including supporters of the Ullswater, Blencathra and Bewcastle packs, turned out in the rain on Friday to sign a declaration of intent to ignore the proposed ban on hunting with dogs. Huntsmen with hounds from the Lake District's six fell hunting packs gathered at Rydal Park, Ambleside, the traditional home of the annual summer hound show of the fell packs, where they were joined by representatives from Cumbria's three mounted foxhound packs, and also the county's three beagle packs. Other hunting enthusiasts present included members from Cumbria's two terrier and lurcher clubs, falconers from the Scottish Hawking Club, huntsmen with hounds and followers from four harrier packs in North Yorkshire, plus huntsmen from the three Pennine packs. They were all there to sign a "hunting declaration" form which states each signatory has "declared my intention to disobey, peacefully, any law purporting to ban hunting". Dubbed Cumbria's "Declaration Day" by organisers the Countryside Alliance, the gathering began at 9am, and by 10-15am some 910 forms had been signed, with a queue of people still waiting to add their names (Cwherald, 2003).*



Figure 48: This large banner appeared at the pro-hunt rally which took place at Melton Airfield on 1st November 2003 (© Leicestershire County Council) (LeicestershireCountyCouncil, 2011b).

*Thousands of hunt supporters gathered across England and Wales to mark the start of the new hunting season and promised to break the law to beat a ban on fox hunting. They signed pledges to support a campaign of civil disobedience against any government plans to outlaw the controversial sport. The mass rallies saw hunts and their supporters sign a "Hunting Declaration" saying they will break any law that bans hunting with dogs. As many as 37,000 supporters have signed up according to the Countryside Alliance (CA) and the Council of Hunting Associations. It comes just days after the Hunting Bill was blocked in the House of Lords after it ran out of time. The Bill, as originally drafted, allowed regulated licensed fox hunting, but bans stag hunting and hare coursing. This was overturned in June when mostly Labour backbench MPs voted to outlaw the sport. Simon Hart, chief executive of the Countryside Alliance, said: "The mass gatherings on Declaration Day will give individuals the opportunity to make clear their intention to take part in peaceful, but committed, civil disobedience should a hunting ban ever be imposed (SkyNews, 2003)."*



Figure 49: Declaration Day at Melton Airfield, Leicestershire, 1st November 2003 (© Leicestershire County Council) (LeicestershireCountyCouncil, 2011a)

By the time the Hunting Act was passed the BBC reported that *"In November 2004 the Countryside Alliance said it expected 50,000 people to carry on hunting in the traditional manner, despite the ban. Anecdotal evidence suggests a number of hunts, particularly in very rural areas, will continue."* (BBC, 2005)

*The Telegraph* also reported that this amount of people actually signed the declarations (Clover, 2004):

*Prof Roger Scruton, founder of the Hunting Declaration, which has accumulated 50,000 signatures of people prepared to break the law in the event of a hunting ban, led the case for the proposition. "Civil disobedience is a form of law-abidingness," he said. "You are both breaking the law and proposing yourself for arrest. This is the right strategy when a government gives way to a bigoted minority."*

However, it is not clear where all these declarations are today. Despite the fact that they would prove invaluable for prosecution of illegal hunters, it appears that they were either destroyed or have been kept hidden since the ban was enacted.

The condition for those signing the declaration to undertake what they promised has now been fulfilled – namely that the ban has been enacted. A signature is one of the strongest forms of proof of intent there is, and we have seen no evidence that the signatures were obtained by coercion. Consequently one should expect that the signatories would try to defy the hunting ban as they had declared they would do. If they can do that and at the same time avoid punishment, this obviously would be preferable for them, and this is where trail hunting comes in.

What is the proportion of people that go hunting today that signed the declaration? We do not know, but we know this: IFAW's Wildlife Crime Investigators' hunt monitoring reports produced since the ban was enacted show an average of about 40 people per meet going hunting (without counting hunt supporters). There are about 300 registered hunts in the UK. Hunts tend to go out hunting twice a week, in a weekday and a weekend day. So, conservatively assuming that different hunters go out in weekend meets and weekday meets, there should be around 24,000 people that currently go hunting. Comparing this number with the 50,000 number of signatures reported, it is entirely possible that most trail hunters signed a document

stating their intent to defy the ban. However, without the actual signed documents which seem to have disappeared, we will never be sure.

Therefore the motive for using trail hunting as a false alibi could be simply to defy the hunting ban as a matter of principle while avoiding prosecution.

#### 4.4.1.2. Temporary ban

There is another motive for hunters to choose to routinely undertake a risky activity that can be used as a false alibi. As discussed above, hunters may consider that the ban is temporary and they only need to get away with it for a short time, and everything will be back to normal soon. The insistence on using an animal-based scent rather than safer and more efficient scents is consistent with this interpretation.

As shown above in the chapter about the hunters' perception of trail hunting, the temporary nature of the activity is how many hunters see it. This is also evident on their own websites.

Although the ban has been in existence for 10 years, the perception of impermanence has been repeatedly reiterated by the Countryside Alliance (CountrysideAlliance, 2011) and politicians. For instance:

*01/05/2010. At the Masters of Foxhounds Association (MFHA) annual general meeting in June 2009, the guest speaker, William Hague, described the Act as "a piece of legislation so deeply prejudiced and so ridiculously unworkable that its existence weakens and discredits the laws of the land" and repeated the Conservative promise of a government Bill in government time to repeal the hunting ban. At the Conservative Party Conference, David Cameron called the Act a farce and confirmed his pledge that repeal of the Hunting Act would form part of the manifesto on which the party would fight this election and if asked to form a government, as we all hope, scrub this obscene law off the statute books (Scott, 2010).*

*06/03/2015. David Cameron has backed a repeal of the hunting ban, saying it has done nothing for animal welfare. In a key election promise aimed at shoring up his rural support, the prime minister pledged to give MPs a free vote on repealing the Hunting Act through a government bill. However, he could only be sure of being able to bring forward such a bill in the event that he won a majority at the election, given that most of Labour and the Liberal Democrats are against repealing the act. Cameron wrote in the Countryside Alliance magazine: "The Hunting Act has done nothing for animal welfare. A Conservative government will give parliament the opportunity to repeal the Hunting Act on a free vote, with a government bill in government time" (Mason, 2015).*

If a law is considered temporary it may not be taken as seriously as any other law of the land. It may create the perception that the authorities will not take it seriously either. We consider that enforcement of the hunting ban in the UK has indeed been poor. This is evidenced by the number of improperly investigated allegations of illegal hunting, low fines for convictions under the Hunting Act 2004 (average fine since 2005 is £430, N=99), and police attitude (see chapter The Police and CPS above). These have all worked together to

create the perception that it is acceptable to break this 'temporary' law. Consequently people who otherwise might not have contemplated breaking any law may have entered into criminality.

Therefore, with this perception of the ban being temporary and not properly enforced, the intent may have been to operate exactly as before the ban, because any deviation from that would made the 'return to normal' more difficult once the ban is removed.

#### 4.4.1.3. Sabotaging enforcement

One of the major arguments used by those that want the Hunting Act repealed is saying that it is unenforceable:

*23/11/10. The government has called the law, introduced under Labour, unworkable. The coalition said it would hold a free vote on the repeal of the act. And the CA is determined to get the act repealed, saying it is a confusing law. Alison Hawes, from the CA, said: "If one of the country's most experienced huntsmen, Richard Downs [the first person to be convicted twice under the Hunting Act], could not understand it then the average hunter would not be able to either." And Mr Bonner added: "Police are stuck in the middle trying to comprehend an incomprehensible law and enforce an unenforceable law." The law has so many loopholes in it. It's very difficult to form a law that covers everything (Cafe, 2010).*

*19/08/11. Futile law against hunting is ripe for repeal. The Hunting Act 2004 is unenforceable and should be scrapped. SIR – You report (August 15) that some new Conservative MPs support the Hunting Act, an inept law based on prejudice, which Tony Blair describes as one of the measures he "most regrets". Since it came into force, six people from registered hunts have been convicted. By contrast, hundreds of thousands of pounds and many hours of police time have been wasted trying to uphold this law. In spite of these new members, there are still many MPs from all parties who see the Act as a useless law in dire need of repeal. Alice Barnard. Countryside Alliance (Barnard, 2011).*

*17/02/15. The hooliganism which beset London proved unsuccessful in preventing the passing of the Hunting Act 2004 and on 17 February 2005 the constabulary were awarded powers to arrest any persons engaging in the 'sport'. A hard core of enthusiasts pledged to flout the legislation and risk prosecution by continuing to hunt mammals with hounds. Charlotte Fiander, Spokesperson for the Countryside Alliance, also added the act is "unenforceable (Steele, 2015)."*

Developing activities that make the enforcement of the ban as difficult as possible may be a way to support the repeal argument. The 'simulation' nature of trail hunting as designed by the hunters is perfect for this.

For an untrained eye, it may be difficult to differentiate illegal hunting from a 'simulation' of illegal hunting. This is especially difficult if more emphasis has been placed upon making the activity as close as possible of

hunting live animals (which today is a crime), rather than placing the emphasis on avoiding easily preventable accidents or confusions.

In summary, there are three motives which, combined or separated, may explain why hunters may decide to become criminals and hide their crimes behind the trail hunting smokescreen:

- a) Defiance of the ban as a matter of principle;
- b) Effort to keep everything as before due to the perception that the ban is only temporary; and
- c) Effort to sabotage the ban's enforcement, thereby adding support for arguments for the repeal of the Hunting Act.

Angus Nurse, a professor of Criminology at the University of Middlesex, has arrived at similar conclusions (Nurse, 2015):

*Given the continuous legality of wildlife exploitation and sustainable use, a sector of society engaged in lawful activity that then becomes prohibited suddenly finds itself labelled as criminal when their actions and attitudes may not have changed (Burns et al. Nurse 2000). One consequence of this is that the group and individuals contained within that group respond to the labelling in an increasingly deviant manner (Sykes and Matza, 1957; Muth and Bowe, 1998). For example in the UK, the response of many countryside people to the introduction of the Hunting Act 2004 was not just that they would continue to hunt with dogs in defiance of the legislation but that they would also become involved in mass civil disobedience and actions designed to waste police time and frustrate any attempt to enforce the legislation.*

#### 4.4.2. Means

Do registered hunts have the means to break the hunting ban and successfully hide their criminality with trail hunting? Do they have the knowledge and the necessary logistics to do that? This chapter will try to answer these questions.

##### 4.4.2.1. Hunt staff and supporters

After the ban was enacted all the hunts kept most of their staff, as 60% of the foxhunts had the same huntsman in 2006 as in 2003. But was that enough staff to hunt illegally and hide behind trail hunting, and did they have the knowledge to do so?



Figure 50: Hunt staff and field during a trail hunt

As trail hunting is set up as a simulation of hunting before the ban, most of the knowledge the hunt staff and supporters had was already appropriate for trail hunting. The only new role to add was the role of a trail layer, but as shown above there are no rules for how to set the trails. This means anyone, on foot, on a quadbike or on a horse, could set up the trails as they wanted, without any previous experience.

And as seen earlier, in trail hunting there is no requirement for the huntsman and whipper-in to know anything about the trails that may or may not have been laid. Therefore, they would have already been ready for this new activity on the day the ban started, without the need for any training or knowledge.

Certainly each hunt would have enough supporters to play the role of trail layer without having to use any vital member of staff that could be needed elsewhere. As outlined in 'The people' chapter above, many trail layers are unpaid volunteers, so they do not cost the hunt any financial expense. Only if the hunts used the MO3 and MO4 of trail hunting would they need to invest in an extra person for development of the trails. Otherwise their activities would basically continue as before the ban.

Additionally when hunters are charged with breaches of the Hunting Act, their defence often tries to capitalise on their knowledge of hunting. They claim that the interpretation of events the prosecution may present is wrong and that only professional hunters know enough about hunting. This gives them the means to challenge witness testimony, which is important for alibi building.

#### *4.4.2.2. Horses and dogs*

As is the case with staff numbers, the hunts that do trail hunting would already have had the right number of hounds and horses for the activity. There are no different requirements in this regard than in traditional hunting (see chapters 'The people' and 'The hounds' above). However, it could be argued that hounds that hunt live quarry may not adapt easily to hunting an artificial scent instead.



Figure 51: Hounds 'on line' following a fox scent during a trail hunt (from prosecution footage)

Experts, however, suggest that this is not the case, and that training dogs to follow new scents is easy. Ian McParland is a former police dog handler with 27 years of experience, including five years as an instructor at the Metropolitan Police Dog School. He is a forensic canine behaviourist and has confirmed to us that it may only take a few days for a dog to be trained to find a new scent. He wrote to us with the following statement:

*Tracking is the following of a scent trail laid down by a human or animal when they move across an area. This may either be their natural scent or it may be that it is a scent artificially introduced into the environment.*

*It is a function of the predatory drive (Coppinger and Coppinger, 2001) in a dog that has been enhanced by operant conditioning to be placed under stimulus control. This means that a dog will naturally track to gain access to food or other reward and that the agency using the dog, be it the police service or hounds, has made use of this by training the dog to do so on command (stimulus control).*

*The stimulus control may be by verbal command, such as 'zu' (the German verb to go) in a police dog or the appropriate horn call or commands such as 'hark forward' or 'loo in try' in the hounds. Young hounds will also learn to follow the actions of older more experienced dogs.*

*Research (Hall et al, 2013) shows that a number of training sessions are required for a dog to identify a discrete odour. It is therefore possible within a reasonably limited number of sessions to train any dog to find a new scent, provided it is adequately rewarded for doing so.*

*Dogs find predatory chase extremely rewarding (Ryan, 2008); the motor patterns involved can be sequenced. The dog will search to find a track; that is, look for the prey (or artificial) scent on the floor, having found that they will follow it (Ryan, 2008). The predatory sequence will take over at this point if the animal is sighted. This sequence orient- eye stalk- stalk- chase- grab bite- kill bite- dissect- consume may have some of the elements missing or be extremely short lived (reaction time). For example prey breaking cover may be seen for moments before chase takes place.*

*If the dog is never taught that tracking of a particular scent will result in a reward then it will not be motivated to follow that scent, this includes the scent of prey species. Similarly if it is taught that a novel scent does lead to a reward it is more likely to repeat the behaviour to gain the reward.*

*Regarding how easy or difficult would it be to train a pack of foxhounds used to chase live foxes into following an artificial scent trail not connected to fox scent in any way, this would depend upon the age of the pack, the size of the pack, the skill of those that are in control of and responsible for the training.*

*For new hounds not yet used to a fox scent, and that are not mixed in with the others, it would take a few repetitions. This could be achieved in a matter of days. The scent is laid to a reward at the end (food). The dogs will soon learn that the quickest way to get to the reward is to follow the scent. They can be started individually then introduce competition.*

*Older experienced hounds would have to be 'converted' either by the same method as young dogs in a pristine area, or by dual laying of the scents over a period of time, commencing with a weak artificial scent and with each successive repetition having a stronger artificial scent and a weaker fox urine scent. Eventually the fox scent will be non-existent. Again there must be sufficient reward for them to be motivated at the conclusion; this is currently the predatory chase.*

The training by drag hunts of their hounds, to follow artificial scents and ignore wild mammals proves that this is perfectly possible for hunts that decided to undertake trail hunting. Drag hunt hounds are the same breed as those used by trail hunters.

Hounds in hunts are normally put down when they reach six to seven years of age. So, theoretically, after 2012 (seven years after the ban) there should have been no hounds with any experience in hunting live quarry.

#### 4.4.2.3. Access to foxes and hares

For the trail hunting alibi to work hunting must take place in areas where the animals the hunt used to hunt are likely to be found. Otherwise the 'accident' component of the activity will not occur. Do the hunts still have access to these areas? Theoretically they do. Although some landowners may have stopped giving the hunts access to their land, we believe that many still continue to allow them. For example, as outlined above, the National Trust, the Forestry Commission and the Ministry of Defence still allow hunts on their land to do trail hunting.

However, hunts could select particular open fields or areas with a lower probability of fox or hare presence (as the drag hunts do), to show they have tried to prevent accidents. Have they done that? To answer this question we have analysed the reports the hunts themselves produce for *Horse & Hound* magazine. This compares the geography of their accounts between hunts undertaken before and after the ban was enacted. The following table summarises the sources we looked into for this comparison:

Horse & Hound Issues	Years	Publication Issues Researched	Hunt Meets Reported / Listed	Meets Giving Hunt Geographic Locations	Hunt Geographic Locations	Hunt Geographic Locations per Meet
Pre-Ban	2003-04	22	679	299	3383	11.3
Post-Ban	2010-15	42	320	62	537	8.7
Totals		64	999	361	3920	

We made the comparison first with meets, then with geographical locations within meets (specific places mentioned in reports where the hunt ended up going after the meet started), and finally comparing types of locations within meets.

Most hunts listing or reporting meets in these issues of *Horse & Hound* had not reported geographic locations (other than the meet venue) both pre-ban and post-ban. However, the following table shows that when hunts had given geographic locations in similar areas both pre-ban and post-ban, we found that 31% of post-ban locations matched pre-ban locations. These are locations that the hunts must know, after decades of hunting in their countries, are good places to find foxes or hares:

Hunts Giving Geographic Locations	Number of Hunts	Pre-Ban Meets Giving Hunt Geographic Locations	Post-Ban Meets Giving Hunt Geographic Locations	Post-Ban Meets with Matching Locations to Pre-Ban Meets	Pre-Ban Hunt Geographic Locations	Post-Ban Hunt Geographic Locations	Matching Post-Ban and Pre-Ban Geographic Locations	% of Post-Ban Locations Matching Pre-Ban Locations
Hunts giving only pre-ban locations	48	164			1751			
Hunts giving only post-ban locations	39		42			248		
Hunts giving both Pre-Ban and Post-Ban Locations but with no Matches	14	42	15		461	103		
Hunts giving both Pre-Ban and Post-Ban Locations with Matching Locations	12	92	20	15	1148	219	68	31%
Totals	113	298	77	15	3360	570	68	

The fact that a third of geographical locations mentioned in the 15 post-ban meets match pre-ban locations, suggests that hunts, while trail hunting, would often go to the exact same places as before the ban when looking for live quarry. The following are examples of these matched locations.

Hunt	Pre-Ban Meets Giving Hunt Geographic Locations	Post-Ban Meets Giving Hunt Geographic Locations	Post-Ban Meets with Matching Locations to Pre-Ban Meets	Pre-Ban Hunt Geographic Locations	Post-Ban Hunt Geographic Locations	Matching Post-Ban and Pre-Ban Geographic Locations	% of Post-Ban Locations Matching Pre-Ban Locations
H1	1	1	1	28	15	8	53%
H2	20	1	1	334	27	13	48%
H3	10	1	1	99	6	3	50%
H4	12	1	1	85	9	5	56%
H5	17	2	2	185	30	12	40%

The analysis becomes more interesting if we consider the type of location where foxes are likely to be found. In traditional hunting, when the hounds are drawn to find the scent of a fox, they are normally sent to woodland, hedges, gorse, and similar habitat normally known as coverts. Indeed, the old *Manual of British*

*Rural Sports* states "No part of the huntsman's duties is so often performed in a slovenly manner, and yet none is of more consequence than the drawing of coverts (...) one of the more beautiful sights in fox-hunting is the perfect drawing of a pack of hounds (...) but in the Haythrop country some of the best coverts are merely willow-beds under the sides of the hills" (Stonehenge, 1867).



Figure 52: Two young foxes emerging from covert in a typical fox location

We looked for geographical locations mentioned in the *Horse & Hound* hunting reports with names or descriptions that suggest they would be good places to find foxes. The following table shows some examples of the type of topographical and geographical information found. This table is included to show that trail hunts as a general matter may still visit areas thought to be good fox habitat, and is not included to suggest that the involved hunts or individuals broke the law:

Date of Horse & Hound Issue	Hunt	Meet	Quote
26/03/2015	H1	L	There was a huge sense of expectation as (...) put hounds into the famous covert (...) however, in a thick hedgerow, their tempo suddenly quickened and music grew in confidence as they settled to a trail (...) so more in hope than expectation, as the sun sank and the temperature sharpened, hounds were put into (...)’s Bushes (...)
02/04/2015	H2	AB	At (...), an old line was followed past (...) Combes (...), slowly up to (...), through the top of (...)Combe
28/10/2010	H3	K	(...) Gorse covert is a famous (...) covert... Despite the ban, the hunt still maintains its coverts meticulously (...)
06/02/2014	H6	WW	At one point they were put into a bramble area so thick there seemed to be no way in and no way out, but they kept on grafting, crossing the country with their noses close to the ground (...) After putting hounds into some more rough hedgerows to no real avail, the pace slowed (...)
26/03/2015	H7	WR	Sadly there was to be no late evening hunt; a brief scurry round (...) Covert petered out and (...) beside the old roman road was similarly unproductive
29/01/2015	H8	FFP	With dusk descending, there was time for one last roll of the dice. Hounds drew up the wood from (...) Wood and the little spinney at (...) Plantation, but to no avail

Comparing these locations in reports published before and after the ban, we found that, surprisingly, descriptions of good locations to find foxes were more commonly found during the ban period (i.e. the trail hunting period) than before. Indeed 26% of the geographical locations found in reports from 2010 onwards describe good locations to find foxes, while this value is only 19% in pre ban reports.

The following table shows the percentages broken down per type of words (all types are consistently showing higher percentages during the ban period).

Geographical Location Description	Pre-Ban Mentions	Post-Ban Mentions	Pre-Ban % of Total	Post-Ban % of Total
Covert	131	38	3.9%	7.1%
Other words for trees: wood; plantation; copse; spinney; dingle; grove; belt; coppice; forest; brake; orchard; withybed; ashbed; holt	407	83	12.0%	15.5%
Other words for bushy cover: gorse; rough; thorns; bush; hedge; brambles; bracken; forse; rushes; reedbed; furze	90	19	2.7%	3.5%
All other locations	2755	397	81.4%	73.9%
Totals	3383	537		



Figure 53: Hounds looking for a fox's scent in a typical fox habitat

Because we have not looked at all possible magazine issues we should not automatically conclude that during trail hunting hunts go more often to places where foxes live than before the ban. There are many factors that may influence the sort of information the hunts write in their reports.

However, what the data strongly suggests is that it is very unlikely that they go to such places less often. This confirms that the trail hunters' hounds will have plenty of opportunity to find foxes on purpose or by designed 'accidents', depending on which type of trail hunting MO they use.

'Accidents' will not simply be guaranteed by placing the hounds in areas likely to have live mammals which have a similar scent to that which the hounds are trained to follow. They can also happen because the hounds that have hunted them there before will remember the site, and will know where to look. This is shown by a comment from a hunter in a *Hounds* magazine's 2008 article suggests (Fielding, 2008):

*"However, there is nothing more harmful to a pack than to have a hound that goes silent when in front, for it causes jealousy, envy and divides the pack quicker than anything else. If that mute hound gets away on its own and some seem to think it is a brilliant hound, it not only ruins that hunt, it will start to ruin the pack. The best way to treat a so-called 'clever' individual is to leave him behind for a couple of weeks so it cannot keep up and see if it will learn from the others. The vital thing for any pack is that the leading hounds should speak and the rest will copy them. If the miscreant goes back to its old ways it is best to draft it (...) Longevity is another attribute that needs to be treasured. Hounds that can go on hunting will know more about hunting than any human and they will have wonderful memories and will know where foxes lie up."*

#### 4.4.2.4. Animal scent

We have seen that trail hunters use animal based scent, primarily urine. Is this easy to obtain? Has this the desired effect?

Commercially available fox urine can be easily bought from the US online for as little as £11 (for instance, on e-bay). There are no rules about the composition of the scent and pretty much each hunt can create its own 'formula'. Consequently, there is no doubt that producing a scent to be squirted on a piece of old cloth to be dragged on a string is something well within the means of all hunts.

But is fox urine the right scent for a trail hunt to be used as a false alibi to avoid prosecutions, or for a legitimate trail hunt which tries to avoid accidents and encourage the hounds to find the scent?

There is considerable debate about how long after it has been laid a scent trail can be followed by a pack of hounds. A wide range of variables, including particular climatic conditions and the substrate on which the scent is laid, heavily influences the persistence of a scent trail. Scent trails are very variable and can be lost quickly under a variety of conditions, so a pack of hounds needs to be following a fresh trail. In addition, the longer the hunt has been in progress, the weaker the scent becomes.

The late Duke of Beaufort was the most experienced fox hunter in Britain. He describes the problems hounds have following a fox's scent trail. He explains that scent trails are easily lost, or confused, and stresses the importance of a huntsman keeping "as close to his hounds as possible" to help ensure they do not lose the scent.



Figure 54: Two hounds searching for a scent during a hunt

When laying artificial scents, drag hunts have generally tried to improve the persistence of the scent trail by mixing an odoriferous substance with oil. For instance, a runner is used to lay a scent about 20 minutes in advance of the hunt. In their evidence to the Burns Inquiry, the Masters of Draghounds and Bloodhounds Association stated that their artificial scent trails are generally oil-based. They explained they are laid 'perhaps half an hour' ahead of the hunt (MBHA, 2000).

While these artificial scents may last longer than the natural scents produced by foxes, they still behave in the same way as natural scents. Climate and other conditions reduce the time they persist. Hence, to be able to follow the scent and provide a reasonably fast hunt, hounds need to be laid on to the scent within half an hour of it being laid (MBHA, 2000). These artificial scents can be followed later than this, but the hounds have to work much more slowly and methodically to find and follow an old scent trail.

Hunting a weaker scent trail would also affect the way that the hounds work: with a fresh trail the hounds run much faster, with their heads held high, and vocalise excitedly. With an old scent trail, the hounds would work much more slowly and methodically, with their noses held much closer to the ground, and make much less noise.

So, is then fox urine the right scent? We asked this question to forensic canine behaviourist Ian McParland already previously quoted in this report. He responded:

*The scent of the live animal and that of its urine will undoubtedly carry many of the same chemical markers. A red fox (*Vulpes vulpes*) is of the Order Carnivora and the Family Canidae. Canids urine scent markers are descriptors of their sex, reproductive status, species etc. It would be foolhardy to use fox urine and not expect the hounds to also follow live foxes.*

We also asked Mr McParland the following question: If you were asked to design a new activity based on a pack of foxhounds (used to hunt foxes) finding and then following a scent trail laid in the British countryside in winter, while at the same time doing as much as reasonably possible to avoid such hounds chasing the trail of a live fox instead, which sort of scent would you choose, and why? He replied:

*The scent would be an artificial one not normally found within the natural environment. It should have distinctly different odour characteristics to that of the fox in order to avoid confusion. The volatility of the scent should be such that the vapour pressure is sufficiently high at winter temperatures to allow the escape of scent molecules from a liquid to gaseous state (allowing for olfaction in the dog). It should not be so volatile that it carries too far and blankets an area rather than leaving a distinct trail.*

Therefore it seems that fox urine is the wrong scent for hounds to follow in real trail hunting conditions, but a good scent for hounds to confuse with real fox scent. In other words, fox scent is the perfect scent to use for a hunting activity designed to work primarily as an alibi against allegations of breaches of the Hunting Act 2004.

#### *4.4.2.5. The pretence*

Hunts assert that trail hunting is a simulation of illegal hunting. How easy would it be for hunts to simulate a real hunt? If they are in fact hunting illegally obviously that simulation is actually the real thing, so it is very easy to do.

If, on the other hand, hunts are trying to imitate hunting using artificial scents, but at the same time ensuring that the hounds do not chase wild mammals, this simulation would be quite difficult. This is the case if particular measures are not taken to prevent accidents (such as ensuring that the huntsman always knows where the trail is, and keeping all the hounds in close control at all times).

There may be a conflict between making the simulation as close as possible to the real thing, and preventing the real thing to take place by accident. Hunts need to decide which is more important: to be accurate enough to mimic pre-ban hunting, or avoid killing wild mammals by accident and being prosecuted for illegal hunting?

On the other hand, how easy would it be to pretend to do trail hunting, but in reality not do it (MO1, MO2 and MO3)? It may be easily done if there is no real intention for the hounds to follow the scent. The hunts simply need to pretend to lay a trail every now and then and not worry about whether the hounds will follow it. In this scenario it would not matter which scent is used, as the hounds would not need to be trained to find it.

Some hunters have publicly admitted the pretence (*Independent, 2011*):

*20/11/2006. During the autumn, we pretend we're on hound exercise; now the season's begun properly, we say it's drag hunting. But that's total rubbish. It's business as usual. We are killing almost as many foxes as ever. I would say we are now bagging 25 brace in a season, all of them illegally. Someone always carries a duster and some oil in their pocket, so we say we're drag hunting but I haven't actually laid a trail for more than a year. Before the ban came in, we'd kill 35 foxes in a season. Now it's slightly less. The reason is we are no longer digging foxes that have gone on the high moor, which is owned by the Duchy of Cornwall. We don't want to embarrass them. Among the other hunts, a small minority are behaving themselves, particularly those who use National Trust or*

*Forestry Commission land, and can't afford to lose their licences to go there. The other 95 per cent are breaking the law big time. In fact, everybody is getting a bit reckless, and I wouldn't be surprised if people start getting caught. Recently, the police had a quiet word, saying basically be careful and we'll leave you alone. The only time they'll really crack down is if there's trouble with 'antis' and someone gets thumped. Public order, rather than fox welfare, is their main concern.*

Should pretending to commit a crime be a crime in itself? Normally it is not, but it can be in certain circumstances. For instance, since 2006 it is illegal in the UK to be involved in the manufacture, import and sale of 'realistic' replica and imitation guns (Travis, 2005). The reason for this may be because such guns could be used in crimes such as armed robbery, and the suspects may get away with it claiming that no real gun had been used.

Obviously there are great ethical implications for the use of mock crimes for when the victims are not aware of the simulation. This was the case in South Africa in 2015 where a restaurant owner simulated a robbery to train his staff, without telling them or the customers (Legg, 2015).

It could be argued that the suffering caused to a real mammal which does not know that the hounds are simulating its hunting has similar ethical implications. If laws ban inflicting suffering to a mammal by chasing it, such laws should also ban the activities that make the mammal equally suffer with a 'simulated' chase.

Therefore, if any simulation of a crime is deemed lawful, the priority should be in preventing at all cost that such simulation becomes the real thing, even if by accident. With trail hunting, if accidents occur where the end result is the same as hunting before the ban (i.e. chasing and/or killing wild mammals) we know that its design is wrong or its execution negligent. And we do know that such 'accidents' do routinely happen in trail hunting, as shown in the Chapter titled 'MO4-Causing accidents' above.

#### 4.4.3. Opportunity

Sometimes it is not enough to have a motive and the means to commit a crime if the opportunity to do so does not present itself. The question is then whether, since the Hunting Act 2004 was enacted, the hunts have had the opportunity to hunt illegally, and to cover their crimes under trail hunting?

##### 4.4.3.1. Lack of rules

Because trail hunting did not exist before the ban hunters had the opportunity to define it in any way they would like. This included designing it in any way to fit their intentions and motive. In the first season of the ban there was a lot of experimentation with different types of scent, and with different types of exempt hunting. However, before the second season the Countryside Alliance published its *Hunting Handbook*, which roughly defined trail hunting (CountrysideAlliance, 2005).

The hunting fraternity could have developed strict rules for this new activity to ensure that it could not be used as a false alibi. But they did not develop strict rules; and trail hunting still does not have any written –

or otherwise– rules produced by the CA or the MFHA (or any other hunting organisation or society). This gives illegal hunters the perfect opportunity to build alibis in the way that suits them best.

Technically, any piece of evidence suggesting a hunt may have been breaking the law (other than a clear film of an identifiable huntsman not stopping the hounds chasing an identified fox or hare in his presence) could be interpreted and excused by the accused as “this is the way we do trail hunting”.

#### 4.4.3.2. Private land

One of the most important golden rules of traditional hunting is: *“Hunting depends primarily on the goodwill of landholders and farmers. No one who goes hunting should do anything that might jeopardise this goodwill. It must be remembered that for most of a day's hunting you are a guest on someone else's land.”* (MFHA, b).

The hunts have always been very careful in developing good relationships with landowners and the hunt masters have been in charge of such PR work. Without the permission of the landowners to enter their land, hunting would not exist. That permission was often given in exchange for the ‘service’ of getting rid of the foxes the landowner may consider ‘vermin’, or removing ‘fallen stock’ (often fed to the hounds).

When the Hunting Act 2004 was enacted those landowners that supported the hunts continued to allow the hunts on their land. Those landowners that perhaps had reluctantly allowed them before (under peer pressure or ‘intimidated’ by the higher authority/standing of hunt members) felt more confident to deny such access. This was especially when encouraged by organisations such as Hounds Off (Houndsoff, 2015), a free online resource designed to protect landowners’ property and pets from hunt trespass.

In essence this meant that most hunts have ended up operating on private land owned by hunt supporters, even to the point of helping them against allegations of illegal hunting. This created an opportunity for the hunts that wanted to break the law to do so in areas to which unsympathetic witnesses would not have access.

Hunt monitors’ access to the hunts’ activity became more restricted after the Hunting Act was enacted. The hunts were able to choose more discrete areas where they were more likely to hunt illegally without being seen. This, in conjunction with the new role hunt supporters took of spotting hunt monitors and intimidating them away, allowed the hunts to remove people gathering evidence of their activities. It then made it possible for them to stop pretending that they were laying trails and fully develop the MO1 and MO2 forms of trail hunting.

#### 4.4.3.3. The 'antis' credibility

The hunting fraternity term referring to anyone not openly supporting hunting is 'antis'. This has also been used by the media. For example:

21/02/2014. *We know what the antis are against, but what are they for? Over the decades we have heard a wide variety of reasons why people should not hunt with dogs. They range from a kind of pseudo morality to how useless the practice is in pest control terms; from the "Mafia-like" way in which hunts oppress poor country folk to claims that, "Among hunters there's a high proportion of child abusers and wife beaters." (Precisely what evidence that last comment is based upon was not explained by the writer). So we know what the antis do not like, but what we rarely hear is what do they like (...) or at the very least find acceptable. Here is where those voices become muted and for good reason. There are considerable differences of opinion within anti-hunting organisations as to what, if anything, should fill the vacuum left by the absence of hunting with dogs (WMN, 2014).*

17/11/2014. *Fox hunters call for repeal while antis say law should be strengthened. The fox hunting community is calling for the repeal of the Hunting Act on its tenth anniversary. Today in 2004 the legislation was granted Royal Assent in Parliament although it did not become law until February 2005. Many hunt supporters felt it would wreck the rural economy. But that has not happened and anti-hunting groups are calling for the law to be toughened (Tim\_Healy27, 2014).*

06/12/2014. *Are you funding the antis? If you love your hunting, shooting and fishing then you need to be careful where you shop. For any member of the rural community this Christmas, where we spend our money can have far reaching implications. Will where you buy your turkey make a difference as to whether there is a Boxing Day meet next year? The argument is obviously not that simplistic, but consumers should understand the ethics and policies of the retailers where they spend their money. And decide if they agree with them. If not the answer is simple. Shop elsewhere (TheField, 2014).*

When the Hunting Act was enacted, hunt monitors, and even many hunt sabs, ended up working for law enforcement as they started to gather evidence for potential prosecutions of illegal hunting. However, some police continued using the label 'anti' to describe them. Soon it became apparent that in some cases they would not be treated as any other witness, as their credibility was put into question.

This gave an opportunity to the hunts to develop their trail hunting MOs more freely as they realised that their testimony could be more likely believed than the testimony of their opponents. The hunting fraternity felt they could indeed fool the police, the CPS and the judges into believing that the 'antis' version of trail hunting had to be biased and essentially wrong.

Even when organisations such as LACS and IFAW started recruiting ex-police officers as hunt monitors, they were often still viewed as 'antis' by the authorities. This implied their testimony would be believed less than the testimony of a 'neutral' member of the public. Consequently IFAW had to rely more on physical evidence than on witness statements, which undoubtedly made it more difficult to obtain cases that could be developed into prosecution. Furthermore, most hunt monitors do not trespass onto land, so it is very

difficult to record the activities of the hunts from public roads/paths. So, fewer cases were presented to the police; and the fewer cases that were presented, the more the storyline that trail hunting is a legitimate activity seemed credible.

The new role of hunt supporters in spotting hunt monitors and preventing them doing their job helps reduce the number of cases good enough to present for prosecution. The quality of the evidence is hindered by the hunt supporters. This in turn, helps to reduce the credibility of monitors. They find themselves frequently not taken seriously enough by the authorities who assume that if the hunts are breaking the law there would be more evidence of it.

When IFAW and other organisations have discussed this problem with police forces, they have often received the 'impartiality' reply, basically that the police saw themselves as the neutral referees between two opposing forces (the antis and the pros). They did not see themselves as the enforcement body that would collect evidence from witnesses to investigate suspects.

#### *4.4.3.4. Enforcement Agencies*

If police are over-stretched, lack resources and operate under a priority system, this may give opportunities for certain criminals to 'get away with it'. This is especially for crimes categorised as 'low priority' and their prosecution seen as difficult, timely and costly.

Soon after the ban was enacted witnesses contacting the police with alleged suspicious activity found that the police often did not investigate or often did not take them seriously.

The following are examples sent to IFAW in 2007 by LACS. They record reactions of police officers when members of the public allegedly reported or discussed incidents believed to be illegal hunting. These individuals subsequently called LACS' Hunt Crimewatch hotline, or emailed and reported the incident, including the police reaction. IFAW cannot verify that the underlying hunting events or police reactions occurred, but only that the following reports were relayed to IFAW by LACS:

##### Avon & Somerset

- Avon & Somerset Police - 21/02/2007: Caller reported that she called the police to report the (...) chasing a fox outside her cottage. The police said, "Don't worry they are probably putting on some kind of exhibition". Police later claimed that the officer said "Are you sure they weren't on their way to a show?"
- Avon & Somerset Police - 25/01/2007: Caller reported something being chased by dogs and riders. Police called and Officer said he would love to do something about it but he had been told not to go out to calls on hunting.

##### Devon & Cornwall

- Devon & Cornwall Police - week prior to 16/01/2007: caller spoke to officer at Police Station. "I am only interested in potential public order not illegal hunting. I have to look at it but I'm not interested in it", in reference to video footage.

### Durham

- Durham Constabulary - 23/01/2007: caller reported that (...) Hunt rammed her car on 13/01/2007 and vandalised it as she tried to film the hunt. Police recommended that LACS send a letter to the Chairman of the hunt with licence plates of monitor's cars so the hunt "knows they are monitors and not perverts."

### Essex

- Essex Police – 21/02/2007: Caller witnessed the hounds of the (...) Hunt catching them ragging a fox (when the fox is thrown to the hounds to be ripped apart). The police response was "As far as I am aware as long as they don't kill the fox it's legal."

### Hertfordshire

- Hertfordshire Constabulary - 01/03/2007: Caller called (...) Station to report (...) Hunt before Christmas and the officer said he was on his own and had to cook 3 breakfasts – so was unable to assist.

### Oxfordshire

- Thames Valley Police - 8/01/2007: caller reported that ex-policeman informed her that his colleagues in police were fed up with her taking photos of the (...) Hunt.

### Staffordshire

- Staffordshire Police - 06/02/2007: The (...) Hunt regularly seen in full cry, riding where they know foxes to be holed and 'accidentally' flushing them out. In December 2006 the police were contacted, and on enquiring if a fox had to be killed before they would take action, caller was told the police officer would have to speak to their superiors before they could comment.

### West Mercia

- West Mercia Constabulary - 17/01/2007: (...) Hunt's hounds present on caller's land for the 3rd time this season; hunt personnel just laughed when she complained so she called the police, who advised 'stay indoors'.

### Wiltshire

- Wiltshire Constabulary - 11/01/2007: People who tried to film the (...) Hunt on Boxing Day were harassed (...) in front of the local police unit. The (...) Hunt deliberately and consistently hunted on Boxing Day, straying on to a very busy railway line on several occasions. Needless to say the police did nothing to stop their activities. This was not the first time Wiltshire Police did not intervene. On a recent hunt with the (...), an attending police officer was informed that (...), the (...) huntsman was hunting his entire pack. The police officer insisted that he had spoken to (...), and was happy that only 2 dogs were being used. When it was brought to his attention that (...) was hunting his entire pack across a public highway (something which he could actually see for himself), his response was: "you better realise that you're in the countryside now".

## Wales

- Dyfed Powys Police - Nov-Dec 2006: Caller from (...) reported 5 different hunts in his area to Dyfed Powys; told "join the hunt to find out what's going on".
- North Wales Police – (...) Station (November 2006): Officer on duty said they were undermanned and the majority of his colleagues were sympathetic to hunting.
- South Wales Police – (...) (November 2006): Police called to report illegal hunting. Officer said: "So? Who says it's against the law, I'm a hunt supporter - what do you want me to do about it? Do you want to continue the conversation? I'm going to do nothing; do you want my superior's name so that you can report me?"



Figure 55: Police presence during a hunt

As seen in the chapter above titled 'The Police and the CPS' even today it appears that some police may not really know that much about trail hunting and often confuse it with drag hunting, which obviously gives the opportunity for the hunts to 'sell' them their version of what they are up to. We should of course add that if hunting were a police priority or Hunting Act offences were recordable, police forces might have been more sceptical and may have challenged the hunts more. However, somehow the paradigm, false or not, that all hunts act lawfully now is one over-stretched police forces seem more willing to believe.

### *4.4.3.5. Campaign fatigue*

The hunts were also able to develop the false alibi of trail hunting because it took some time for LACS, the RSPCA, and IFAW – the three organisations who campaigned for the ban – to publicly oppose trail hunting.

During the first years of the ban none of these organisations clearly exposed trail hunting as a false alibi. They did, however, publicly question what it was, and constantly reported and investigated what they believed was illegal hunting. But they still held on to the possibility that illegal hunting may be undertaken by

a minority of the hunts, rather than most of them hiding behind trail hunting. This can be explained by the following factors:

- These NGOs, like anyone else, had to learn what trail hunting really is, and that took some time, especially as the hunts were quite secretive about it.
- These NGOs had campaigned for the hunts to convert to drag hunting, so at first the conversion to trail hunting seemed too close to what they had asked for to contemplate campaigns directly against it.
- Because of the lack of proper enforcement of the Act these NGOs had to concentrate their efforts on enforcement. Like the police, they also were over-stretched and more inclined to assume that illegal hunting was exceptional, rather than the norm.
- Years were needed to accumulate sufficient information from different parts of the country not only on the hunts' behaviour but also on prosecutions' outcomes, before the pattern was clear.
- After 80 years of campaigning, animal protection organisations showed an understandable campaigning fatigue. This may have led them to wishfully think that their campaign goal had been achieved and the ban was now working perfectly well, so they could finally rest and move on to other animal problems.



Figure 56: Balloon part of the campaign of IFAW, RSPCA and LACS to ban hunting

The last factor may have been quite important as it may have affected not only the NGOs but also the politicians and political parties that had fought for the ban (or vice versa). As achieving the ban had involved a huge political will and effort, anti-hunt politicians would be tired of the subject and would prefer to give it a rest. Trail hunting provided them a chance to do so, by accepting, despite the lack of evidence, that the hunting problem had mostly gone away and the ban was working as they intended it to work.

Perhaps the most emblematic expression of this political fatigue is when Tony Blair, leader of the Labour Party which led the enactment of the ban, eventually publicly declared that he regretted it. In 2010 he stated in his memoirs that the Hunting Act 2004 was "*one of the domestic legislative measures I most regret*" (CountryFile, 2010).

However, perhaps awakened by the legislative attempts in 2014 to weaken the Hunting Act by the back door with Statutory Instruments, the NGOs and political parties instrumental in the ban started to mobilise again. This time it was based on the reality that illegal hunting was widespread, the ban was not properly enforced and something had to be done about it. This new approach led to the research behind this report.

#### 4.4.4. Intent

As a general rule, for an individual to be convicted of a crime the judges or jury must be convinced of three elements. These are *actus reus*, that the act took place, can be verified and that a condition of illegality existed; *mens rea*, that the state of mind of the offender was such that a condition of moral blameworthiness or culpable intentionality existed; and the absence of a defence (Nurse, 2015). *Mens rea* equates to what is normally known as 'intent'.

The CPS has stated on its website that "*Hunting is an intentional activity and there can be no such thing as unintentional hunting*" (CPS, a). This sentence has often been used by those accused of illegal hunting, or the police asked to investigate them. It is a way of saying that that if you cannot prove the intent of the accused you will not be able to convict. Here is what the Countryside Alliance's Hunting Handbook 2005-2006 says about the subject (CountrysideAlliance, 2005):

##### Intent

*DEFRA has stated on their website that it is necessary for there to be a deliberate intention to hunt a wild mammal before an offence is committed:*

*"The provisions of the Bill are clear and easily understood – innocent bystanders who witness an illegal hunt, farmers whose land is used against their will, or people, including those engaged in drag hunting, whose dogs chase and kill a fox against their wishes will not be guilty of a crime. This is because people will be only hunting when they themselves intend to pursue the quarry animal."*

*Whilst this guidance is from a Government Department, it is not definitive legal advice and magistrates may take a different view.*

*This should be understood in light of the further clarification by the Crown Prosecution Service (responsible for bringing prosecutions on behalf of the State) which has said on its website by saying: "Hunting is an intentional activity and there can be no such thing as unintentional hunting".*

The following is an extract of a letter sent to IFAW on 12<sup>th</sup> September 2007 by Chris Newel, Principal Legal Advisor from the CPS, explaining the CPS's decision not to prosecute a particular case:

*The statement from the Master of the Hunt (...), confirms that the hunt met that day, but was trail hunting. This is a legal activity. (...) The key of the case is that the prosecution would have to show that the hunting was intentional. [The master] confirms that the hunt was trail hunting and this cannot be disproved. He further states that part of the pack of hounds went off on its own and again this cannot be disproved. [The master] gives a reason why this may have happened, namely the strong wind.*

In criminal law, motive is distinct from intent. Criminal intent refers to the mental state of mind possessed by a defendant in committing a crime. With few exceptions the prosecution in a criminal case must prove that the defendant intended to commit the illegal act. The prosecution need not prove the defendant's motive (TheLegalDiccionary, a).

Most criminal cases are quite straight forward and involve 'direct intent'. This can be said to exist where the defendant embarks on a course of conduct to bring about a result which in fact occurs.

'Oblique intent', on the other hand, is more complex. It can be said to exist where the defendant embarks on a course of conduct to bring about a desired result, knowing that the consequence of his actions will also bring about another result. For example, the defendant intends to kill his wife. He knows she is going to be on a particular aeroplane and places a bomb on that aeroplane. He knows that his actions will result in the death of the other passengers and crew of the aeroplane even though that may not be part of his desire in carrying out the action. In this situation the defendant is no less culpable in killing the passengers and crew than in killing his wife as he knows that the deaths will happen as a result of his actions (Elawresource, b).

In the case of illegal hunting, sometimes it is easy to see the intent of the huntsman when he is clearly aware the hounds are chasing a wild mammal and he is not doing anything to stop them, even when he could, or when he is encouraging them to continue the chase.

However, it is often difficult to obtain physical evidence of intent in the hostile conditions in which hunt monitors have to work. This explains why there are not more prosecutions of members of registered hunts, and the CPS rejects so many cases. However, with the lack of evidence of direct intent, could prosecutions still be successful using oblique intent?

Could a prosecutor be successful using 'oblique intent' by arguing that if a hunter intended to go trail hunting but an oblique consequence of it was that a fox was killed, he is still guilty of illegal hunting? Could it be argued that this sort of 'accident' happens often while trail hunting, and the hunter knows about it and did nothing to prevent it? Could this argument be stronger still, considering that the hunter may have designed his type of trail hunting to increase the chance of the 'accident' occurring?

The use of oblique intent in court cases has been complex and a test was needed to know when it is applicable. The case law used as a legal test of oblique intent is *R v Woollin* [1999] AC 82 (Elawresource, a), which was taken to the Judges of House of Lords for consideration. They largely approved of the test with some minor modifications, leaving it as follows:

*"Where the charge is murder and in the rare cases where the simple direction is not enough, the jury should be directed that they are not entitled to find the necessary intention, unless they feel sure that death or serious bodily harm was a virtual certainty (barring some unforeseen intervention) as a result of the defendant's actions and that the defendant appreciated that such was the case."*

Therefore, it seems that if the case is not serious enough, and the outcome not certain enough, the oblique intent may not be applied. This is why IFAW and other organisations are calling for an amendment of the Hunting Act 2004 and the Protection of Wild Mammals (Scotland) Act 2002. The amendment adds a

'recklessness' clause allowing successful prosecutions without the need to prove intent, so that the 'accident' component of the trail hunting alibi could no longer be used.

However, despite the fact the Hunting Act does not even carry a custodial sentence, is the crime more serious than it may initially look? Could it be one of these 'rare cases' mentioned in the Lord's ruling, considering that a sentient being may have indeed died, and many other laws may have been broken around such a death? The next chapter explores this issue further.

#### 4.4.5. Hunting as organised crime

An interesting aspect to explore is the criminality of trail hunters as a collective. Are their crimes a product of a level of organisation that has been overlooked by the enforcement authorities? Do illegal hunters fit any defined criminal group category, such as 'organised crime group' or 'corporate crime'?

The National Crime Agency defines organised crime as "*serious crime planned, coordinated and conducted by people working together on a continuing basis. Their motivation is often, but not always, financial gain. Organised criminals working together for a particular criminal activity or activities are called an organised crime group*" (NCA, a). Does the crime involving hunting fit this definition? To answer this we would need to know what is considered 'serious enough' crime, how 'planned' and 'coordinated' an activity needs to be to qualify, and how continuous such activity is to fit this official definition.

##### 4.4.5.1. Seriousness of the crime

When illegal hunting occurs, if it involves a registered hunt it often does not take the form of a single hunter breaking a law once. Each single hunter's crime may be considered 'minor' because it does not carry a custodial sentence. Nevertheless, regardless of whether in the end only one person ended up being prosecuted, illegal hunting events may contain all the following criminal components.

1. Hunt members (more than three) conspiring to commit crime by planning an illegal hunt, in breach of general criminal justice legislation.
2. Hunt supporters inciting others to commit crime and promote criminal behaviour in breach of general criminal justice legislation.
3. Hunt staff (typically one to three people) engaging and participating in the pursuit of a live animal over ground in breach of animal protection legislation, on several counts.
4. Hunt contractors (typically one or two) engaging and participating in the pursuit of a live animal underground, and disturbing protected animal dwellings, in breach of animal protection legislation, on several counts.
5. Hunt officials (typically one to five people), developing false alibis and concealing evidence of illegality in breach of general criminal justice legislation.
6. Hunt supporters blocking witnesses' vehicles in breach of driving legislation.
7. Hunt supporters intimidating witnesses in breach of general criminal justice legislation.
8. Hunt members/supporters assaulting witnesses, in breach of public order legislation.
9. Hunt members/supporters stealing witnesses' equipment and destroying evidence obtained by them, in breach of general criminal justice legislation.

10. Hunt supporters damaging witnesses' vehicles and equipment in breach of criminal damage legislation.
11. Hunt members and experts committing perjury in Court in breach of general criminal justice legislation.
12. Hunt members intimidating and harassing members of the public for their anti-hunt beliefs.

Considering this potential criminality altogether, it is easier to see how illegal hunting undertaken by organised registered hunts could be considered far more serious than when it is a case of a poacher trespassing onto private land with a lurcher to hunt a hare. Incidentally, this seems to be a crime some police forces take very seriously. In addition to charging offenders, their vehicles are often crushed if the poacher is found guilty (CambridgeNews, 2014).

We are not saying that all these aspects of criminality occur in all illegal hunting cases. It is possible, however, that in cases where only one offender was found guilty of one single breach of one law, many more people could have been charged, particularly if the enforcement authorities had approached the case as an 'organised crime' case and used the full extent of their investigation and legal powers to the end.

Here are a few published reports of the aspects of criminality listed above:

- Promoting Criminal behaviour (MailOnline, 2003)

*Hunt supporters pledge disobedience. Thousands of hunt supporters gathered across England and Wales and promised to break the law to beat a ban on fox hunting. They signed pledges to support a campaign of civil disobedience against any government plans to outlaw the controversial sport. At the start of the new hunting season, mass rallies have seen hunts and their supporters sign a "Hunting Declaration" they will break any law which bans hunting with dogs. As many as 37,000 supporters have signed up according to organisers of the events.*

- Hunt follower fined for causing vehicle obstruction (Horse&Hound, 2009b)

*Benjamin James Elliot of The Stables, Winterbourne Carne, Dorchester admitted to driving without reasonable consideration and causing an obstruction on the highway during a meet near Abbotsbury on 1<sup>st</sup> November 2008. He boxed in hunt monitors Helen Weeks and Graham Forsythe. He was fined £400 from each offence and given six penalty points.*



Figure 57: Hunt monitor's vehicle boxed in by hunt supporters' vehicles



Figure 58: Hunt monitor showing a slashed tire in his hunt monitoring vehicle

- Huntsman jailed for 'ramming' protester (TheTelegraph, 2009)

*A huntsman who used his horse 'like a missile' to ram an anti-field sports campaigner into a ditch as she tried to film a fox hunt was jailed for six months. Burly Christopher Marles, 47, repeatedly barged into Helen Weeks, 61, and laughed, saying: "Whisper is a lovely horse - he loves you". Helen, a member of the League Against Cruel Sports, had been using a camcorder to film members of the East Devon Hunt in a country lane. She was trying to prove they were flouting the ban on foxhunting but clashed with Marles, who was working as the hunt's 'whipper-in'.*

- Huntsman fined for assault (BBC, 2009)

*Otis Ferry was fined £350 and given a one-year conditional discharge after admitting a public order offence at a hunt in Gloucestershire. Ferry was charged with affray, robbery and assault after a dispute with two hunt monitors near Stow-on-the-Wold, Gloucestershire, in November 2007. The 26-year-old's not guilty pleas to those charges were accepted at Gloucester Crown Court on Friday. Ferry, son of Roxy Music singer Bryan, refused to comment as he left court. Ferry, the joint master of the South Shropshire Hunt, had earlier been accused of intimidating a witness in the case and spent four months on remand. That charge was later dropped.*

- Huntsman convicted for firearms offences (NWHSA, a)

*Albrighton Foxhounds Huntsman, Nigel Cox, convicted of firearms offences in 1985 and given a 3 year suspended prison sentence after he blew a hole in the radiator of an occupied sab minibus with a shotgun. He was also given a conditional discharge for assault (he had struck a sab with the gun) and criminal damage to a camera.*

- Badger sett interference conviction (LACS, 2015b)

*On the 10<sup>th</sup> February 2015 terrierman for the North Yorkshire based Middleton Hunt, Lee Martin, was found guilty for an offence of interfering with a badger sett, contrary to section 3 of the Protection of Badgers Act 1992. He was caught on camera by LACS investigators blocking up several entrances to an active badger sett in advance of the Middleton Hunt meeting at Pasture Farm, Scrayingham on 29<sup>th</sup> March 2014.*

- Somerset huntsman admitted attack on monitor (WDP, 2011)

*A hunt whipper-in who attacked the head of operations of the League Against Cruel Sports because he did not want to be filmed while trail hunting has admitted common assault. David Bevan, 52, from the West Somerset Vale Foxhounds was given a one-year conditional discharge and ordered to pay £150 compensation and £85 towards prosecution costs when he appeared at Taunton Magistrates Court. The court took into account his previous good character and medical history. Magistrates heard Somerset-based Paul Tillsley was attempting to film the hunt on a bridle way at Woodlands Hill in West Somerset when the assault took place. Sarah Rhodes, prosecuting, said Mr Tillsley stepped back off the bridleway to allow the hunt master and a following horseman to pass. The master went by but the following rider, later identified as Bevan, repeatedly goaded Mr Tillsley with his horse, 'barging' him and pushing him into the gorse. Miss Rhodes told the court: "The man then started to strike out at Mr Tillsley with his whip. The whip's antler handle made contact with Mr Tillsley's head." Bevan then rode off and a "shocked and stunned" Mr Tillsley began to beat a retreat down the hill. But he then felt a horse close behind him again and another blow to the back of his head. Mr Tillsley put up his hand and felt blood.*

- Herefordshire huntsman fined £3000 after racially abusing hunt saboteur (RebelBull, 2012)

*Lee Peters, huntsman for the Ross Harriers Hunt who operate in south Herefordshire, has been found guilty of racially aggravated harassment and threatening behaviour after a three-day trial at Hereford Magistrates Court. Peters, a 33-year-old father of two who lives in Coughton near Ross-on-Wye, was fined £720, ordered to pay £2,000 court costs and £200 compensation to his victim. The conviction relates to an incident on January 7<sup>th</sup> 2012, when hunt saboteurs attended a meet of the Ross Harriers hunt at the Penny Farthing Inn at Aston Crews near Ross-on-Wye in Herefordshire. Peters shouted racist abuse at a black saboteur and threatened to attack another. The comments were overheard by a local man who was in his garden next to the road. He soon after reported it to the police.*

- Huntsman jailed over assault (BBC, 2009b)

*A Devon huntsman is facing prison after being found guilty of deliberately assaulting an animal rights activist. Christopher Marles, 48, of Farringdon, used his horse to knock Helen Weeks to the ground as she filmed the East Devon Hunt, Honiton magistrates heard. He was serving a suspended sentence for attacking another hunt monitor when the assault happened in March 2008. Marles admitted assault but had denied he intended to hurt her. He will be sentenced next month. In October 2006, he was sentenced to nine months, suspended for two years, for causing actual bodily harm to 58-year-old Kevin Hill. Mr Hill was left with two black eyes and needed six stitches after being punched while filming the Devon and Somerset Staghounds.*

- Hunt master charged with a string of offences (Indymedia, 2005)

*A HUNT master has been charged with a string of offences – including the assault of a police officer – after trouble flared at a meet earlier this year. Douglas Hill, 62, joint master of the Essex and Farmers Union Hunt, also faces two further charges of assault, a charge of criminal damage and two public order offences. He will appear at Chelmsford Magistrates' Court this morning [he was later convicted].*

- Many foxes killed by illegal methods in Wales (Adams, 2006).

*The fox barely stood a chance. First, he was chased to ground by a pack of hounds; then a terrier was sent to flush him into the open. Finally, men with guns and shovels arrived, to administer the coup de grâce with a pump-action 12-bore. This is rural Britain, 18 months after the Government passed legislation which was supposed to ban hunting with dogs. Like the fox's bloodied carcass, torn to pieces by waiting hounds, that law is a sorry mess. Last week, The Independent was invited to follow a typical hunt in a remote corner of Wales. It killed nine foxes, almost all by illegal methods; the previous week's bag had been 13.*

- Hunt member arrested after he deliberately trampled female protester with his horse (Glanfield, 2014)

*A hunt member has been arrested on suspicion of causing grievous bodily harm after a protester was left with seven broken ribs and a punctured lung when 'his horse trampled her' at a hunt. The 42-year-old woman was left seriously injured when she was allegedly hit by the horse at the Blackmore and Sparkford Vale meet in Somerset last Thursday evening. Police said they are treating the incident as a criminal assault and said the hunt member did not stop after the incident.*

IFAW's Wildlife Crime Investigators have had direct experience of witnessing (and being the victims of) this sort of criminality. They observe hunts, sometimes at close range, while other times at great distances, always using public land, roads, footpaths, bridleways or private land that they have permission to use. They peacefully observe and document their activities, always working within the law without any form of intervention. Unfortunately they are often targeted by hunt members and followers. They have received verbal abuse, threats of violence, real violence and damage to their vehicles. All this is criminal behaviour perpetrated by the hunting community.

Kevin Hill, one of the more prolific and experienced of IFAW's Wildlife Crime Investigators, was severely assaulted by a hunt supporter. He later stated, "*The assault was the worst that I've suffered during my 20 years of monitoring, but it did not deter me from doing my job. I hope that the verdict and sentence will send a message to hunt supporters that acts of intimidation and violence will not be tolerated. Hunts claim to be obeying the Hunting Act - if this is true then their supporters should have no objection to their activities being observed by hunt monitors.*"

#### 4.4.5.2. Planning and coordination

The clearest case of a Hunting Act offence which proved a group of people had planned to undertake a coordinated criminal activity over several days is the case of the RSPCA vs Heythrop Hunt (Davies, 2012).

In 2012 Richard Sumner and Julian Barnfield of the Heythrop Hunt each pleaded guilty at Oxford magistrate's court to four charges of unlawfully hunting a wild fox with dogs, which took place on different days. However, the hunt, Heythrop Hunt Limited, also pleaded guilty to the same four charges of intentionally hunting a fox with dogs on land in the Cotswolds. This was the first successful Hunting Act 2004 prosecution against a hunt as a corporate body. The admission of guilt of the hunt as an organisation implies that the crimes had been planned and coordinated by the hunt's officials over a period of time.

Indeed, the field reports of IFAW's Wildlife Crime Investigators often suggests that there is a high level of coordination involving a hunt (and even more involving an illegal hunt). Sometimes hundreds of people are involved in a hunt day that lasts for hours, and which requires a great deal of coordination.

The following is a generalised case study narrative of how an illegal hunt could be carried out:

1. First the hunt's staff would need to train the new hounds to follow the scent of a real fox, and to catch and kill a running fox. They do that with cub hunting in autumn. This is a very secretive activity that takes place very early in the morning or evening, in isolated copses or woods known to have foxes living there. Several people would be involved, surrounding the woods and making noises if they see a fox trying to escape the hounds. This forces the fox back in so the 'training' can continue. This will take place over several days every autumn.
2. The day before the hunting day terriermen would have patrolled the area which is planned to be hunted in order to block holes which the fox may use to hide during the hunt. Some of these holes may be protected badger setts.
3. On the day of the hunt, in the morning, many hunt supporters, in their own vehicles or on foot, spread themselves as some sort of outer shield. They are the scouts and try to find any witnesses of the activities of the hunt.



Figure 59: Hunt supporters wearing balaclavas observing IFAW hunt monitors

4. The huntsman, with the help of the whipper-in and the supervision of one or two hunt masters, casts the hounds into areas known to have foxes. The area would have been selected when planning the hunting operation days earlier.
5. If the hunt supporters find any potential witness and they suspect they may be gathering evidence of the hunt's activities, they would then contact the mounted hunt officials. These are the master, huntsman or whipper-in. Hunt staff often uses the phone and will either take the hounds to another area or be especially cautious in not doing anything that clearly shows they are hunting illegally. For example they would be careful to separate themselves from the hounds so there is less evidence they are controlling them.
6. On some occasions people pretending to be laying a fake artificial trail may show up to mislead witnesses and build an alibi for future use, especially if hunt monitors have been spotted.
7. If the fox that was illegally hunted goes to ground, hunt staff then phone the terriermen who will turn up in quadbikes. They bolt the fox out or dig it out if it stays put.
8. Meanwhile the hunt supporters may take photos of the witnesses so they can distribute them to other hunts for easy identification. They may block the witnesses' vehicles so they cannot relocate to the new place, and/or try to intimidate them away.



Figure 60: Hunt supporter wearing balaclava attempting to photograph the face of an IFAW hunt monitor in his vehicle

9. If this does not work and the witnesses manage to get closer to the hunt officials and contractors so they can get the crucial evidence, then the 'heavies' are called in. This is the inner shield. They are often masked terriermen in quadbikes who take the intimidation and obstruction to another more dangerous level.



Figure 61: Hunt supporter wearing balaclava harassing a hunt monitor

10. If this does not work sometimes the hunters use physical violence and robbery. This could include taking the witnesses' cameras, to prevent any evidence of illegal hunting being secured.



Figure 62: Hunt supporter wearing balaclava harassing an IFAW hunt monitor while he is talking on the phone to the police to report a theft of part of his equipment

11. If that does not work either and the hunters end up being arrested (which is rare even if the victims do call the police), they all would have pre-established sophisticated alibis to rely on. They also give elaborated explanations if challenged by the police. For example the presence of terriermen was totally coincidental and has nothing to do with the hunt.



Figure 63: Police talking to a hunt member during a hunt incident

12. If the hunters end up in court nevertheless, and if the defence tactics do not succeed in getting the case dropped in the pre-trial hearings (which is not uncommon), then the defence expert witness is called to support such explanations, no matter how farfetched they may be. They will also claim that only 'hunters' understand hunting, so the only explanation of an event that the judge should believe is that given by their expert hunter.

13. If nevertheless a hunter is convicted, the rest of the people involved would deny any knowledge of his/her illegal behaviour. They would describe the singled out offender either as a rogue element who is not connected to them, or as someone who had a temporary minor lapse and was convicted on a technicality.

The following are some extracts of IFAW's Wildlife Crime Investigators' reports that illustrate some of the points above.

- *21/01/2006. The hunt moved at speed throughout the morning, although keeping within eyesight proved difficult due to huge following. By 1200 the Police had gone and the attitude of the hunt followers changed. There was an attempted ambush on us, a vehicle went at speed to block me in while some hunt support ran towards my vehicle with fists raised. I was able to drive away. Later in the day a lady supporter who did not know me informed me that they had killed earlier, but I did not witness this event. Every time I stopped at a good vantage point my vehicle was surrounded by supporters and some behaved in an aggressive manner. Hounds were heard in cry at a large covert, which was surrounded by support and riders. As soon as I tried to gain access I was blocked. A frustrating day not made any easier by some followers' behaviour. On the way out I stopped to talk to 2 Police Officers who had just arrived. I informed them that an element of hunt support had acted like thugs, and also that I had been informed they had killed a fox in the morning but was not in a position to make a complaint.*

- *11/03/2006. From our first position on the hill we could see them but not at close range as they moved away from us. Later we moved to another hill nearby where we had a better view but at some distance. (...) The hunt from this distance looked as though they were hunting as pre the ban. At times the huntsman was on foot and getting lifts from the terrier man on his quad bike. At 2.55pm approximately the hounds could be seen ragging a fox. We felt the fox was brought to the field by the terrier man. The ragging appeared to be supervised by the huntsman. At around 3.15 pm the hunt moved back to the (...) area for the 'last draw' of the day. We were watching from (...) and we feel the hunt looked as they did before the ban. This area is an area of steep sided combes that have woods on some sides. The huntsman was not keeping up with his hounds at all and allowing them to hunt. At times the hounds were splitting and hunting in two packs. At 3.20pm a fox was seen on (...) and we think went underground in a badger sett. A little later at 3.35pm the hounds ran up to a gorse patch near (...). A red coat came to this position and stayed there until another red coat came over who we believe was the huntsman. After a while he left the scene but left the other red coat there. This other red coat stayed until the terrier man and his assistant came to the gorse patch at 3.35pm. Both he and his assistant went into the patch with digging tools. At this point we decided to walk to the gorse patch as there was a footpath just above. We were there for some time before the terrier man knew we were there and we could hear the terrier man making encouraging noises quite possibly to a terrier that may have been entered. At 4.05pm we believe the terrier man was informed of our presence by phone and emerged from the gorse and proceeded to argue with us as to our right to be there. I explained we were entitled to be there as it was a footpath. During this time I asked the terrier man what he was doing there. I asked him if he was digging out or flushing to guns. He did not answer these questions but when asked if it was a badger sett appeared to*

*discount this. He then commented that it was a kept estate. At 4.15 another man came over with three children and proceeded to give us all verbal and threats. His children became upset so to defuse the situation we gradually moved out of the field. During that time there was intimidation and pushing by the terrier man, (who now had pulled on a balaclava) his assistant and the other man. This other man was accusing (...) of trying to run him down the previous week. When I asked if he had reported this he said no and said something like "the police don't take any notice of you when foxes are being chased and killed". We feel the behaviour of the man with the children was appalling as was the behaviour of the other two particularly the terrier man. A complaint is likely to follow on the incidents. We left the field at around 4.25 pm making it clear we were leaving to defuse the situation. We feel the hunt was contravening the law by intending to hunt foxes. We saw no effort to pull up the hounds and feel this is proven by the fact that the terrier man came to the gorse patch and was instructed by the red coat as to where the fox had gone. We would also like to know what practice the terrier man was engaged in when in the gorse patch. Note: There was an incident the previous week near (...) when a follower punched the roof of (...)’s vehicle. We believe this was the same man who was giving us problems in the above incident.*

- *17/12/2009. The hunt was aware of our presence early in the day. Quadbikes were out looking for other monitors and found us! One who is perhaps the temporary terrier man was reasonable in his comments and gave the impression he was not interested in violence. Thereafter the hunt was very careful as to what they were doing as they knew we were watching them. They did draw 'root fields' and other areas where foxes could be usually found. However late in the day the hunt appeared to try to conceal their operations by moving to a different area. They first went towards the (...) the hillside near (...). There they were met by two other monitors and quickly changed direction. Anticipating their action we took up positions near (...) and observed the hounds on a real screamer. We believe this was a fox although we did not observe the fox. This was late in the day and shortly after the hunt packed up.*

- *08/12/12. From our advantage points the hunt was in view for most of the day. They moved from the meet towards (...) and from there northwards to the area near (...). Near here the hounds chased a fox onto property where they are forbidden. Hounds were removed from the property by hunt staff. From there the hunt moved to the (...) area where they were seen to draw a rough depression area for some time. And from there back to near (...) where as the light was fading the hounds were often in cry. During the latter stages of the afternoon monitors on (...) were challenged by hunt supporters who were concealing their faces. They were very intimidating filming the monitors. The monitors took another route off the hills and walked towards (...). Clearly hunt supporters were at strategic positions around the hill to track the monitors. The monitor designated to rendezvous with the monitors was also followed to the pick-up point. One of the hunt supporters at the pick-up point used aggressive language. It was pointed out to him that he did not have to do exactly what he was told and that he would be the one in trouble, not those who sent him there.*

- 06/11/14. The hunt moved from the meet in something of a clockwise circular route around (...) moving into the area south of (...). Moving slowly adjacent to (...) they moved into the logging store near the junction with (...). Here hounds as usual found what observers believe was a fox that crossed (...) in a westerly direction towards (...). At this time some hounds moved onto land that is banned to the hunt. A fox was also seen moving across the lane at speed south of (...). From here the hunt moved to the (...) area and from there to near (...). Movement then was westwards towards (...) area. Here two monitors were seen by 'terrier types' on quadbikes. Other monitors received a message that problems were occurring so journeyed to the area and came under some intimidation that included blocking the road, verbal and 'banging' on the roof of the vehicle. We eventually extracted ourselves from the situation and moved away being followed by a quadbike rider for some time. This was late in the day and we believe the hunt came to a close shortly after finishing around 3:45pm.

- 28/03/15. Monitors positioned themselves in an area usually visited by this hunt (...). It soon became apparent the hunt was not operating in the (...) and so the other monitor was 'called in' to move them. Whilst with the hunt the (...) monitor was in conversation with a hunt follower who informed him they had a 'tip-off' the hunt was to be monitored on that day and that they were 'actively' trying to look for the monitors. The monitor was also told that generally the hunt would be in woodland for the day that would signify the hunt took the information seriously. The hunt dropped to the (...) for a short time before moving back to the hills and continued in 'searching mode' in woods and rough areas in the meet area below (...). Monitors took positions in (...) and observed the hunt searching for some time albeit from a distance. Monitors concluded the hunt was being cautious on the day. Right at the end of the day when moving out of the area monitors came across the hunt and followers in the (...) area who looked disapproving of them. In fact the monitoring vehicle was followed for some time. Eventually a conversation was had with the follower regarding our resilience to any action that resembled intimidation. The monitors then drove out of the area with the hunt supporter following for a short while.

The following is what Chris Edgell, a former Gloucestershire Police detective constable, recently wrote to us regarding the way hunts approach prosecutions.

*I was a police officer for over thirty years and have seen many different aspects of the fox hunting debate. In the eighties I was based in mainly rural areas where it was regularly expected that the local police officer would turn up at the local hunt meet and 'show their face'. Then hunts started to get attention from saboteurs who would usually turn up in large numbers in mini buses from various universities across the country, some confrontations would turn violent requiring police response.*

*In 2004 when the Hunting Act was established the then ACPO lead on wildlife issues made a statement that police resource numbers meant that the police would never police or enforce the legislation, this gave the hunts confidence to carry on as they always had, and also led to a rise in organisations, monitoring the hunt's activities.*

*The lack of knowledge within the police and the Crown prosecution service of hunting matters led to many alleged breaches of the act being dismissed for erroneous reasons without any investigation ever taking place.*

*In 2007/08 I was working as a detective when I was working on a case of robbery and assault which involved hunters and monitors, as a result of dealing with that incident I was appointed officer in the case for several alleged breaches of the Hunting Act, evidence of which had been gathered by various monitoring groups.*

*As a result of this, I spoke to many members of hunts and interviewed many staff, the overriding thing that hit me was the depth of feeling that exists amongst the hunters to defend their sport and the lengths they are prepared to go to, to protect it ranging from intimidation all the way up to physical assaults*

*Hunting offences in the grand scheme of things are very minor offences, which if admitted to would at first possibly lead to a police caution or a brief appearance at court and a small fine, but every case I have seen, always leads to an initial denial of any offences, the employment of barristers to defend cases and a mind set of we will fight this all the way, eventually to a trial, and all of the costs that are involved.*

*In interviews, with Huntsmen they have always claimed to have been following a pre-laid trail, yet if asked where did that trail go they claim not to know its route, so how would they know if they were off trail, they don't, there never was a trail they use it as a defence which they are pretty confident cannot be disproved, or will discourage any eventual prosecution.*

*Like any new legislation any new 'case law' is always useful to refer back to, in the Hunting Act there is very little case law because of the low number of prosecutions, people claim that the legislation was badly written and needs re-enforcing, I would not disagree.*

*In the meantime we have large groups of people going around the countryside, breaking the law, some might say 'who cares' but if the society we live in are prepared to accept this and do nothing about it just because it involves, horses, landowners, farmers and members of the upper class where will it stop.*

#### *4.4.5.3. Continuity of the activity*

Regarding how continuous illegal hunting may be, hunters that have been convicted of illegal hunting have been often accused of alleged illegal hunting previously. This suggests that we are not talking about isolated cases, but a continuous activity.

Some huntsmen have been successfully prosecuted twice, such as Richard Down, the Huntsman of the Quantock Staghounds (BBC, 2010), but this is rare due to the difficulty in getting cases properly investigated.

Certainly the experience of IFAW's Wildlife Crime Investigators is that those hunts which have been seen behaving suspiciously, have been doing so day after day, season after season. For example, figure 64 shows

the average relative frequency of IFAW's Wildlife Crime hunt monitoring reports in which the investigators expressed their opinion regarding whether they witnessed illegal hunting or not. This was calculated only with operations involving all Dorset hunts.

In most cases (76%) the investigators believed that they may have witnessed illegal hunting. The results would have been even more significant if all types of crime perpetrated by people connected with the hunts had been recorded – not just illegal hunting.

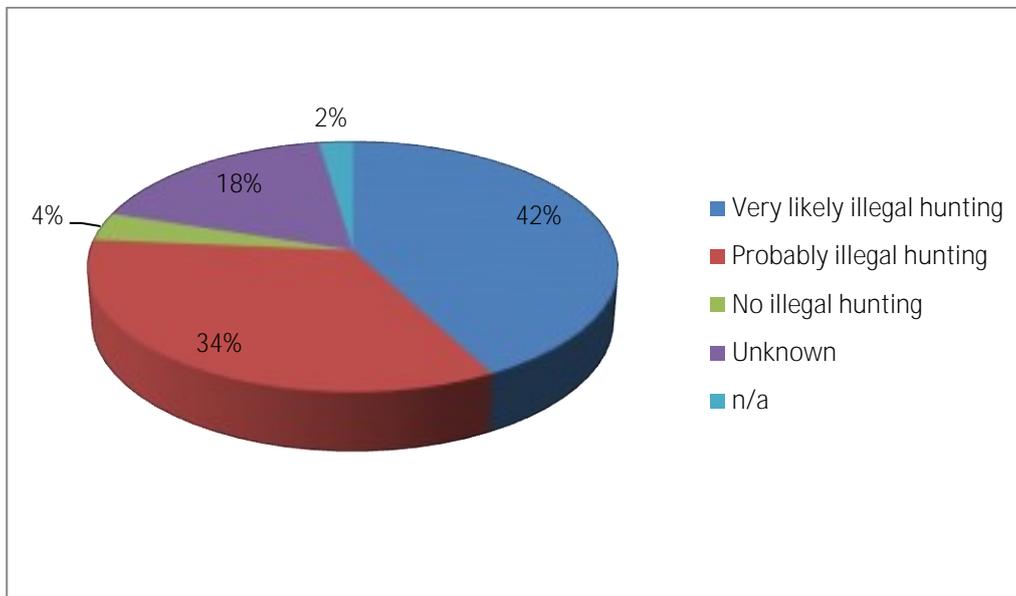


Figure 64. Average relative frequency of IFAW's Wildlife Crime hunt monitoring reports in which the investigators expressed their opinion regarding whether they witnessed illegal hunting or not, calculated only with operations involving hunts in Dorset.

#### 4.4.5.4. Gang culture and corporate criminality

Dr Tanya Wyatt, Professor of Criminology at Northumbria University, wrote to us stating that she does not think the hunting fraternity fits the traditional definition of organised crime. She said:

*Organised crime in the academic literature, while still debated, has very similar elements to the definition you are using – organization and continuity in particular, but differs in regards to the role of profit and violence. Organised crime groups rely on the proceeds of crime to survive. They are very flexible and adaptable in terms of where that illicit profit comes from, so shift between illegal activities and take advantage of new criminal opportunities. 'Red coat' hunters seem to do this as a hobby and be very single minded in the pursuit of fox hunting with the other crimes committed are secondary to this pursuit. The violence perpetrated by hunters, and you provide evidence of a lot, is to hide or continue their activity. Whilst this is similar to some organised crime, what I do not see is evidence of violence to maintain their territory or control over a criminal operation from rival groups. Organised crime also tries to remain hidden and launder their profits. The hunts are obviously trying to be secretive, but there isn't the same element of the 'underworld' when you have people who openly own hounds and horses. I agree this is a serious crime meriting more attention, but do not see it being categorised (or treated by law enforcement) as organised crime.*

Dr Angus Nurse, Director of Programmes of the Department of Criminology and Sociology at Middlesex University, wrote to us about which sort of criminal group he believes the hunting fraternity fits into:

*While illegal hunting arguably does not fit the traditional notion of organised crime as being serious, profit-driven crime, it reveals a 'gang' culture and group mentality which can arguably be compared to inner-city gang culture with its initiation rites, denial of authority, challenges to law enforcement and denial of the legitimacy and necessity of the law. In this sense illegal hunting is in some ways comparable to low level semi-organised deviance where a subculture exists and is perpetuated that considers that certain rules of society either do not or should not apply to the actions of its members. Defending the subculture and an appeal to its 'higher loyalties' can often mean that deviance and criminality is seen as a natural response to laws, such as the Hunting Act 2004, considered to be unjust. Deviance thus becomes organised and co-ordinated and frequently escalates into something more serious and organised.*

*Protests against the introduction of the UK's Hunting Act 2004 were widespread with the major protest attracting around 400,000 people, many of whom initially vowed to carry on the activity after the law made hunting with dogs unlawful. The obvious inference from this is that those individuals were prepared to become offenders and to continue their activities in defiance of the law. In some respects, defiance of the law through continued illegal hunting across different parts of the UK and Europe suggests a shared, organised resistance potentially with its own organisational hierarchy and structure and common tactics to frustrate law enforcement and monitoring efforts. If registered hunts are allegedly involved, their corporate nature could lead to comparisons with lower level organised or corporate crime where those with secure places in the hierarchy influence the criminal activities of the footsoldiers at the bottom.*

We certainly can see elements of 'gang' culture in the behaviour of trail hunters. The hostile way hunt supporters react when 'strangers' are seen close to the areas where hunting is taking place is not too dissimilar to the territorial behaviours of urban street gangs. It is not only hunt monitors and hunt saboteurs who are the targets of such hostility and intimidation, but sometimes unsuspecting members of the public that have nothing to do with the hunting debate. They just happen to be in the wrong place at the wrong time, in the way of the hunters. This is what the former MP Chris Williamson, at the time Shadow Minister for Communities and Local Government, said in Parliament about this sort of behaviour (Williamson, 2013):

*I secured this debate to highlight the antisocial and criminal behaviour of a tiny minority of individuals who cause havoc in the countryside. These rural ruffians are blood sports enthusiasts who have been getting away with this lawless behaviour for far too long. To my mind, they are no different from the mindless yobs that blight some of our urban housing estates, but the police, regrettably, are turning a blind eye to their lawless behaviour. (...)*

*It is not just hunt monitors who are the victims of these militant blood sports fanatics. I also have recent examples of other types of antisocial behaviour where these rural ruffians have run amok. In Kent, a farm manager's wife was pushed off a public footpath by horse riders who were galloping across a narrow area. She was pushed into a hedge after grabbing her pet dog to save him from being attacked. The (...) hunts killed a pet cat. In Devon, a Staffordshire terrier was attacked by hunt hounds. In Yorkshire, recovering horses at a sanctuary were distressed by rioting hounds. The owner of the sanctuary subsequently received threats—incredibly—from a member of the hunt. A Surrey cattle farmer had his herd disturbed on a number of occasions, causing severe distress to many of the*

*cattle. In Somerset, a sheep farmer complained of sheep being distressed by hunting hounds. In Gloucester, horses were distressed by trespassing hounds that killed a fox on private property. In north Cornwall, animals from a small holding were disturbed by rioting hounds.*

*Those examples are just the tip of the iceberg. In what other part of society would that be acceptable? The simple answer is that it would not be. The irony is, of course, that none of this is necessary. If those recalcitrant hunt supporters and their unacceptable practices were not tolerated by the hunting fraternity's hierarchy, those incidents would stop. By complying with the terms of the Hunting Act, all the transgressions I have outlined could be avoided.*

But what about corporate crime behaviour? Corporate crime is a crime committed by a corporation or business entity or by individuals who are acting on behalf of a corporation or business entity (Williams, 2015). Is each of the hunts a 'business entity'? Is the hunting fraternity as a whole a 'business entity'?

Many hunts are organised as societies and some are indeed corporate bodies that can be prosecuted as such, as in the case of the Heythrop hunt which was successfully prosecuted by the RSPCA in 2012 (Davies, 2012). But the question is whether the fact that such societies and corporations are not driven by profit but by ideology or socio/political power excludes them from being considered 'business' in the strict sense of the term.

A business is an organisation where goods and services are exchanged for one another or for money, and can be privately owned, not-for-profit or state-owned (BD, 2015). The standard relationship the hunts have with landowners is based on the latter allowing hunts access to their land to practice their sport in exchange for receiving the service of getting rid of their perceived 'vermin' or removing their fallen stock. This may be considered a business deal in which hunts are non-profit businesses which exchange services, rather than money, with landowners. Any crime such organisations are involved with to benefit or support such business deals could be considered corporate crime.

According to the Corporate Crime Reporter (Mokhiber, 2003), the top 100 US corporate criminals of the 1990s fell into 14 categories of crime: environmental (38), antitrust (20), fraud (13), campaign finance (7), food and drug (6), financial crimes (4), false statements (3), illegal exports (3), illegal boycott (1), worker death (1), bribery (1), obstruction of justice (1) public corruption (1), and tax evasion (1).

Perhaps the crime committed by trail hunters could be classed as a combination of 'environmental crime' and 'obstruction of justice crime'.

Indeed, corporate crime where the victim is the environment often uses the concept of 'accident' to get away with it, as trail hunters do with the way they have been handling the authorities and the media. Here is an example:

*A second resource at the disposal of large corporations is often their ability to reframe the incident away from any notion of 'crime' towards alternative ways of looking at what happened such as 'accident'. Thus one of the largest environmental crimes of the twentieth century remains undoubtedly the leaking of poisonous gas from a faulty storage container at the Union Carbide chemical plant in Bhopal India in 1984. The initial response of the Indian government was to charge the US head of Union Carbide (an American corporation) with criminal negligence and manslaughter. He was rapidly released. The company meanwhile used its considerable leverage in the media to 'redefine' what had happened as a 'disaster' and 'terrible accident' and use other diversionary tactics such as suspecting 'sabotage' by various Indian radical groups (Lea, 2003).*

Although each hunt may indeed not be considered a 'large corporation' to fit the above example, perhaps the entire hunting fraternity, including powerful landowners that are Masters of hunts (Fernandez, 2008), together with the Countryside Alliance, could. The defence team of individuals from registered hunts is often comprised by expensive lawyers that do not seem to fit the 'low income' claims the accused put forward when informing the judge for sentencing.

Prosecutions for such claims often lead to minimal fines. Indeed, responding to a complaint for having dropped a case, a CPS official told IFAW: "*Any arrest (...) would inevitably mean that they will be represented by specialist solicitors (...) funded by the Countryside Alliance. They will be advised to go 'no comment' and to decline to identify themselves on the footage obtained by your monitors*" (Bowcott, 2012).

We certainly have seen senior members of the Countryside Alliance present in some of the pre-trial hearings of prosecutions with which IFAW has been involved. They have been seen discussing the cases with the defence solicitors even in the absence of the accused. This suggests that those involved in the handling of such cases go far beyond the accused and the hunts to which they belong.

Is there enough information to suggest that illegal hunting undertaken by registered hunts could be classed as some sort of atypical 'organised crime' with elements of gang culture and corporate crime? In any event, we do not have any evidence that the enforcement agencies have ever approached it as anything more than a low level petty crime perpetrated by rogue individuals. Perhaps this is the root of why the Hunting Act 2004 has so many enforcement problems.

## 4.5. Case studies

To illustrate the different forms trail hunting can take when used as a false alibi, we have chosen four examples to illustrate the four *Modus Operandi* we described in chapter 4.3 above. There may be other forms yet to be discovered, or yet to be created.

The examples shown below must be regarded purely as examples. They illustrate the form the alibis take. They are not a statement to claim that the hunts involved are archetypical of each of the MOs, that they created or invented such MOs, or that they use one particular MO more often than the others.

Also, since this report is based on data obtained in the last 10 years, it is also perfectly possible that by the time of publication of this report the hunts mentioned may no longer use any of these MOs. They may no longer use trail hunting as a false alibi, or they may not use trail hunting as often as they did. They may now concentrate their meets on other type of hunting activities instead (such as exempt hunting).

Finally, it is important to reiterate that anyone mentioned in this chapter should be considered innocent until proven guilty in a court of law. Therefore, any opinion expressed by the author, by hunt monitors quoted, by investigators or by anyone else quoted or referred to in this report regarding their belief that an activity they observed or studied may be an illegal activity, remains just an opinion and should never be taken as a statement of fact, if the courts have not established it already as a fact.

### 4.5.1. MO1- Seavington Hunt prosecution

In Yeovil Magistrates' Court, on 12 September 2013, David Parker, Huntsman of the Seavington Foxhounds, pleaded guilty to the Hunting Act 2004 offence which took place in the area around Causeway Lane, Winsham, in Dorset in January 2013. He was sentenced to pay a £500 fine, £500 costs plus a £50 victim surcharge. The hunts had claimed that they were trail hunting that day, but no evidence was ever found that they even pretended to lay a trail.



Figure 65: David Parker, Huntsman of the Seavington Hunt, recorded at 15:21 on the day of the offence, returning from the fields where the illegal chase took place.

This is how the case unfolded. IFAW's Wildlife Crime Investigators, after receiving intelligence that the Seavington Hunt would meet on 26<sup>th</sup> January 2013, monitored the hunt from covert positions. At around 15:00, still unnoticed, they managed to film them on the Dorset/Somerset border searching a scrub area from which a fox bolted. When the Huntsman was made aware of the presence of the fox by other people assisting him he then blew the horn and engaged the hounds in pursuing it. This is, in itself a breach of section 1 of the Hunting Act 2004 regardless of whether the fox is eventually caught in the end.

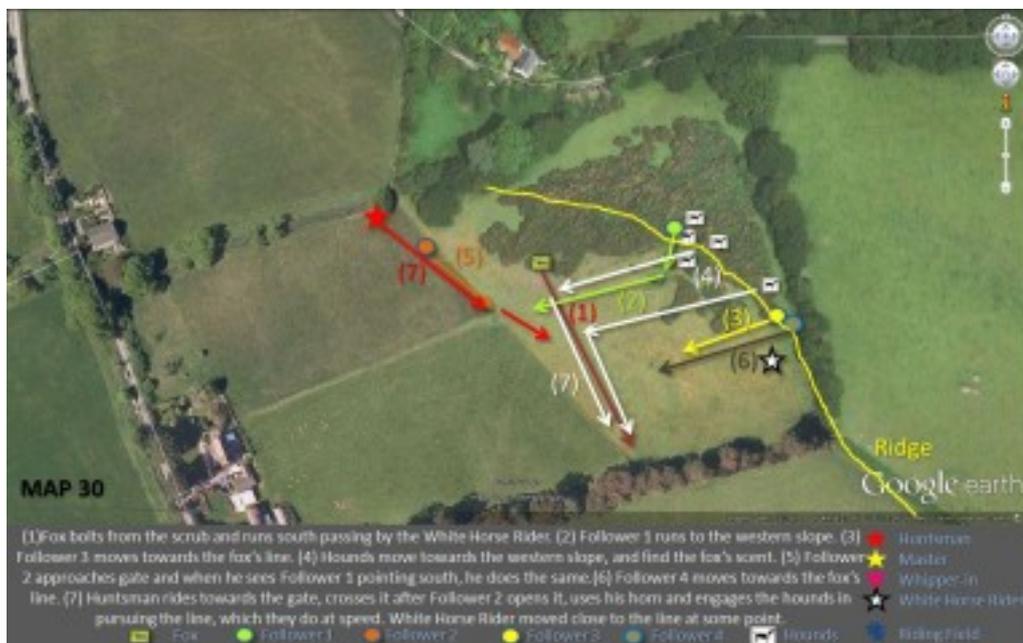


Figure 66: Map showing the sequence of behaviour of animals and people in the crucial scene of the Seavington Hunt prosecution. Copyright background map: ©2013 Google, Image ©2013 Getmapping plc.



Figure 67: Huntsman using his horn at 14:57 on the day of the offence, encouraging the hounds to pursue the line of the fox.

The footage clearly shows the fox fleeing across the field, with the hounds following on line shortly after for several fields and then stopping at a spot where the fox probably hid underground.



Figure 68: Hounds on line in pursuit of the fox through several fields, about 14:58 on the day of the offence.



Figure 69: Map showing the extent of the recorded chase of the fox by the hounds in the crucial scene of the Seavington Hunt prosecution.  
Copyright background map: @2013 Google, @Infoterra Ltd & Bluesky, Image @2013 Getmapping plc.

The huntsman then inspected the spot, other people joined him and some who carried spades started to dig, and eventually the huntsman and the remaining riders left. The whole recorded chase lasted more than 12 minutes and covered a distance of about a third of a mile.



Figure 70: Huntsman and terriermen around the spot where the hounds are marking the ground after the long chase of the fox

An assessment was made of the case a few weeks after the incident took place. All of the best state of the art equipment and forensic techniques at the disposal of IFAW's Enforcement team were used to make the assessment. The case was then handed over to the RSPCA for consideration. The RSPCA accepted it, carried out further investigations and eventually successfully prosecuted the huntsman with IFAW's evidence.

This is a typical example of the use of MO1 type of false alibi as described in the chapter above. Here are the components of the alibi.

1. Announcement: (The hunt publicly stating they will be trail hunting when they meet)
2. Showcase: (They invite the media to witness that they are laying trails, usually on Boxing Day)

An example of the Seavington Hunt showcasing their supposed trail hunting activities to journalists can be found in this 2014 article from *Horse & Hound* magazine (Horse&Hound, 2014):

"(...) It is a strange thing but whenever I visit a pack that is flying, scent abruptly evaporates. I call that the curse of the hunting correspondent. (...) There was also a good crowd on their feet (...). Trails had been laid (...). Despite hounds casting eagerly, they struggled and couldn't get on terms as the wind buffeted them and dissipated scent. (...) We stood on a hill overlooking this marshy stretch of country and watched as hounds worked hard to find the trail among the rough meadows. They were obviously catching snatches of it, running for a few hundred yards at a time, but then slowing and casting. (...) As we waited in the gloaming for (...) to gather up hounds, a fox appeared. He gave us a quizzical look, before proceeding on his way. In the old days, we would have holloa'd him, but of course we stayed silent now. (...) Mulling this little incident over as we hacked home, it suddenly occurred to me that it wasn't just the correspondent's curse at work today, but also the curse of the Hunting Act."

3. Crime: (When the public, police and authorities already believe that they hunt 'legally', there is no further need for the pretence of laying trails and they go hunting as before the ban.)

4. Deception: (If evidence is obtained of the hounds chasing live quarry, simply state that the hunt was trail hunting, and hope the case will be dropped)

Even after the huntsman pleaded guilty on 23<sup>rd</sup> January 2013 and the case was not dropped by the RSPCA, the huntsman argued that what happened that day was trail hunting and that the huntsman just had a temporary lapse in the afternoon (WGWD, 2013):

"The offence was charged because the huntsman rode across the field and the moment he was told by the followers that there was a fox, his hounds were on the trail of it and it is his duty to stop them. He is very sorry for the offence and this small length of footage, of a couple of minutes, was the only piece of evidence to have come out of the whole operation, which involved 27 separate recordings by hunt monitors."

A representative of the huntsman made this comment in the Chard and Ilminster News (CIN, 2013):

"Instead of trying to stop the hounds from chasing the fox, in a moment of madness David Parker blew his horn and encouraged them on. In the moral pantheon of criminal law, this falls somewhere between littering and not paying for your TV licence."

However, the truth is that IFAW's Wildlife Crime Investigators had been recording the hunt's activities from the very beginning. Not only did they not see anyone laying a trail, but the behaviour observed was inconsistent with trail hunting.

For instance, in the morning, a few minutes after the hunt started, they recorded the huntsman sending the hounds to search for a scent in a scrub. This was while the whipper-in was on point to alert anyone in case a fox bolted. The hounds found a fox which led them to a hole in the ground (obviously artificial laid scents do not 'hide' underground). Terriermen were called and they tried to bolt the fox while the hunt's staff and the hounds patiently waited close by facing the hole. They did not go elsewhere to find the supposed artificial trail. After the fox did not bolt and the terriermen proceeded to dig it out, they all left. Later in the afternoon the hunt was recorded elsewhere chasing a fox which led to the conviction. This is a detailed account of the events recorded in the morning.

11:36:05: Huntsman on foot with hounds seen walking towards the right of the field above, behind some trees (approximate BNG coordinates ST 39315 06662).

11:36:25: Rider and horse stopping in middle of the field. Hounds can still be seen behind the trees following the direction the huntsman went.

11:36:42: Rider and horse resume going uphill, now faster in the direction where the huntsman went, until out of view. White horse facing them. Hounds can be seen on the right, behind/among the trees.

11:38:02: Three hounds can be seen on the left behind the trees, going towards where the huntsman went.

11:39:36: Camera panning right, where the huntsman on foot can be seen walking uphill in the field, behind all the hounds scattered at the top area of the field bordering the scrub.

11:39:41: Slight panning right reveals the whipper-in on a brown horse stationary in the field below by the fence facing left, together with another rider, possibly the master (approximate BNG coordinates ST 39547 06634), and below them and more to the right the mounted field awaiting (view partially covered by trees, but at least three riders can be seen).

11:39:50: Hounds are sniffing the ground and are getting together at the edge of the scrub at the top of the field where the Huntsman is walking.

10:40:13: Some hounds move further into the left, inside the scrub.

11:40:29: The hounds seem to concentrate on a spot on the scrub to the left. All the other hounds move towards that spot. Huntsman is watching from a few yards off, in the field, and he starts moving towards the spot too.

11:41:08: Huntsman off view behind trees in the scrub, while hounds are still around the spot, moving backwards and forwards.

11:41:18: Zoom out for general view, and zoom back in when we see that the Whipper-in and Master remain stationary in the same position, in the field below. Hounds still marking the ground on the scrub.

11:41:51: Huntsman emerging from behind the trees, walking left before disappearing again.

11:42:39: Huntsman appearing again, now walking right towards the hounds.

11:43:59: Hounds are together a few yards to the left from where they were before, around a red quadbike partially covered by the scrub. A person (Terrierman 1) with a dark top and trousers is standing a few yards from the quadbike.

11:44:27: Hounds move to the right, and among them the huntsman appears moving to the right, away from the quadbike.

11:44:36: Hounds are following the huntsman still moving towards the right, and now we can see that in addition to the terrierman already seen, there is another person with green top by the quadbike (Terrierman 2).

11:44:40: Both terriermen move towards the right, following hounds and huntsman.

11:44:52: Huntsman and hounds still walking towards the right.

11:44:59: Huntsman stops, turns facing the quadbike, and waits for the remaining hounds to arrive

11:45:02: Terrierman 1 (dark top and dark trousers) appears from the scrub, walking right, and stops after a few yards

11:45:24: All hounds are now with the huntsman, still facing the quadbike. Most hounds are behind the huntsman also looking in the same direction.

11:45:42: Hounds stop, all looking towards the terrierman, staying behind the huntsman.

11:46:05: Slight zoom in. Whipper-in emerges from the bottom left, riding towards the huntsman.

11:46:20: Terrierman 2 (green top) appears from the scrub on the left, but stops immediately, at a distance of about 10 yards from Terrierman 1.

11:46:36: Master with huntsman's horse (with the white component in the saddle) emerges from the bottom left, riding towards the huntsman.

11:47:06: Terrierman 2 appears engaged in some activity relating to the ground, while Terrierman 1 is immobile.

11:47:12: Whipper-in stops by the huntsman

11:47:15: Terrierman 2 walks a few yards through the scrub.

11:47:22: Phone ring is heard. Terrierman 2 bends over.

11:47:39: Master and horse stop a few yards behind whipper-in.

11:47:41: Terrierman 1 walking towards Terrierman 2, stopping about four yards from where he was

11:47:57: Terrierman 1 walking back to the exact location where he was before. Hounds, huntsman, master and whipper-in still in the same position

11:49:30: Terrierman 2 slowly walks towards Terrierman 1 through the scrub.

11:49:43: Terrierman 1 bends over. Hounds and hunt staff still in the same positions immobile, looking at the terriermen.

11:50:22: Terriermen 2 also bends over.

11:50:34: Terrierman 2 walking towards Terrierman 1, still bent over.

11:50:51: Terrierman 1 standing right, and walking towards Terrierman 2.

11:51:16: Terrierman 2 walking two yards towards left. Soon after Terrierman 1 walks two steps to the right, as if looking at the spot where he was bending over before.

11:51:36: Terrierman 2 walking towards the left and uphill.

11:51:44: Terrierman 1 stops and he appears to hold a black bag. He keeps walking uphill, and then back down hill and right again.

11:52:22: Terrierman 2 has joined Terrierman 1.

11:52:44: Terrierman 1 moves through the scrub, and returns to his original position, when he bent over. He bends over again

11:52:54: Terrierman 1 walking towards Terrierman 2, who soon after starts walking left towards the quadbike.

11:53:04: Terrierman 1 stops at the spot where Terrierman 2 was, while Terrierman 2 has reached the quadbike.

11:53:16: Terrierman 2 takes his jacket off and leaves it on the bike, and then goes to the back of the bike.

11:53:24: Terrierman 2 holds a white object.

11:53:38: Terrierman 2 may be holding a long object that could be a spade.

11:53:43: Terrierman moves to the other box on the other side of the bike.

11:53:48: Terrierman 2 seems to pull a white object from it (perhaps a terrier).

11:53:50: Terrierman 2 walks back to the spot in the scrub.

11:53:57: We can now see that Terrierman 2 is indeed carrying a long object like a spade.

11:54:02: Terrierman 2 leaves the spade by Terrierman 1, and both walk a couple of yards to the right (Terrierman 1 to his original spot).

11:54:22: Terrierman 1 returns back to where Terrierman 2 is, who seems to have a white object in his hands.

11:55:08: Terrierman 1 leaves the white object on the ground in front of him, walks through the scrub, and bends over. Then he returns. Hounds and hunt staff are in the same position.

11:56:06: Terrierman 1 returning to his spot.

11:56:20: Terrierman 2 walking again uphill through the scrub. Then bends over, and stands again after a few seconds.

11:58:34: Terrierman 2 steps closer to terriermen 1 (in his spot) who then seems to pass him something, perhaps a terrier, perhaps a dead fox. Terrierman 2 walks with it towards the quadbike carrying it under his right arm.

11:58:49: Whipper-in moves forward and hounds start to move. Huntsman starts walking downhill.

11:58:58: Terrierman 2 reaches the quadbike, and goes to one of its ends, depositing what he was carrying.

11:59:10: Terrierman 1 walks towards the quadbike. Whipper-in walks downhill. Huntsman is by the Master and the other horse.

11:59:20: Terrierman 2 returns to the scrub and huntsman climbs on his horse.

11:59:27: Huntsman, master, whipper-in and hounds move downhill. Terrierman 2 appears again walking towards the spot in the scrub. He bends over and picks up the white object he had previously left on the ground by Terrierman 1. It looks like a bag. Terrierman 1 joins him, and they both bend over around the spot where Terrierman 1 is.

11:59:48: Both terriermen are back to their respective spots on the scrub. Terrierman 1 bends over. Hounds are now running downhill with the huntsman riding.

12:00:29: Hunt staff and hounds off view. Terriermen in same positions

12:00:42: Terrierman 2 moves towards the quadbike, out of sight

12:01:01: Terrierman 2 re-joins Terrierman 1. Both stand there.

12:02:03: Terrierman 2 moves through the scrub, bending over while walking (perhaps using a terrier electronic locator). He eventually disappears out of view.

12:03:24: Camera panning left. Hounds can be seen running downhill. White horse rider still 'on point' in the same position

12:03:40: White horse moving forward (facing left), going towards where the hounds are congregating. Huntsman and master are still going downhill, further left.

12:04:19: White horse stopping briefly, and resuming walking left. All hounds off view further left.

12:04:36: White horse stopping. Hounds emerging from the trees to the field he is in. He moves again.

12:04:47: Whipper-in emerging from the top, riding downhill towards the hounds.

12:05:24: Silver 4x4 driving towards the white horse.

12:05:46: No more sight of hounds or hunt staff, which all moved to the left.



Figure 71: Hunt staff and hounds waiting for terriermen to do their job from one of the morning scenes of the Seavington Hunt prosecution case

From the first location where the hunt was seen hunting to the last area seen hunting the distance was over two miles. This is important. If the hunt staff does not have any idea where the trails have been laid, what would be the chances of the hounds finding the trail in such a huge area? What are the chances that the hounds can avoid finding the scent of the many foxes that may be in living in this huge area? And if the trail layer has simply moved ahead of the hounds laying trails in the general direction they will go, why did none of the Wildlife Crime Investigators see them?

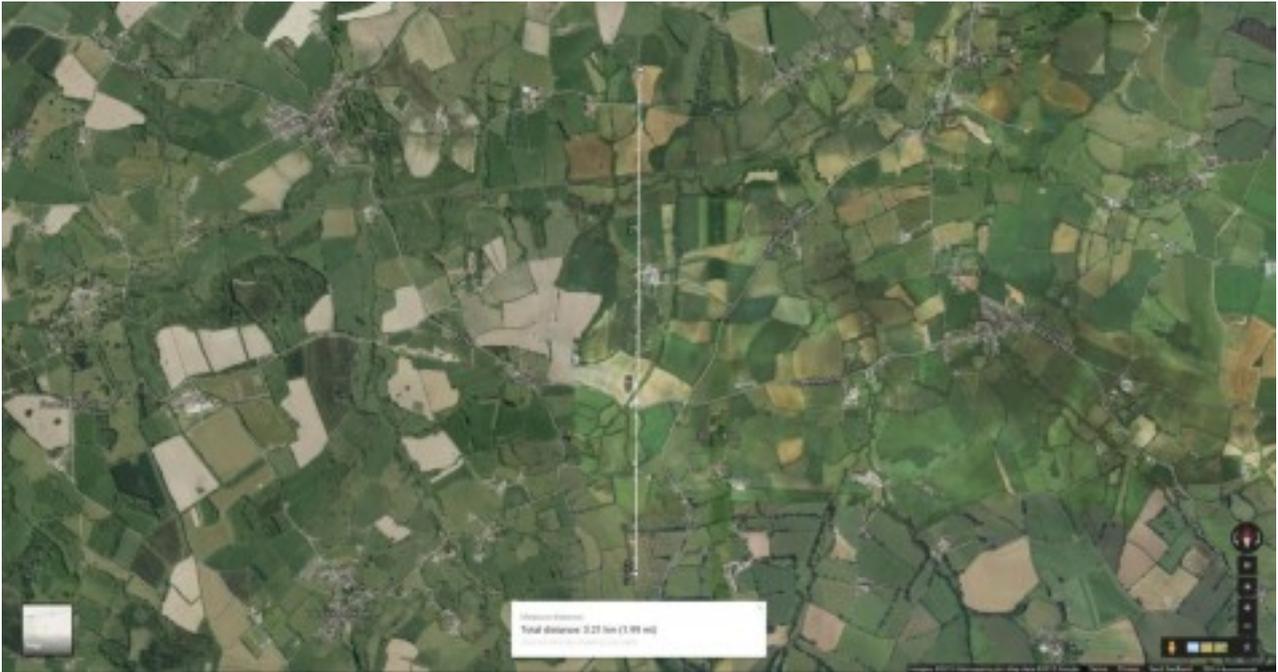


Figure 72: Map showing the distance between the meet and the furthest location from it where the hunt was seen, in the Seavington Hunt prosecution case. Copyright background map: Imagery @2015 Getmapping plc. Map data @2015 Google

Clearly the MO1 false alibi did not work as intended on this particular day.

#### 4.5.2. MO2- Cattistock Hunt case

On 11th March 2014, after having received intelligence of a Cattistock Hunt meet, IFAW's Wildlife Crime Investigators monitored the hunt from covert positions. At around 16:00, still unnoticed, they recorded footage of the hunt's hounds clearly chasing a fox in the vicinity of Langton Herring for a considerable time in the presence of the hunt's staff.

The case was given to the RSPCA which took it, the huntsman was charged, and several pre-trial hearings took place. However, on 18<sup>th</sup> March 2015 the RSPCA decided to discontinue the case, and issued the following announcement:

*"The RSPCA has decided to discontinue its prosecution before the Weymouth Magistrates Court against Mr William Bryer, huntsman of the Cattistock hunt, for an alleged offence of hunting a wild mammal with dogs contrary to section 1 of the Hunting Act 2004. The case had been due to come to trial on 29th April 2015. The prosecution related to an incident which occurred on 11 March 2014 which was captured on footage taken by IFAW in the vicinity of Langton Herring, Dorset which was then supplied to the RSPCA (...) Although the Defence accepted that the animal seen in the footage was a fox and that it was chased by the hounds, it is claimed that the huntsman was unaware of this."*

The accused was quoted in the press explaining his defence on this case (TristanCork, 2015):

*“Cattistock joint-master and huntsman Mr William Bryer was initially summonsed in a private prosecution launched by the RSPCA on the basis of this video evidence. He refused on legal advice to be interviewed by RSPCA investigators. His defence was that he and other hunters on horse back had no idea that the hounds were pursuing a real fox, and the hunt were merely following an artificially-laid trail.”*

In this case the defence put forward by the accused was that he was trail hunting that day, and the case was eventually discontinued. So the presumption of innocence of anyone involved in the case remains in place and they have not been proven guilty in a court of law of a Hunting Act offence relating to this incident.

The evidence in this case was strong. Notably, on no occasion did the investigators see anybody laying a trail, the chase of the fox was recorded on video, and the behaviour of the hunt on the day in question was not consistent with trail hunting. This evidence was not shown to the judge because the RSPCA discontinued the case before that could happen. We are going to use the evidence as an example of what the MO2 of trail hunting may look like.

Here is the sequence of events from the key video shot (referred to in the quote above) of the fox's chase:

15:47:26. Zooming in. Fox crossing the road towards the North East a few yards from the Red Coat Rider (approximate BNG coordinates SY 60977 82973) who is facing the fox. Whipper-in now on a white horse galloping towards them, facing the direction the fox was seen. Shouts can be heard.



Figure 78: Whipper-in and another hunt member at the moment the fox was seen running close to them, in the Cattistock Hunt case discussed

15:47:36. Hound running towards the fox in the field behind the point the fox crossed the road. Shouts being heard.

15:47:38. Zoom in. Follower by car further up the road, looking towards where the fox is

15:47:42. Fox crossing a field in visual range of a foot follower by car further up the road, looking towards where the fox is. Shouts can be heard.

15:47:48. Fox still in field running towards the North East. Staccato horn call heard 4 times. Hounds not stopping and now heard on cry.

15:47:57. Zooming in, the fox disappearing over the ridge by the stone wall. Staccato plus long undulating horn call can be heard. Hounds do not stop and still on cry.

15:48:05. Panning left and zooming out. Terrierman on Quadbike is now by Red Coat Rider. Silver 4 x 4 vehicle parked close to him. Whipper-in is close to him to the right of the frame. Huntsman is now riding on a white horse towards them in the field where the hound was seen (approximate BNG coordinates SY 60963 82928). Pack of hounds on cry is following him, all in the direction in which the fox went. Another staccato horn call and hounds do not stop.



Figure 79: Map showing the chase of a fox by Cattistock Hunt's hounds and the position of key hunt staff, in the Cattistock Hunt case discussed. Copyright background map: imagery @2014 Digital Globe, Getmapping plc. Infoterra Ltd & Blusky, Map data@2014 Google

15:48:10. Zooming in on the huntsman, who slows down. Whipper-in is facing him. Quadbike is doing a U-turn. Shouts can be heard. Some hounds are following the direct line of the fox towards the point it crossed the road, while others are choosing the parallel route of the road to the West since this does not involve going through the narrow gap in the hedge (through where a trail layer could not have gone).

15:48:13. Huntsman looks at the whipper-in. Shouts can be heard. Hounds still trying the two routes.

15:48:14. We can see now that the huntsman has a horn in his right hand.

15:48:15. Huntsman stops looking at the whipper-in, and heads towards the road as he cannot go through the hedge as some hounds are doing.

15:48:17. Huntsman using the horn to produce a staccato and undulating note call with the horn, while heading towards the road. Hounds continue the chase. More shouts heard. Terrierman drives and follows the hounds that chose the road route.



Figure 80: Huntsman directing his hounds in the presence of a terriermen, in a key scene of the Cattistock Hunt case discussed

15:48:22. Huntsman's horn call continues, as he is about to reach the road. Whipper-in moves towards the hounds that chose the road route, while some hounds are still trying the direct route through the hedge, some successfully.

15:48:28. More calls being heard. Huntsman is now on the road following the hounds. Red Coat Rider is now also following them. The quadbike has now disappeared up the road. Hounds on cry.

15:48:32. Zoom in on the huntsman, whipper-in and Red Coat Rider close together following the hounds up the road where the quadbike disappeared

15:48:38. Zoom out. Hounds are on cry on line in the field where the fox ran, going towards where it went. Riders on the road going north.



Figure 81: Hounds 'on line' following the scent of a fox, in the key scene of the Cattistock Hunt case discussed

15:48:41. Zoom in on the hounds on cry on line in the field heading towards the stone wall.

15:49:03. Hounds reach the stone wall at the point the fox reached it, and some are jumping over it.

15:49:36. Zooming in on one rider on a white horse galloping past another rider on a white horse, both going East (approximate BNG coordinates SY 61086 83179).

15:49:50. Red coat rider followed by a field rider on a white horse are now following the same route taken by the other two riders.

This is a good illustration of the MO2 type of false alibi as described in the chapter above because the defence suggested that there was a piece of video in their possession that would prove the hunt trail hunted that day legally. Here are the components of this type of alibi.

1. Announcement: (The hunt publicly stating they will be trail hunting when they meet)

An example of the Cattistock Hunt publicly stating they go out trail hunting can be found in the following statements made on the Hunt's behalf in the following press report (WMN, 2015):

*"(...) Since the Hunting Act came into force, William Bryer and the Cattistock, like most of the hunts in the country, have been practising a new rural pursuit called trail hunting. A trail, usually of fox urine, is laid by dragging a soaked rag across the countryside after which the hounds and the hunting field go out and try to find the trails. The point of the exercise is to give the hounds as close an experience to hunting as is legally possible in order to keep them in tip top condition in the event the awful and illiberal Hunting Act is ever repealed. In this way hunts can remain within the law but still preserve their culture and traditions."*

2. Showcase: (They invite media to show they are laying trails, usually on Boxing Day.)

An example of the Cattistock Hunt showcasing their supposed trail hunting activities to journalists can be found in this 2009 Boxing Day Bidport New article (Gerryts, 2009):

*Cattistock joint master (...) said a scent trail would be laid early in the morning by a team on foot, quad bikes and horses. (...) "We have liaised with all the authorities and hopefully there will not be any disruption in the town. We have not had any traditional antis for years. We occasionally have hunt monitors out. I have no idea whether we are going to be confronted with 20 banner waving banshees or not, I just don't know. It is a publicised meet so if they come, they come. If they do hopefully they will be no trouble. From our point of view we have put everything in place as requested. I am not aware that we are anticipating any trouble. I think what everyone thought that once the 2004 bill came in they wouldn't see horse, hounds, riders out in the countryside but obviously the hunting fraternity were not to be so easily defeated so have worked a way around it where we can produce something not dissimilar to what we had before. By doing more planning. We are not committing an illegal activity. I think half the protestors were against the sight and the spectacle of it as much as anything else. All the farmers are still as happy to allow us to cross their land."*

3. False evidence: (The hunt sometimes film themselves laying a trail with a drag, with or without any scent in it, and keep the footage for later use).

When the RSPCA dropped the case, a representative of the Hunt told the *Daily Mail* that the defence had a video that could have helped to prove Mr Bryer's innocence (Trump, 2015):

*"There is video footage of [Mr Bryer] laying legal trails before and after the alleged breach of the hunting ban which was not disclosed to us by the RSPCA. (...) [T]he laying of a trail, or a scent which the hounds can track rather than chasing a live animal, showed that the Cattistock had behaved responsibly, not recklessly as the prosecution claimed."*

Shortly thereafter, a hunt representative authored an article in the *Western Morning News*, stating (WMN, 2015):

*"The Cattistock is heavily 'monitored' when it trail hunts by anti hunting organisations including the International Fund for Animal Welfare or IFAW. This organisation was fully aware that the Cattistock hunts trails because its 'monitors' filmed members of the Cattistock laying trails and Will Bryer hunting them. I know this because I have seen video footage the Cattistock have captured of IFAW monitors filming trail laying (...)"*

IFAW UK's director, Philip Mansbridge, responded to these allegations, in a letter to the *Western Morning News*, stating that the accusations were unfounded because IFAW had not withheld evidence and was not aware of any video that would have exonerated Bryer (Mansbridge, 2015).

We know that IFAW's Wildlife Crime Investigators, the only investigators on the day, did not record anybody laying any trail on the day of that case. All their recordings (which were sealed in signed evidence bags on the field by the investigators themselves on the same day of the recording) from before the meet to the end of it, have been thoroughly checked. There is nothing in them that could conceivably be interpreted as laying a trail.

IFAW's investigators are specifically contracted to record any evidence of trail laying as it may prove vital to show that the hounds are not on the trail laid. Consequently it would be very illogical that IFAW professional monitors, most of whom are ex-police officers, would deliberately not record a piece of evidence which may be crucial for the prosecution case. It is the main reason why they were deployed that day.

In addition to the lack of video showing anyone laying a trail, all the signed written witness statements of the investigators do not mention having seen any either. Therefore the video mentioned by the defendant's solicitor, if it exists, could perhaps be footage from another day. Notably, the only report of an IFAW investigator having seen this hunt laying a trail in 10 years of investigations is from an early January 2014 operation.

4. Crime: (Go hunting as before the ban)

The hunting event of 11<sup>th</sup> March 2014 could be a good example of this had it been proven in court to be unlawful.

5. Deception: (If evidence is obtained of the hounds chasing live quarry, they produce the video recording to falsely claim the trail was laid and hope the case will be dropped).

We have already seen how the defence of this case is based on claiming trail hunting as an alibi, and representatives of the Hunt alluded to a video that would support their claim.

If the case had ended up being shown in court much more than just the footage of the fox chase would have been made public. This would have allowed the judge to see the whole picture of what happened that day. IFAW's Wildlife Crime Investigators had been recording the hunt's activities from the very beginning of the day in question. Not only did the investigators not see anyone laying a trail, but the behaviour observed of the entire hunt staff (not just the Huntsman) was inconsistent with trail hunting.

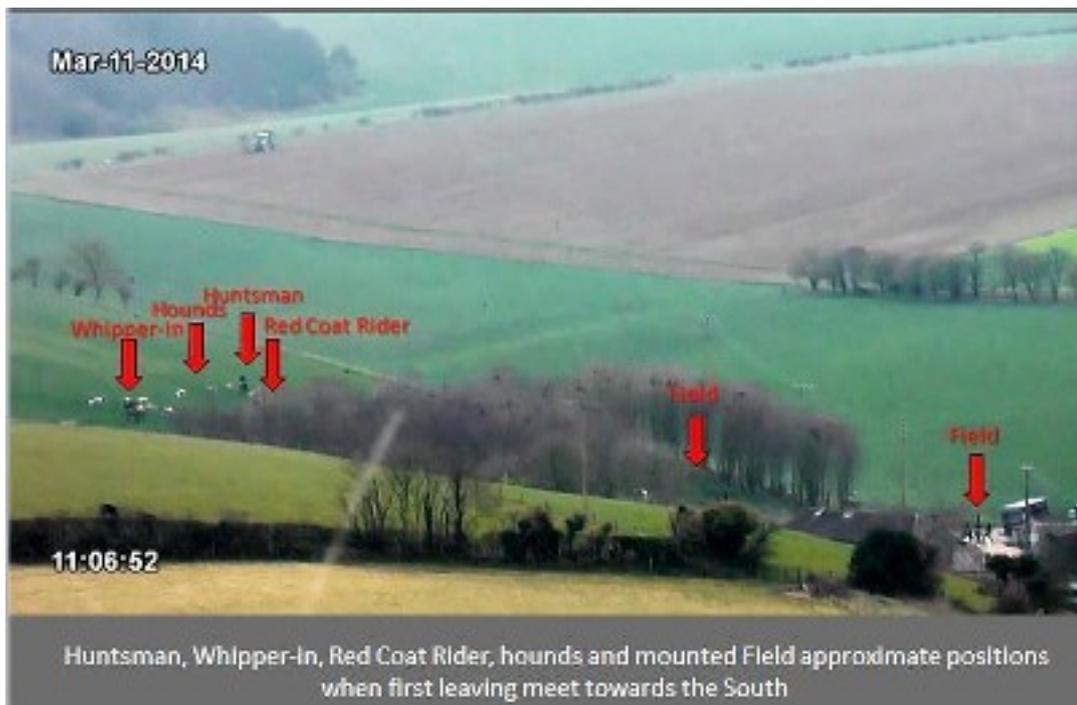


Figure 82. Members of the hunt moving off with the hounds from the meet, in the Cattistock Hunt case discussed

For instance, in the morning, just 10 minutes after the meet started and the hunt was supposed to go out looking for the supposed laid scent, this is what they recorded:

11:17:00. At least 19 riders stationary on the left at another smaller copse (approximate BNG coordinates SY 64978 87206). Several hounds are in the middle of the copse around a particular spot. Others are joining them from the left.

11:17:10. Zooming in on the hounds. At least 13 hounds marking the ground at a particular spot in the copse (approximate BNG coordinates SY 64961 87223). Riders stationary.

11:18:30. Two riders on horses with patches move a few yards to the right. Hounds still marking the ground.

11:19:11. Three riders moving South West, towards the ridge.

11:19:21. The rest of the riders follow them, all getting closer to the copse.

11:19:33. Zoom in. Hounds in a more compact group around the spot on the ground they are still marking.

11:19:45. Riders stop at the very edge of the copse.

11:21:11. Whipper-in joining the hounds on foot from the left.

11:21:34. Whipper-in bending over looking at the spot.



Figure 83. Whipper-in examines the spot where the hounds are marking the ground while the Field waits close by, in the morning scene of the Cattistock Hunt case discussed

11:22:39. Whipper-in bending over again looking at the spot.

11:22:46. Panning left. Quadbike with two people on it travelling towards the field (approximate BNG coordinates SY 65081 87238).

11:23:16. Quadbike stopping by the copse where the field is. Whipper-in still at the spot in the copse with hounds marking the ground.



Figure 84. Map showing the chase and the appearance of the terriermen in the morning scene of the Cattistock Hunt case discussed. Copyright background map: imagery ©2014 Digital Globe, Getmapping plc., Infoterra Ltd & Blusky, Map data ©2014 Google.

11:23:30. Some hounds by the quadbike now. The hounds in the copse are moving more, some going towards the field.

11:23:55. All hounds now moving towards the field. Whipper-in walks a few steps towards it too

11:24:00. Terriermen on the quadbike dismount. Whipper-in stops still close to the spot. No hounds around the spot anymore.

11:24:10. All riders now moving South West, terrierman walking in the copse towards the whipper-in who is still standing.

11:24:23. Terrierman joins whipper-in, who points to the ground.

11:24:36. Second terrierman joins the whipper-in. Field still moving.

11:24:51. Whipper-in pointing again. The two terriermen are close to him inspecting the ground.

11:25:00. Riders gradually disappearing over the ridge. Red Coat Rider appears over the ridge riding in the opposite direction to them, pulling a horse without rider with him.

11:25:24. Whipper-in and two terriermen still inspecting the ground.

11:25:27. Whipper-in and two terriermen walking towards the quadbike, Red Coat Rider with empty horse still going towards where the quadbike is. Rest of field still in motion heading South.

11:26:05. Red Coat Rider with horse waiting by quadbike. No more riders visible.

11:26:22. Terriermen and whipper-in emerging from the copse by the quadbike.

11:26:47. Whipper-in holding his horse while talking to the two terriermen by the quadbike.

11:26:54. Whipper-in mounting his horse, and he and Red Coat Rider following the other riders.

11:27:10. Whipper-in riding standing, moving faster.

11:27:32. Two riders no longer in sight.

After the afternoon event where the fox was recorded being chased by the hounds, the investigators continued recording the hunt's behaviour (and continued seeing no evidence of anyone laying any trail), and they got closer shots that helped to ID the main suspects.

From the meet location to the last area where the hunt was seen, the distance was at least 4.15 miles. This is important. If the hunt staff does not know where the trails have been laid, what would be the chances of the hounds finding the trail in such a huge area? And if the trail layer has simply moved ahead of the hounds laying trails in the general direction they go, why did none of the Wildlife Crime Investigators see them?

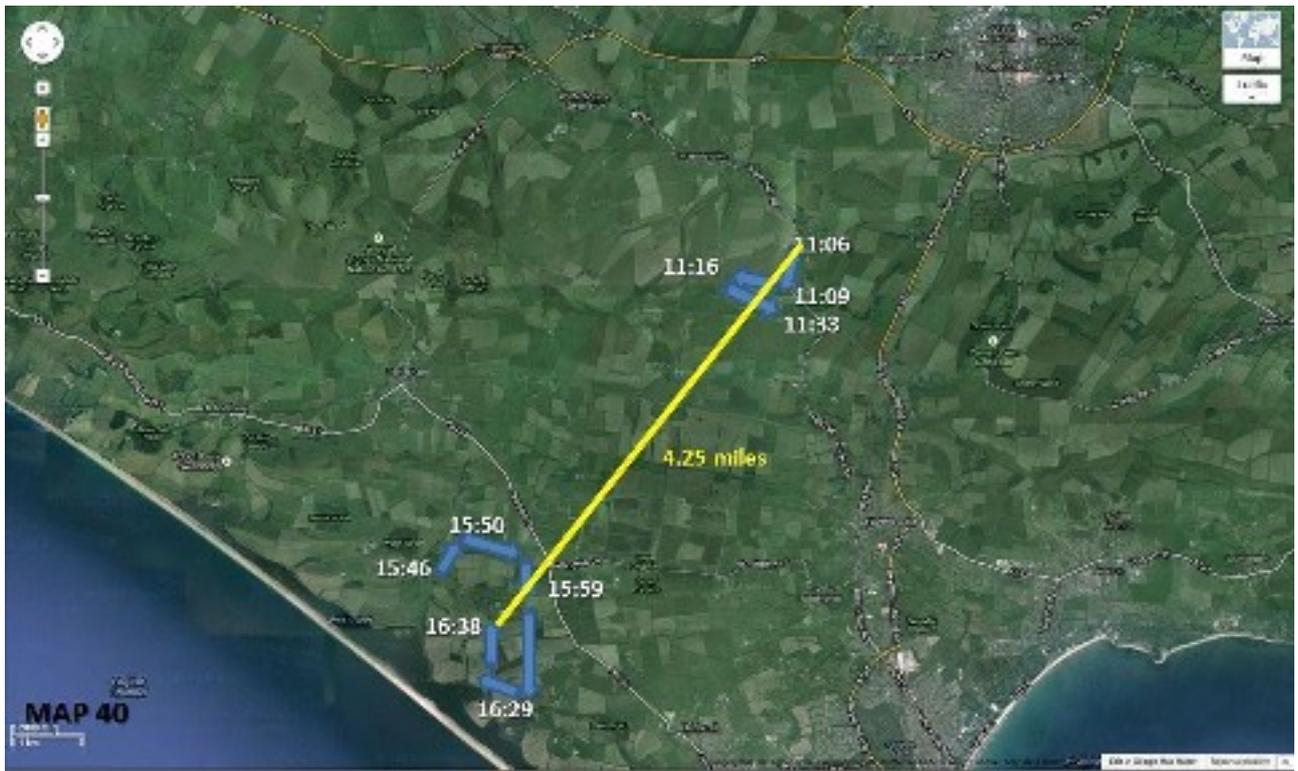


Figure 85. Map showing the distance between the meet and the other locations the hunt was seen, in the Cattistock Hunt case discussed. Copyright background map: imagery ©2014 Digital Globe, Getmapping plc., Infoterra Ltd & Blusky, Map data ©2014 Google.

### 4.5.3. M03 – X Foxhounds case study

This case study is based on testimony from witnesses not connected to IFAW. To protect the witnesses we have concealed their identities, as well as the identities of the hunt and the individuals allegedly involved.

The X Foxhounds has been monitored by independent local hunt monitors for many years. Two of the most experienced monitors in the area, M1 and M2, have monitored this hunt more than 400 times since the Hunting Act was enacted. When requested to summarise their experience for this report, they wrote:

*We monitor the (X) Fox hounds and have done so every season since the ban. Out of an average of about 54 hunts in any one season, we usually manage to get to about 40 or more meets.*

*On the very first meet of the season following the ban we watched a trail being laid that consisted of a large sock or bag on the end of a whip being dragged along the ground behind a horse and rider across the middle of several, open fields. When released, the hounds followed roughly the same direction but only for very short and sporadic periods of being 'in cry'.*

*This was a very public display at the time, mainly intended, we believe for the benefit of us, the police and other observers. The only time we observed anything similar was when we came across a quad bike dragging the severed hindquarters of a fox carcass! From that point on the bag or sock was replaced with a duster or sometimes even a small rag or feather like object that was carried on the saddle of one of the riders. It was waved about as publicly as possible – never even touching the ground – and only when the police or we were present watching them. As much as possible, we would attempt to monitor and film from a covert location and on these occasions no trail was ever seen to be laid and the huntsman would continually cast the hounds into hedges, dense gorse and thick, impassable woodland where no trail could ever have been laid.*

*This pattern continued with multiple 'accidents' until about 2009 after there was a judicial ruling that 'searching' for a fox was legal (as long as you didn't hunt it!) The (X) Fox hounds welcomed this with relish and proceeded to search for, 'find' and then dig out foxes (...).*

*Since 2013 when the present huntsman took over, the claim to be trail hunting was once more reinstated, with public displays for the benefit of the police and us. When no one was watching – except for us/covertly whenever we could – the huntsman hunted as normal. The only occasion that we witnessed what at first appeared to be a genuine attempt by anyone to lay a trail was when we saw one of the hunt masters (...) running across a field dragging some sort of lure. The hounds not only ignored the 'trail' that he had laid but later on that day we saw them actually walking by it, oblivious to it as it lay on the ground. (...)*

*In addition to this, at every meet, we have seen the hounds consistently and repeatedly running in cry across and along busy main roads, over cliffs and along beaches, through dense and impassable (except by a hound) woodland and into and across private land where they were not welcome or from where they had previously been banned - including (...) that they invaded TWICE.*

*Clearly no trail had been laid or was being followed on all of these occasions.*

*1st September 2015*



Figure 79. Trail layer walking with the drag

This account from the independent local monitors reveals that this hunt may be a good example of the use of MO3 type of false alibi as described in the chapter above. Here are the components of the alibi.

1. Announcement (The hunt publicly stating they will be trail hunting when they meet):

This hunt sometimes advertises its meets clearly announcing they will be trail hunting. On the hunt website there is mention of trail hunting too.

2. Showcase (They invite media to show they are laying trails, usually on Boxing Day.):

An article in the Horse & Hound magazine features this hunt showcasing their activities

3. Pretence (When going out on an advertised meet, someone lays a pretend trail with a drag, with or without any scent in it. The hope is that hunt monitors or police will witness this trail laying):

Hunt monitors recently managed to record footage of this hunt in which the laying of a trail, which may not have any scent in it and which may be only for show, can be seen. This conclusion comes from the way the hounds ignore the supposed trail, as shown in the following photo sequence:







Figure 80. Sequence of images that show the hounds of the X Fox hounds ignoring the supposed trail laid by a rider. From top to bottom: Huntsman with the hounds at a distance with the field behind; rider pulling a drag moving through a field; close up of the rider with the drag; rider with the drag further along and in yellow the line he took and a couple of distinctive bushes that can be used as geographical references in the following photos; hounds and huntsman getting closer to the trail; hounds already right on the trail; hounds deviating from the trail as if they did not pick up its scent; hounds moving away from the trail, towards the huntsman.

4. Crime: (Go hunting as before the ban)

As can be seen in the monitors' account of their experience with this hunt above, they believed that despite the trail laying this hunt continued hunting as before the ban.

*"(...) As much as possible, we would attempt to monitor and film from a covert location and on these occasions no trail was ever seen to be laid and the huntsman would continually cast the hounds into hedges, dense gorse and thick, impassable woodland where no trail could ever have been laid (...)"*

5. Deception (If evidence is obtained of the hounds chasing live quarry, the hunt refers to the mock laying of the trail that day. This is in the hope that hunt monitors or the police may have recorded it as genuine, and that the case will be dropped.)

We do not know whether the police have ever attempted to prosecute this hunt and stopped the investigation because video evidence was produced of members of the hunt pulling a drag. We do know though that the local monitors have stopped giving cases to the police because they think the police believe the trail hunting alibi and do not challenge it at all. This is what the monitors have written to us about this issue:

*"I have attached copies of statements that I submitted about instances of what we were convinced were illegal dig outs whilst the hunt were claiming to be trail hunting. None of these were taken up by the police (...) There is a different huntsman now, but he operates in exactly the same way - casting hounds into hedge lines, thick gorse, dense woodland, along roads and over private property where no trail could possibly have been laid. Our protestations to the police about how suspicious this behaviour is when the hunt is supposed to be trail hunting, are simply dismissed. (...) This is the reason why we have little or no faith in any evidence presented to our police being investigated properly."*

There is another way in which an assessment of the deception component of the alibi can be made. This hunt systematically publishes photos on its website made during meets and events, to the point that it currently has over 25,000 different photos published. If this hunt were truly engaged in genuine trail hunting, one would expect to find many images showing people preparing the scent, setting up the drag, laying the trail, rewarding the hounds, etc.

After a review of all these images we could only find eight that showed trail laying relating activities, which represents only 0.01 % of all the images. This suggests to us that trail laying is not the integral part of the hunt's activities that it would be if trail hunting were genuine.

#### 4.5.4. MO4 – XX Foxhounds case study

This case study is based on testimony from witnesses not connected to IFAW. To protect the witnesses we have concealed their identities, as well as the identities of the hunt and the individuals allegedly involved.

M3 and M4 are experienced independent hunt monitors who have investigated the XX Foxhounds for many years, at least 20 times since the hunting ban started. They have seen the hunt laying trails many times, and there has never been a successful prosecution on hunting offences against it. We recently asked M3 to send us the monitoring reports s/he has compiled over the years, as well as an account of his experience on this subject. The following are extracts from M3's writings to us.

*My monitoring contact has almost exclusively been with the [XX Foxhounds]. We usually only go out following them when they're in our area of (...). We don't have a video recorder but when the opportunity arises we do go in on footpaths to areas we expect them to be hunting in (always very hit and miss). We did have two of our car tyres stabbed back in 2009 while the car was parked overnight in our village and that was because they didn't want us monitoring them cub hunting the following morning (the culprit confessed and was fined and we get on alright now). Generally speaking though we don't get any aggro these days other than a few caustic comments from some of the older supporters at times and we do have the occasional reasonable conversation with the huntsman (...) and other redcoats. We all know the score. They know that we know they're hunting but they do start to behave themselves whenever we're close. And they do use trail layers, invariably when we're around but not necessarily always then. They don't seem to bother when we're not in sight.*

*The trails they use are, or certainly were, based on liquidized fox and they have two means of laying them. They sometimes employ a quad bike to do it but generally they seem to rely on N the Runner. He's often out with them and usually behind them or running somewhere where they aren't (often on roads at such times and not laying trails). He likes running around the countryside and we often briefly pass the time of day with him. His usual role is to be available for when we turn up. Their usual routine at such times is to call him over to somewhere near the pack and then set him off with his rag on a string across the field with a hunt supporter following him with a video recorder to get both N and us in the same frame (their defence in any subsequent court case) and then film the hounds being laid on in hot pursuit once he's gone a fair way. And the hounds do follow those trails giving very loud tongue in the process. Once he's out of sight he obviously lifts the drag and the hound noise dies down and stops. We've never seen him running through thick undergrowth though where the hounds do often pick up a scent so they're onto the real thing there.*

*The [XX Foxhounds] don't use a rider to pretend to lay a trail with a rag tied to a piece of string tied to their riding crop as some hunts do. Any trails laid (...) are either laid by N or a quad bike but not all quad bikes out with them are required to lay trails (we had that confirmed by one quad bike driver).*



Figure 81. People in quadbikes carrying the drag for trail hunting in one of the autumn meets (© HSA)

*I don't know how typical N is as far as other hunts are concerned. I get the impression that he only deals with [this hunt]. He's very fit and clearly enjoys running but, as I said previously, it's rarely in the area that's going to be subsequently hunted and quite often it's alongside or behind the pack. He's a very useful guy for them to have handy when they need to prove that their hounds can follow an artificial trail, albeit one based on liquidized fox.*

*We did have one perfect example of the quad bike laying a trail around three sides of a big field that we were in. There were two of them on board and they started opposite us and worked their way round the headland to where we were standing by a concrete farm bridge over a ditch. They went over the bridge and disappeared around a bush and off somewhere up the next field. It was then that the pack was laid onto the point where that trail had been started and we got a grandstand view of it. The hounds were given their head and weren't being encouraged by horn or hunting cries. They*

*started giving tongue loudly and immediately and followed the line all around the headland. There were some riders behind them as they got to us. The interesting thing was that the lead hounds went running past us further along the headland for a few yards before realizing that there was no scent there. They immediately turned and came past us to scoot over the concrete bridge, taking the rest of the slower hounds with them. They hadn't been encouraged to do this. They all disappeared round the hedge and the baying stopped soon afterwards, the assumption being that the quad biker passenger must have lifted the drag in that field. I was advised by one of the redcoats to step aside as the riders came thundering round to turn across the bridge. I got mildly barged by one of the horses but I don't think it was deliberate. This had been a very strong scent that the hounds were following and they were very excitedly baying to it as a result. This was definitely not a live fox's scent.*

*Don't get the impression that the hunt always uses false trails when antis are around. There have been plenty of times when we've been within eyesight that they haven't bothered to bring N forward. It could simply have been that he was running somewhere else in the area at the time but, if so, it never seems to tie in with an area they subsequently go to investigate. He just seems to be a free agent left to his own devices but available when specifically required. The trails, when they are laid, are invariably short in duration.*



Figure 82. Hunt staff taking a photo of the investigator (© HSA)

This is a good illustration of the MO4 type of false alibi as described in the chapter above because a trail layer is often seen with this hunt, and the hounds have sometimes been seen following the trail. Here are the components of this type of alibi.

1. Announcement (The hunt publicly stating they will be trail hunting when they meet):

The XX Foxhounds does not mention trail hunting on its normal website but it does mention it on the website of a related club.

2. Showcase (They invite media to show they are laying trails, usually on Boxing Day)

An article in the Horse & Hound magazine features this hunt showcasing their activities

3. Alibi building (At every meet someone lays a trail with a drag soaked in fox urine in areas where foxes are likely to be)

Although M3's reports suggest that it is not every day that a trail may be laid (which means this hunt may also use the MO1, MO2 or MO3), it does seem that this is a frequent occurrence.

4. Inducing an 'accident' (Huntsman sending the hounds to areas where foxes are likely to live and the fox-scent trail was laid, letting the hounds find a scent, and if it turns out that it is the scent of a live mammal then claim that it is too late to stop them)

This is what M3 wrote in one of his hunt monitoring reports dated 4<sup>th</sup> November 2008:

*The hunt had crossed the road (...) and had gone north inside the hedge to hunt the narrow copse (...) which runs eastwards away from the road. When the hounds were half way along it the trail runner suddenly appeared in a gap in the road hedge, ran up the hedge and then into the copse. He was following the hunt at this stage, not ahead of it as he should have been. The hounds were in this small copse for about 15 minutes. They were clearly hunting "old style" – i.e. looking for the scent of a genuine fox, but the hounds weren't speaking to one so, presumably, there wasn't one in there. The huntsman (...) was clearly aware of our presence by now. Close to the eastern end of the copse he suddenly produced a man with a video camera to film what was about to happen next. The man with the drag ran south from that end of the copse across the harrowed field to the footpath which runs alongside the river and then away from us along the path for approx. 100 – 150m before doubling back northwards to the ditch which runs east from the copse. I'm not sure where he went after that because we were concentrating on what the hounds were going to be doing. The hounds had been kept inside the copse while this run was going on, out of sight of him. After he'd finished the run they were brought out into the field and cast onto the line. One or two of them started giving tongue and the whole pack headed towards the river in a fan. But two of the hounds did pick up the exact line, gave tongue and led the rest of the pack along the exact line taken by the runner. We believe that he topped his drag up from the quad bike fox stew box while it was on the road. The hounds had been given complete head during this particular drag hunt. They'd had no hunt officials with them and hadn't been encouraged by either horn or cries (although the horn had been blown, as a bit of encouragement, once while they were in the copse).*

*The riders had been kept back at the road end of the copse, within view of us, while all this was going on. At the end of the episode the redcoats galloped back alongside the copse, turned down the hedge and then galloped off past us alongside the river on the footpath (which is a wide field margin at this point). Whether or not they'd been given permission by any of the landowners that day to ride on public footpaths is not known. As [the huntsman] passed us he gave us the "middle finger salute". The quad bike with the two lads on drove off in pursuit along the path yelling abuse at us as they passed.*

*I've had a similar experience with [the huntsman's] video cameraman in the past, post ban. He was in civvies this time, not officiating, unmounted and leading his mounted son around. I was on my own and had reached a spot on a back road near (...) where the hounds had just been trotted into a wood by the deputising huntsman. [The huntsman] was at the same spot. The trail layer came up the road behind us and went to head into the woods down the same track which the hounds had taken. They weren't following any trail he'd laid but [the huntsman] got him to stop by me and open up the tube tied around his waist while [the huntsman] started videoing it all, with me clearly in the frame. Out came the drag on the string (the tube was full of the fox mix), the sole purpose being to film a known anti with the trail layer so that we couldn't accuse them of not using one. He told me that this particular trail layer could run 25 miles in a day and was running for them at least twice a week. The runner then headed into the wood with his drag after the pack. So what were they following? I drove to another point where I anticipated they'd be heading and got to it just in time to see the runner coming through the farmyard. About 5 minutes later the whole pack came through, at least a minute ahead of the riders. The drag does work but, being based on squashed fox mix, the hounds aren't going to be able to distinguish a genuine fox if it gets up ahead of them.*

This is what M3 wrote in one of his hunt monitoring reports dated 18<sup>th</sup> February 2012:

*They met at 11am and moved off at 11.30am. (...) we took the (...) footpath north to arrive at the same time as them at the parish boundary (...) They were all heading west towards (...) Wood, a favourite of theirs and usually guaranteed to hold a fox or two (there are pheasant pens in there).*

*We followed them (no official footpath) to the eastern side of (...) Wood. The hounds were already in the wood and giving tongue and being encouraged by shouts and one or two horn blasts from the redcoats in there with them. They've killed in here before. The eastern side of the wood was flanked by about half a dozen supporters, one or two riders and a quad bike. They were spread out along the side in a typical fashion for a cub hunt – i.e. prepared to either drive the fox back into the woods or, in normal times, holloa it away. But we were there, on a public footpath, as a clear deterrent. One young flat cap who was slightly ahead of me on the way there kept cutting across my path in a pathetic antagonistic manner. He phoned the huntsman to warn him that we were there and we got into a standard debate, with me telling him that illegal hunting was going on in the woods and him telling me that N had laid a trail there earlier on (strange they'd not been giving tongue anywhere between the road turn off and here then if that had been the case). He also suggested that I should*

*stay away from them if I didn't like it. So I told him about the fact that one of the riders out that day had stabbed two of our tyres overnight two cubbing seasons ago in a deliberate attempt to prevent us getting to that morning's cubbing (he'd confessed, ended up with a record, paid a fine and paid us for the two tyres). The quad bike, with two lads on board had come up alongside us by now but there was no aggro. (...) my wife joined us too – she'd had the usual attack of jelly legs at the far side of the field and had only just then been able to walk across.*

*The hounds had stopped giving tongue but were being taken further into the wood. The supporters headed south and west around the wood; C and I headed north and west, anticipating that they'd be coming towards (...). We were on the footpath as they came into view and came past us, still with N in tow. It was about 12.30pm. I said to N "shouldn't you be ahead of them?" and he replied "I will be soon" (pretty indicative of his not having laid any trails up till then). As (...), the huntsman, rode by he told us that they were going on to hunt (...). It sounded like a ruse because we knew they were going to be meeting at (...) within the next few weeks and we'd anticipated that they'd probably be heading into the extensive (...) Woods today instead, but it turned out to be true (...)*

5. Crime (deliberately allow the hunts to chase or kill a wild mammal)

This is from another hunt monitoring report produced 7<sup>th</sup> January 2012 by M3 about a meet of XX Foxhounds:

*After hunting round these fields the joint hunts headed east towards (...). This is rough set-aside type land with mixed grasses and straggly wild roses and brambles with clear animal runs running through it and partridges nesting in it. Well away from public gaze (there are no public footpaths in the vicinity) it's an ideal spot for a bit of 'old time' hunting where the Hunting Act can be completely forgotten. The hounds were pushed around it for at least 15 to 20 minutes, encouraged by shouts and short bursts on the hunting horn. Suddenly, at about 1.30pm, the whole pack started giving tongue – i.e. baying. They had found a fox, or at least a strong scent of one. The baying went on for less than a minute before stopping. Scents can suddenly disappear but they'd caught this one because the huntsman gave the standard single drawn out blast on the horn which signifies "the kill". In that terrain, with no chance of a clear run, the fox wouldn't have stood a chance with so many hounds all around it. And the huntsmen would have known that.*

*I was about 100 yards away at the time, on my way to the east bank of the (...). I didn't see the actual kill but the whooping and the horn blast was text book examples of one. [M4] heard the horn blast back on the (...). My appearance on the river bank was acknowledged by a couple of redcoats who rode by on the opposite bank (...) After running the pack through the rough ground again the hunt carried on hunting north and west back towards (...) Farm.*

*[M4] and I drove over to (...) to see if we could trace the route the hunt had taken to get to the kill spot. It's not an easy spot to find because of the ditches but we were able to follow the trail of a couple of horses and the hounds to the area. We had a search for the carcass*

*but it could have been anywhere – tossed in a ditch or even removed as potentially damaging evidence, possibly with the brush removed as a trophy. Although I had heard the sound of a vehicle earlier we could find no evidence of vehicular activity in the rough ground area. The imprints of the horses' hooves were very evident so a quad bike's trail would have been even more so, and even a runner's footprints.*

6. Deception (If evidence is obtained of the hounds chasing live quarry, simply state that it was an 'accident', and hope the case will be dropped)

This is another extract from the same hunt monitoring report mentioned above produced the 7<sup>th</sup> January 2012 by M3 about a meet of XX Foxhounds:

*The hunt insists that it uses a quad bike and a runner to lay a trail for the hounds to follow. A runner was spotted a couple of times at the beginning of the hunt by some of the HSA monitors but not at all during the rest of the day, despite fairly regular contact with the hunt I certainly saw no runner despite being in the area of the first draw before the hunt started. And in any case, and certainly in the case of the [XX Foxhounds], many hunts use a 'squashed fox' liquid mix as a drag for the hounds to follow, knowing full well that the hounds, being trained to that scent, are going to pounce on the real thing if a fox should be unfortunate to be in the area at the time they're passing through. It's what I call 'opportunistic hunting'. The hunt would call it 'an accident'. Such accidents don't happen on genuine drag hunts where strong smelling aniseed type trails are used instead.  
(...) I reported the kill to (...) Police HQ*

The police did not investigate this case despite the available evidence so nobody was charged. When we asked M3 about what the police did about this particular allegation, he replied:

*After reporting the 7.1.12 incident to (...) Police HQ I heard nothing back from them and doubt very much that they would have pursued the matter, other than simply logging it. The pity was that [M4] & I weren't able to find a corpse to present to them. That would have helped. I didn't mention that to them though when I phoned, only that a kill had been registered by the huntsman's horn. However, their basic attitude, as noted from a conversation some time ago with their Hunt Liaison person (...), is that all kills are accidents and that the hunts always report in when they've made such an "accidental" kill (presumably only when they think they might have been observed by outsiders - I presume this is standard practice for most hunts since the Hunting Act went live). So this means that they don't have to bother to investigate anything because they trust the hunt spokesmen. Nevertheless it's still important to get incidents recorded with an incident number on the basis that, the more the list grows (particularly the list that hasn't been reported in by the hunt itself which, let's face it, is going to be pretty rare in any case), sooner or later they have to start taking things seriously and at the very least have a word with the masters.*

## 4.6. Solutions

The use of trail hunting by illegal hunters as a false alibi to avoid prosecution is a problem that can be solved. There are many things that could be done to solve it, but we would like to discuss three.

### 4.6.1. Converting to drag hunting or bloodhounds hunting

One of the obvious solutions is for trail hunters to convert to proper drag hunting or bloodhounds hunting. This is what animal protection organisations and anti-hunting political parties hoped would have happened after the Hunting Act was enacted. These activities have never been used as alibis against allegations of illegal hunting, and 'accidents' are very rare. Indeed, the Masters of Draghounds and Bloodhounds Association submission to the Burns Inquiry in 2000 stated (NA, 2000):

*Bearing this in mind, one has to consider the nature of drag hunting. A good huntsman would have sufficient control over his hounds to prevent them from hunting live quarry (rioting) for anything other than a very short period of time. Consequently, the killing of a wild animal is almost unheard of by a draghound pack.*

However, in addition to the defiance component, we are aware that there have been arguments of a practical nature against such conversions. This means they need to be done properly, addressing issues on a case by case basis. These issues include finding the right terrain, the different type of horse and riding skills claimed to be required, type of scent, etc.

We believe that if properly researched, in many cases hunts could successfully convert to genuine drag hunting or bloodhounds hunting. It has already happened in at least one case in the Isle of Wight when the local hunt split into two, one doing trail hunting and a new one now doing bloodhounds hunting (IoWFB, 2014).



Figure 83. Isle of Wight Bloodhounds

There may be changes needed for this conversion to be successful, but we are sure they are not beyond the means of riders and hunters if they are willing to make them. Drag hunting is often seen as more demanding on the horses and their riders' skills. But new drag hunts could be designed with fewer obstacles to jump or less demanding routes to ensure the riders coming from trail hunting can adapt easily. Indeed, this is what the Burn's Inquiry on hunting, which eventually led to the ban, had to say about hunts converting to drag hunting:

*84 A few of those who presently take part in live quarry hunting already go drag or bloodhound hunting as well. In the event of a ban, some more would take up one or other of these sports. And, no doubt, if more diverse types of drag hunting were developed, some new recruits would come from those who do not presently hunt live quarry. But others would either not give these sports a try or would not persevere with them. In particular, they offer little attraction to non-mounted participants and followers. Evidence from elsewhere, in particular Germany, suggests that drag hunting and bloodhound hunting would not change materially or experience a major upsurge in popularity. Instead it would be simply one - and not necessarily the most important - of a number of equestrian activities to which participants in mounted hunting might turn in the event of a ban. (Paragraph 8.47)(NA, 2000)*

*8.26. It is clear to us that drag hunting does not have to be - as it is sometimes portrayed - "fast and furious" jumping, suitable only for would-be steeplechasers. As we have noted, there are already draghunts which have no, or few, jumps and it is common for other hunts to provide alternative, easier, jumps or "byses". Drag hunting - and bloodhound hunting - are suitable in principle, therefore, for riders of all abilities, although some terrain will clearly be better suited to different levels of skill. Nonetheless, it is the case that there is a greater emphasis in drag hunting on riding, and jumping, expertise. (Burns, 2000b)*

Therefore the conversion to true cruelty-free country sport activities remains an option available to trail hunters.

#### 4.6.2. Suggested rules of trail hunting to avoid being used as a false alibi

Another possible way to solve trail hunting problems is for the hunting fraternity to apply new strict compulsory rules preventing use of artificial scent hunting as a false alibi to avoid prosecutions. For this to work, and to prove that the promotion of lawfulness is now genuine, the rules should allow members from outside the hunting fraternity to check they are properly adhered to. They should also help the enforcement agencies to prosecute those who do not follow such rules and hunt illegally instead. The hunting fraternity would be required to openly abandon its defiant attitude towards the ban, and expose those who break it.

The following are the minimum rules we believe should be applied to trail hunting:

1. Hunt must sign up to written rules approved by the MFHA or equivalent organisation.
2. All meets publicly advertised and spectators (including hunt monitors from animal protection organisations) welcomed to observe the hunt.
3. Details of the hunt's staff (huntsman, whippers-in, and masters) and contractors to be used in any particular hunting day (including the trail layer, meet time and place, which sort of scent was used) produced beforehand to the local police and the local RSPCA.
4. Only use huntsmen who have not been convicted of breaches of the Hunting Act 2004 in the previous five years.
5. Only use hounds that have not been trained to follow live quarry.
6. Only use 'non-animal' scents (except human scent), and never use any scent that resembles the scent of a fox or a hare.
7. Not lay the scent close to motorways, railway lines, or land where the hunt has no permission to be.
8. Scent layers wear an appropriately labelled luminous tabard so they can be easily identified by hunt monitors and police.
9. Scent never laid more than 20 minutes before the dogs are set to find it.
10. First artificial trail laid in proximity to the meet (within a quarter of a mile).
11. Huntsman, whippers-in, and masters know where all the artificial trails are laid before setting the hounds to find them.
12. No drawing in woods, copses or coverts where foxes are likely to live.
13. No hounds ever left so out of control that hunt staff do not know where they are or cannot stop them.
14. Hounds immediately stopped if they are following a trail which is not the artificial trail especially laid for the event.
15. Hounds called back to the huntsman if anyone notifies hunt staff about the sighting of a fox or hare in the area where the hounds are or are likely to be soon.
16. If the hounds pursue an identified fox or hare scent or the actual mammals they are immediately stopped and specific punishment stimuli (crack the whip in the air, robust loud calls, etc.), other than the infliction of pain, is used.
17. All accidental pursuit of live mammals is declared (including time, precise location and circumstances) in a log. This log is delivered to the police and the MFHA after the hunt day, no later than five days after the event.
18. The huntsman or any other members of the hunt do not sound the kill horn call if a mammal is accidentally killed.
19. Scent device is not placed underground to simulate a fox gone to ground.
20. No terriermen present in the hunt and no terriermen with terriers called if a suspected fox is found hiding.
21. No falconry bird present.
22. No members connected with the hunt carrying or using firearms during the hunt.
23. No observation and research on wild mammals undertaken in connection with the hunt's activities of the day.
24. No dead foxes or hares ever given as a reward to the hounds, during the hunt or at any other time during their lives.
25. MFHA or equivalent organisation applies disciplinary measures if any of the rules are breached, including removing the title of master from repeated offenders.
26. MFHA or equivalent organisation expels any hunt which has too many accidents during which a fox/hare was chased.

Adherence of all these rules would be necessary to end the use of trail hunting as a false alibi. The rules relating to external monitoring and reporting law enforcement agencies are especially important, in particular because trail hunting has created a lack of trust in organisations that oversee the hunts. Therefore such rules cannot be left entirely to a self-regulation framework, but rather must be properly monitored and enforced by organisations or agencies not linked in any way to the hunting fraternity.

#### 4.6.3. Improving the Acts that ban hunting in the UK

Finally, one of the most effective and permanent ways to solve the trail hunting problem is to change the law so as to make it very difficult for illegal hunters to use false alibis. Some animal protection organisations such as POWA have been calling for this for a long time, but others have just begun doing it recently.

Because the true nature of trail hunting has become indisputably apparent, and in light of the dropping of the Cattistock Hunt case described above, IFAW is now advocating for improvements to the Act so that it can be more readily enforced.

For years IFAW, LACS and the RSPCA have said that the Hunting Act is enforceable as long as the enforcement agencies take it seriously and that it does not need changing. However, the recent successful use of trail hunting as a false alibi in court has gradually forced a change in stance. LACS and IFAW are calling for a number of necessary amendments of the Act to address this clear enforcement problem.

After one of their cases was also dropped due to trail hunting the LACS called for the following amendments (LACS, 2015c):

1. *Prohibiting the use of dogs below ground. This is arguably where the worst cruelty occurs in hunting. It not only affects wild mammals (usually foxes and badgers) pursued underground with limited opportunity to escape but also dogs sent below ground to find these animals and either flush them out or hold them at bay.*
2. *Inserting a 'reckless' provision to ensure the killing of wild mammals during a trail hunt cannot be passed off as an 'unfortunate accident'.*
3. *Increasing the punishments available to the courts so that the Act is brought in line with other animal protection legislation.*

Then IFAW called for the following changes to the Hunting Act to ensure those who illegally chase or kill foxes and other British mammals with hounds are successfully prosecuted (Casamitjana, 2015):

1. *The introduction of a recklessness clause to prevent 'trail hunting' from being used as a false alibi.*
2. *The removal of the 'observation and research' exemption, which has been abused by stag hunts to avoid prosecution for illegal hunting.*
3. *An increase in the penalty for illegal hunting to include custodial sentences, in line with other wildlife crime legislation.*

Note that the issue of trail hunting is mentioned by both organisations as it is believed that a recklessness clause would prevent trail hunting being used the alibi. Given political realities though, these changes may take some time to become a reality.

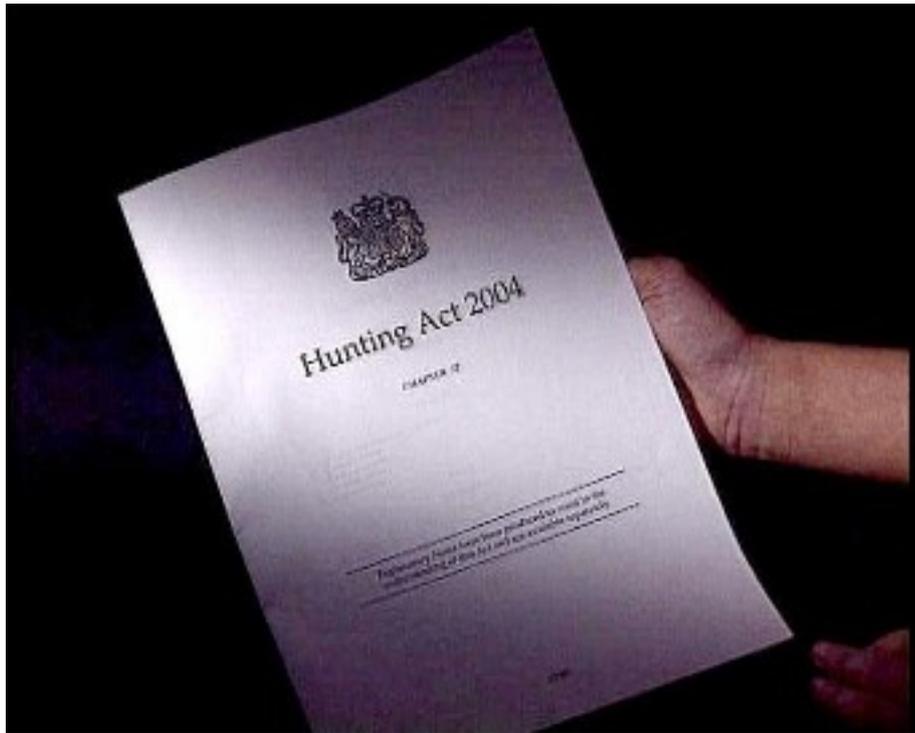


Figure 84: Paper version of the Hunting Act 2004

LACS and IFAW have also called for an amendment of the Protection of Wild Mammals (Scotland) Act 2002, on the basis that the Scottish ban has also not been properly enforced. The proposed changes also involve the adding of a recklessness clause to prevent trail hunting being used as a false alibi. Scottish hunts use the flushing to guns exemption as their main alibi, as a recent exposé of their activities has shown (LACS, 2015d).

## 5. CONCLUSIONS

The hunting ban in the UK has an enforcement problem. Trail hunting, the most common alibi used against allegations of illegal hunting in England and Wales, could well be responsible for this. Different people have different ideas about what trail hunting is, but there are basically three different views generally held by three different groups:

- Hunting fraternity: A harmless temporary simulation of hunting before the ban.
- Anti-hunting movement: A false alibi to avoid prosecutions of illegal hunting.
- Authorities and general public: A slight variation of the cruelty-free and legal sport of drag hunting.

The evidence from bibliographical research, eye witnesses and accounts from trail hunters themselves suggests that the hunting fraternity is right in saying that trail hunting is not just a slight variation of the cruelty-free sport of drag hunting. Indeed, the following table shows the many differences between trail hunting and drag hunting:

<u>Drag hunting</u>	<u>Trail Hunting</u>
Created in the early 1800s	Created in 2005
Objective is to practice a sport using hounds to search for a scent without the pursuit or killing of wild animals	Objective is to make an activity look as similar as possible to hunting before the ban
Long-lasting sport	Considered a temporary activity only undertaken while there is a hunting ban
Specific rules created by the MDBA	No written rules
Non-animal based scents	Animal-based scents
Hounds trained not to follow live quarry	Hounds still trained to follow live quarry (trained with purported 'accidents' and reportedly also with cub hunting*)
Hounds taken to search for the scent in areas where a live quarry presence is unlikely	Hounds taken to search for the scent in areas where live quarry presence is likely
Does not use areas, meets and fields where pre-ban foxhunting took place	Uses the same areas, meets and fields where pre-ban foxhunting took place
Huntsman and whipper-in always know where the scent was laid	Huntsman and whipper-in deliberately do not know where the scent was laid
Focus is on the riders following the hounds, who are encouraged to find the scent quickly	Focus is on the hounds searching for a scent (no matter how long it takes to find) rather than encouraging them to find it at the start so riders can join the pursuit
Scent laid only around 20 minutes earlier than casting the hounds to find it	No documented time limit on how much earlier the scent may be laid before casting the hounds to find it
No terriermen present and no need for terriermen**	Terriermen follow the hunt and still pursue foxes underground
Hounds always kept under close control so no 'accidents' with chasing of live prey	Hounds left unsupervised for longer periods, which increases likelihood of 'accidents' with chasing and/or killing of live prey

However, the hunting fraternity is wrong in describing trail hunting as just a harmless simulation of hunting. Although there may be exceptions, we believe that trail hunting in general is primarily a false alibi to avoid prosecutions of illegal hunting. It is not a harmless temporary simulation of hunting before the ban, or a slight variation of the cruelty-free sport of drag hunting. This is supported by the testimonies and audio visual evidence from first-hand witnesses, expert opinion, statistical analysis of data obtained from quantifiable sources and records of court proceedings. We believe the evidence also suggests that trail hunting's secondary purpose is to undermine the will of Parliament to ban hunting and to promote a defiant attitude towards the hunting ban.

The evidence also suggests that trail hunting as a false alibi takes primarily four forms, or MOs:

1. MO1- No trail: hunts not making any attempt to lay any trail and simply relying on the authorities believing they do.
2. MO2- false evidence: hunts occasionally creating some evidence to support their alibi, and keeping it for further use in the future while normally hunting as before the ban.
3. MO3- faking it: hunts systematically creating some evidence of trail laying to support their alibi, but nevertheless continuing to hunt as before the ban because the evidence is not of genuine trail hunting, but a fake.
4. MO4- causing accidents: hunts developing some sort of 'real' trail hunting while at the same time inducing the hounds to hunt a live mammal, and when they do, then claiming it was just an 'accident'.

We believe that most hunts may be using 'MO1-No trail'. In 99% of IFAW hunt monitors' reports produced during the last 10 years (443 reports on supposed 'trail hunting' events covering 45 different registered hunts) no potentially genuine trail laying was witnessed. This is one of the most compelling pieces of evidence to support the conclusion that trail hunting is generally a false alibi, and it is mirrored by the testimony from hunt monitors from other organisations from all over the country.

Our conclusion is also supported by the circumstantial evidence presented in this report including in relation to motive, means, and opportunities of trail hunters. The motive could be defiance of the ban as a matter of principle, an effort to keep everything as before and/or sabotage of the ban's enforcement to support repeal of the Hunting Act.

The hunts have at their disposal all the means necessary to develop the alibi. These include people, animals, access to live quarry, animal-based scents and the unrivalled knowledge to produce a convincing deception and pretence. They also have had the right opportunities to establish the alibi, including: the lack of rules for trail hunting; the use of private land; the perceived lack of credibility of the 'antis' by enforcement authorities; frequently weak enforcement attitudes of the police and CPS; and campaign fatigue by the major anti-hunt organisations.

We considered whether the current use of 'intent' when assessing prosecutions against illegal hunting should be revised taking into account notions such as 'oblique intent' and the fact that a simulation of a crime where the victim is not aware that it is a simulation should also be considered a crime. We acknowledge, however, that there may not be sufficient legal backing for these approaches at this stage.

We also asked if registered hunts undertaking trail hunting could be considered participants of a type of atypical 'organised crime' with elements of gang culture and corporate crime, particularly in light of: the variety of crimes committed by members of the hunting fraternity; the coordination and planning necessary

to develop the false alibi fully; and the frequency of trail hunting. If enforcement authorities were to recognise a similarity to organised crime, then the use of trail hunting as a false alibi could be tackled more effectively.

The very design of trail hunting as defined by the hunting fraternity itself since 2005 shows that it provides a perfect opportunity for false alibis and to sabotage the enforcement of the Hunting Act 2004. This suggests that we are not talking about an activity that was 'corrupted' by a criminal component, but an activity designed to help criminality from the start. The following table shows the components of trail hunting which facilitate its use as a false alibi:

Unique characteristics of trail hunting	<u>Usefulness for false alibi purposes</u>
Objective is to make an activity look as similar as possible to hunting before the ban	Looking like illegal hunting is no longer evidence of illegal hunting
Considered a temporary activity only undertaken while there is a hunting ban	Conveying to enforcement authorities a sense that the accused are not criminals but are simply trying to 'right a temporary wrong'
There are no written rules	Each of the accused is a free agent who can claim he/she does 'trail hunting' in his/her own way. Each piece of evidence that may suggest illegal hunting may be claimed to be part of 'trail hunting', even if it varies from previous testimonies
Animal-based scents	Hounds remain trained to follow mammal scents. Therefore 'accidents' (chasing a live mammal scent) can easily happen without the accused directly encouraging the chase
Hounds are still trained to follow live quarry (trained with 'accidents' and cub hunting)	Hounds are still trained to follow mammal scents, so 'accidents' (chasing a live mammal scent) can easily happen without the accused directly encouraging the chase
Hounds taken to search for the scent in areas known to have the live quarry the hunt used to pursue	Live mammal scents are likely to be picked up by the hounds. So 'accidents' (chasing a live mammal scent) can easily happen without the accused directly encouraging the chase
Takes place in the same locations where pre-ban foxhunting took place	Live mammal scents are likely to be picked up by the hounds. So 'accidents' (chasing a live mammal scent) can easily happen without the accused directly encouraging the chase
Huntsman and whipper-in are deliberately unaware of where the scent was laid	Accused can claim they did not know the hounds were chasing a live mammal scent. This is why they did not stop them - instead they can claim that they thought the hounds were following the trail

Activity focuses on the hounds searching for a scent regardless of how long it takes to find, rather than facilitating them to find the scent quickly so the riders can join the pursuit early on	Accused can explain long periods of inactivity with riders waiting around (when they might otherwise be expected to be following a continuous trail) as being due to hounds searching for scent
No time limit about how much earlier the scent should have been laid before casting the hounds to find it	Accused can explain the absence of anyone laying the trail by saying that someone did it many hours prior to the meet
Hunts operating with terriermen who follow the hunt but still pursue foxes underground 'independently'	Terriermen still able to bolt foxes from underground cover so hounds can continue hunting them, while hunt officials claim they did not call nor employ the terriermen for the hunt
Hounds being left 'unsupervised' for longer periods which leads to 'accidents' when they chase and/or kill live prey	Accused can explain/justify why hounds chasing a wild mammal were not stopped

The use of trail hunting by illegal hunters as a false alibi is a problem that can be solved. There are many things that could be done to solve it, including:

- the conversion to drag hunting/hunting the clean boot,
- the development of strict rules regulating trail hunting specifically designed to prevent it being used as a false alibi, and
- the amendment of the laws that ban hunting to ensure that they no longer allow trail hunting to be used as a false alibi.

The third solution is one which we believe has the highest probability of success.

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