

Mutual Liberation: The Use and Abuse of Non-human Animals by the Carceral State and the Shared Roots of Oppression

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Mutual Liberation: The Use and Abuse of Non-human Animals by the Carceral State and the Shared Roots of Oppression

Michael Swistara *

The carceral state has used non-human animals as tools to oppress Black, Indigenous, and People of the Global Majority (BIPGM) for centuries. From bloodhounds violently trained by settlers to aid in their genocidal colonial project through the slave dogs that enforced a racial caste system to the modern deployment of police dogs, non-consenting non-human animals have been coopted into the role of agents of oppression. Yet, the same non-human animals are themselves routinely brutalized and oppressed by the carceral state. Police kill several thousands of family's companion dogs every year in the United States. Law enforcement agencies train animals in a violent and racist manner only to place them in the line of fire against their will. These systems of oppression share many of the same tools, from language that justifies violence to legal instruments like qualified immunity that protect officers of the state when they engage in violence. This paper charts this history, analyzes the intersectional tools and shared roots of oppression, and ultimately concludes that ending the use and abuse of non-human animals by the carceral state is a necessary part of the broader prison industrial abolition project.

[Content Warning: this paper contains potentially triggering references to, and discussion of, racism, racist violence, police use of violence, and violence against non-human animals]

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INTRODUCTION

“A hundred years ago they used to put on a white sheet and use a bloodhound against N*groes. Today they have taken off the white sheet and put on police uniforms and traded in the bloodhounds for police dogs, and they’re still doing the same thing.”¹ – Malcolm X

A 2013 study of police dog bites by the Los Angeles County Sheriff’s Department found that every single bite they looked into targeted Black or Latinx Angelenos.² Similarly racially disparate deployment of police animals has been found in departments all across the country.³ This is part of a much broader practice that traces back to the first colonizers of the Americas who trained bloodhounds to hunt down Native peoples.⁴ It extends through antebellum slavery and Jim Crow to the present day in the form of police dogs.⁵ Even when not used as tools of the carceral state, dogs and other companion animals are frequently used as a justification to police and surveil Black, Indigenous, and People of the Global Majority (BIPGM) communities.⁶

Law enforcement agencies not only exploit and oppress the non-human animals in their direct care, but they also harm companion animals belonging to the citizens they allegedly exist to protect. As non-consenting partners to law enforcement, non-human animals are themselves oppressed by the same carceral state that perpetuates racist policing. Animals in police service, such as dogs and horses, are subject to trauma during training and then seen as disposable relative to their human partners and are involuntarily thrust into harm’s way.⁷ Police also shoot and kill several thousands of companion animals every year in the United States.⁸ The epidemic of police killings of dogs has gone effectively unchallenged,

¹ *A Summing Up: Louis Lomax interviews Malcolm X*, TEACHING AM. HIST., <https://teachingamericanhistory.org/library/document/a-summing-up-louis-lomax-interviews-malcolm-x/> (last visited Apr. 29, 2021).

² See Tim Walker, ‘Racist’ LA police dogs only bite Latinos and African-Americans, INDEP. (Oct. 28, 2013), <https://www.independent.co.uk/news/world/americas/racist-la-police-dogs-only-bite-latinos-and-african-americans-8874913.html>.

³ See PHILLIP ATIBA GOFF ET AL., CTR. FOR POLICING EQUITY, SCIENCE OF JUSTICE: CITY REPORT 43 (2016).

⁴ See *infra* Part I.A.

⁵ See *infra* Part I.B.

⁶ See *infra* Part II.B. Additionally, please note that this paper follows The New York Times style guide in capitalizing Black and Indigenous but not capitalizing brown or white. See Nancy Coleman, *Why We’re Capitalizing Black*, N.Y. TIMES (July 5, 2020), <https://www.nytimes.com/2020/07/05/insider/capitalized-black.html>.

⁷ See *infra* Part III.A.

⁸ See *infra* Part III.B.

with courts regularly granting immunity to officers who kill pets and department “use of force” definitions failing to even consider discharging a weapon towards a non-human animal as a serious use of force.⁹ At the same time, penalties for putting a police dog in danger are often harsh and involve lengthy sentences.¹⁰

The disparity between how non-human animals in direct care of the police are treated relative to non-police companion animals speaks to how non-human animals are valued by the carceral state only to the extent they serve its interests. Common tools of oppression, such as language that justifies or perpetuates violence, physical violence, and even sacrificing one of their own to preserve the institution, are regularly deployed to maintain this dualism that separates humans as distinct from and superior to non-human animals. These same tools are deployed in service of the dualism that effectuates racial oppression. Seeing these intersectional systems of oppression as sharing a common origin is key to truly addressing the problems stemming from this entrenched hierarchy.

Animal liberationists and police and prison abolitionists should work together to pursue this shared goal of mutual liberation and in combatting the common source of oppression: white supremacy. This paper recommends that this work begin by ending the use of non-human animals by the carceral state. Animals should not be forced to face violence or to perpetuate violence themselves. There is also the threshold question as to whether it is ever morally justified to use animal labor in service of humans,¹¹ and while that is largely beyond the scope of this paper, it seems clear that eliminating needless harm and suffering to animals is a moral imperative that will require a radical transformation in human relations with non-human animals. Current police animals should be adopted out or provided with sanctuary as the practice of police use of animals is ended. Discriminatory laws with racist origins that harm humans and non-humans like breed-specific legislation should be eliminated as well. The

⁹ *See id.*

¹⁰ *See id.*

¹¹ This is an incredibly complex and interesting question, and as one that has taken up entire books, is far beyond the scope of this paper. Many scholars of animal rights and moral philosophy have dedicated time to thinking about the moral status of animals and whether things like medical testing or even seeing eye dogs are justifiable. *See, e.g.*, CARL COHEN & TOM REGAN, *THE ANIMAL RIGHTS DEBATE* 4–5 (2001) (arguing that some medical research using animals is justifiable, though most human uses of animals are not morally acceptable under their framework); LORI GRUEN, *ETHICS AND ANIMALS: AN INTRODUCTION* 118–126 (2011) (describing the two main schools of thought amongst animal advocates on this issue; abolitionism and utilitarianism); PETER SINGER, *ANIMAL LIBERATION* 91–94 (HarperCollins 2009) (1975) (arguing that animal use in experimentation cannot be justified by potential benefits to humans, although without ruling out experimentation for other possible reasons).

end of the use and abuse of animals by the carceral state can only come about as part of a broader decarceral effort, and so this paper also recommends disinvestment from police forces and investment in communities to create a people- and animal-focused community-based vision of safety.

Part I of this paper provides background on the history of the use of animals as non-consenting agents of the carceral state. It traces the origins of modern police animals back to the first colonizers of the Americas through the Atlantic slave trade and into the present era via the Wars on Drugs and Terror. Part II provides an overview of the racially disparate deployment of police animals today and a look into how companion animals are used as justification to further police BIPGM communities. Part III evaluates the oppressed status of animals in this system, including the harsh training conditions for police animals and the killing of non-police animals by law enforcement. Part III then draws connections between the systems of oppression that work to oppress both non-human animals and BIPGM communities, looking at such tools as conditional rights, language use, and physical violence. Part IV offers a set of policies to begin deconstructing these interlocking systems of oppression to work towards a safer, more just world.

I. HISTORY: COLONIALISM, SLAVE DOGS, AND THE WAR ON DRUGS

The history of the use and abuse of animals by the carceral state is marked primarily by changes in tone rather than of tactic. The European invaders who colonized the Americas bred and trained dogs to act as the literal teeth of their invasion: to hunt and to kill the Native peoples.¹² Animals as non-consenting parties were subjected to torture and violence in order to perpetuate further terror and violence against people of color.¹³ These tactics were borrowed by antebellum slaveholders and plantation owners to enforce a racist hierarchy of order.¹⁴ As law and order increasingly became the providence of government, the co-option of non-human animals was merged into newly created police departments.¹⁵

¹² See Charlton Yingling & Tyler Parry, *Slave Hounds and Abolition in the Americas*, 246 PAST & PRESENT 69, 77 (2020).

¹³ See Charlton Yingling & Tyler Parry, *The Canine Terror*, JACOBIN (May 19, 2016), <https://www.jacobinmag.com/2016/05/dogs-bloodhounds-slavery-police-brutality-racism/>.

¹⁴ See *id.*

¹⁵ See Shontel Stewart, *Man's Best Friend? How Dogs Have Been Used to Oppress African Americans*, 25 MICH. J. RACE & L. 183, 191 (2020); see also Grant Stitt, *Practical, Ethical And Political Aspects Of Engaging "Man's Best Friend" In The War On Crime*, 5 CJPR 53, 53 (1991).

Today, police forces deploy dogs, horses, and other non-human animals against BIPGM communities with targeted intimidation and violence. The scale of the carceral state's reach, including its use and abuse of animals, has only grown over the last sixty years as part of the escalating Wars on Drugs and Terror. But as Malcolm X poignantly argued, while the uniform may have changed, the function is largely still the same; using violence to maintain a power hierarchy that favors white men at the expense of all others.¹⁶

A. *The Origins of Police Use and Abuse of Animals in the Americas and the American South*

When European invaders first arrived in the Americas, they brought with them disease, death, destruction, and dogs. Throughout the Middle Ages, the Old World's elite owned and trained dogs, primarily types of greyhound, for hunting.¹⁷ The first wave of continental colonizers brought with them canines for the purposes of chasing down and killing those Indigenous to the Americas.¹⁸ As a part of his genocide on Hispaniola, Christopher Columbus deployed mastiffs to "hunt, torture and . . . feed off the flesh of the indigenous."¹⁹ Dogs became non-consenting partners in the destruction of Native cultures and people as the white settlers pillaged the Caribbean.²⁰

The Atlantic slave trade and emergence of chattel slavery in the New World saw grotesque new innovations in how to inflict terror through the forced use of animals as weapons of white supremacy. The most notorious were the feared Cuban Bloodhound, a breed specially bred and trained by the Spanish to be the most effective and brutal colonial agents possible.²¹ They were bred to hone their ability to smell, hear, and outrun their victims.²² These dogs were trained to torture and harm Native peoples by themselves being tortured and harmed,²³ a cycle indicative of how violence begets violence and demonstrating the shared hierarchy of oppression that inflicts suffering on both humans and non-human animals.

¹⁶ See *A Summing Up*, *supra* note 1.

¹⁷ See Beatrice Johnston, *The World of Medieval Dogdom*, HIST. TODAY (Oct. 3, 2019), <https://www.historytoday.com/miscellanies/world-medieval-dogdom>.

¹⁸ See Yingling & Parry, *supra* note 12, at 77 (describing how the first Spanish invaders used their Iberian canines to "execute indigenous labourers simply for disobedience").

¹⁹ Tyler Wall, *Legal terror and the police dog*, 188 RADICAL PHIL. 1, 4 (2014).

²⁰ In Hispaniola and later in Panama, the Spanish invaders used packs of dogs to comb the forests for any Indigenous people (and later African slaves) that had runaway. See Yingling & Parry, *supra* note 12, at 78.

²¹ See Yingling & Parry, *supra* note 13.

²² *Id.*

²³ See generally *id.*

In Cuba, bloodhounds were trained by forcing Black men to whip and abuse them daily, with trainers encouraging the dogs to bite and chase their abusers.²⁴

By the late 18th Century, the Cuban Bloodhound was being used by a range of European powers to quell Black resistance across the Caribbean. The British and French bought hounds from the Spanish to suppress the Second Maroon War on Jamaica and the Haitian Revolution, respectively.²⁵ The French, overpowered by the most successful slave revolt in history, were unrelentingly cruel in their deployment of dogs as weapons of anti-Black terror.²⁶ Stories abound of complaints in Haiti “not because of the inhumanity, but because the sound of the attacking dogs and the dying prisoners was so loud.”²⁷ These European canines were bred and used for the purpose of Indigenous extermination so broadly that they even led to the end of most native dogs in the Americas.²⁸ Yet, like so many other features of the Atlantic slave trade, the use of animals took on new levels of brutality in the colonies that would become the United States.

As early as 1790, there are reports of opposition to the use of slave dogs in northern newspapers,²⁹ but it was not until the 19th Century that the antebellum South wholeheartedly embraced white terror by canines.³⁰ Reported stories in papers like the *Maryland Herald* and the *Richmond Enquirer* about the use of dogs in Jamaica and Haiti caught the intrigue of slaveholders in the United States.³¹ By the 1820s, the use of slave dogs had become widespread across the South.³² An entire economy emerged around the breeding, training, and handling of dogs for the sole purpose of disciplining, terrorizing, catching, and sometimes killing slaves.³³ Owning “pure” Cuban Bloodhounds became a status symbol amongst

²⁴ *Id.*

²⁵ *See id.*; *see also* Yingling & Parry, *supra* note 12, at 76.

²⁶ *See* Yingling & Parry, *supra* note 12, at 87.

²⁷ *Id.*

²⁸ *See* Karin Brulliard, *America’s first dogs vanished after Europeans arrived, study finds*, WASH. POST (Jul. 7, 2018), <https://www.washingtonpost.com/news/animalia/wp/2018/07/07/americas-first-dogs-vanished-after-europeans-arrived-study-finds/>.

²⁹ *See* Yingling & Parry, *supra* note 12, at 89.

³⁰ During the early 19th Century, General Andrew Jackson’s reign of terror in Florida also relied heavily on the use of dogs as weapons of white supremacy. The Second Seminole War included the first recorded sale of Cuban Bloodhounds to the United States, when the U.S. military purchased bloodhounds for a recorded \$151.72 each to aid in their genocidal campaign against Seminole Nation. *See id.* at 90.

³¹ *See id.* at 89.

³² *See id.*

³³ *See generally id.* at 91.

slaveholders.³⁴ Their training in the South was as cruel as anywhere, as Frederick Douglass described:

Enmity is instilled into the blood-hounds by these means—A master causes a slave to tie up the dog and beat it unmercifully. He then sends the slave away and bids him climb a tree; after which he unties the dog, puts him upon the track of the man and encourages him to pursue it until he discovers the slave. Some-times, in hunting the n*groes, if the owners are not present to call off the dogs, the slaves are torn in pieces; this has often occurred.³⁵

This cultivation of racist hate in bloodhounds was used by slaveholders to reinforce what they saw as a natural racist hierarchy.³⁶ In conjunction with phrenology and other junk racist ‘sciences,’ whites argued that their dogs could smell or otherwise detect racial differences.³⁷ Slaveholders further engrained inter-species conflict between their dogs and their slaves by forcing them to fight over the same food.³⁸ This exemplifies the racist and speciesist³⁹ tradition of comparing racial minorities to animals or otherwise putting them on the same level in a way meant to enshrine the hierarchy that whites predominate over all other races and species. In many ways, slaveholders worked to place their dogs as further up the hierarchy than their slaves—a trend reflected in the modern-day treatment of police dogs relative to Black and brown civilians.⁴⁰

Slave dogs arguably became the most effective tool for instilling fear and managing slave labor.⁴¹ Dogs were used to chase down runaways and

³⁴ *See id.*

³⁵ Frederick Douglass, *The Horrors of Slavery and England’s Duty to Free the Bondsman: An Address Delivered in Taunton, England, on September 1, 1846*, SOMERSET COUNTRY GAZETTE, Sep. 5, 1846, reprinted in 1 THE FREDERICK DOUGLASS PAPERS: SERIES ONE: SPEECHES, DEBATES, AND INTERVIEWS, 1841–46, at 371, 377 (John W. Blassingame ed., Yale University Press, 1979), <https://glc.yale.edu/horrors-slavery-and-englands-duty-free-bondsman>.

³⁶ *See* Yingling & Parry, *supra* note 12, at 70.

³⁷ *See id.* at 72 (citing G. L. Reisback, *Instructions for Training Young Bloodhounds to Trail*, pamphlet (n.d.)).

³⁸ *See id.* at 94.

³⁹ “Speciesism” refers to the assumption that humans are superior to other species and the resulting discrimination or “unjustified differential moral consideration” on the basis of species. *Speciesism*, ANIMAL ETHICS, <https://www.animal-ethics.org/ethics-animals-section/speciesism/> (last visited Apr. 29, 2021); *see Speciesism*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/speciesism> (last visited Apr. 29, 2021).

⁴⁰ *See infra* Part II.A.

⁴¹ *See* Yingling & Parry, *supra* note 12, at 70.

to intimidate and exert brutal violence against those who broke the slaveholder's rules. Charlton Yingling and Tyler Parry, historians of the Atlantic slave trade, have described this as a form of "biopower" for slave economies as slave dogs "subdued human property, enforced legal categories of subjugation, and built efficient economic regimes."⁴²

Dogs were not the only non-human animals made unwilling co-conspirators to the regime of slavery. Horses were routinely used as tools for slaveholders to exact fear and manage their labor.⁴³ When surveying a field of slaves, a mounted white rider had a heightened vantage point and could easily outrun any slave who was on foot.⁴⁴ Like slave dogs, horses were used for intimidation because of their strength and relative unpredictability.⁴⁵ To punish slaves, owners sometimes placed a noose around their neck and tied it to the back of a horse.⁴⁶ Slave horses were also used to chase down runaway slaves, who, once free of their plantations, continued to find "the sound of an approaching horse" to be a "fearful portent."⁴⁷ Even more so than dogs, horses were used as an extension of the human rider perpetrating white supremacy.⁴⁸ This twisted combination of biopower in the service of man's racist intentions and the unpredictability of a horse ready to bolt made slave horses some of the most valued and most feared tools in the slaveholders armory.

The fear instilled by slave dogs and horses has been described in writing from Solomon Northup's *Twelve Years a Slave*, in which he describes slave dogs chasing him,⁴⁹ to dogs being the "fiercest enemies" in Harriet Beecher Stowe's novel *Dred: A Tale of the Great Dismal*

⁴² *Id.* at 72.

⁴³ *See generally* Colleen Walsh, *The Landscape of Slavery*, HARV. GAZETTE (Dec. 17, 2010), <https://news.harvard.edu/gazette/story/2010/12/the-landscape-of-slavery/>.

⁴⁴ *See id.*

⁴⁵ *See id.*

⁴⁶ *See id.*; *see also* David Grundy, *Horses and History*, SOC. TEXT (Jun. 30, 2020), https://socialtextjournal.org/periscope_article/horses-and-history/ ("Slaveholders played on the fears generated by the essential unpredictability of the horse—its liability to run wild and loose, against directive—by tethering slaves to the horse, where they faced the risk of being dragged or trampled beneath its hooves.").

⁴⁷ Grundy, *supra* note 46.

⁴⁸ *See id.*

⁴⁹ *See* SOLOMON NORTHUP, *TWELVE YEARS A SLAVE* 137 (1853) ("[T]heir long, savage yells announced they were on my track. Leaping down from my position, I ran towards the swamp. Fear gave me strength, and I exerted it to the utmost. Every few moments I could hear the yelpings of the dogs. They were gaining upon me. Every howl was nearer and nearer. Each moment I expected they would spring upon my back—expected to feel their long teeth sinking into my flesh. There were so many of them, I knew they would tear me to pieces, that they would worry me, at once, to death.").

Swamp.⁵⁰ A student of Stowe’s work was later a witness in Washington, D.C. to a slave catcher setting his dogs on a young Black child.⁵¹ Just off Pennsylvania Avenue, hardly a stone’s throw from the White House, the dog leapt into a lumber yard where the witness heard “the most hideous and heart–rending screams of a child” as the slave catcher screamed at the child “I’ll learn you to run away!”⁵²

While private slave catchers with dogs were incredibly cruel, as former slave William Parker noted, slave hunters and their dogs were most dangerous when they collaborated with the state.⁵³ Slave catchers worked hand–in–glove with local police officers, constables, and other members of the legal profession.⁵⁴ This granted government–sanctioned legitimacy to the practice and ensured that whites could pocket their share of the reward when slaves were returned.⁵⁵ It also meant that the apparatus of the state could be moved to support slave hunters. Many slave states even criminalized the ownership of dogs by slaves on the grounds that it constituted possessing a weapon.⁵⁶ This fear of Black–owned dogs continues to this day in the form of racist breed–specific legislation and the use of animal cruelty as pretextual motive to police Black communities.⁵⁷

B. Escalation: Jim Crow and the Wars on Drugs and Terror

In the early years of the 20th Century, institutional police forces – which were themselves born of slave patrols and union–busting⁵⁸—began to incorporate and train dogs into their forces. The first forces to do so were the northern cities of New York City and South Orange, New Jersey in 1907.⁵⁹ During this same time, attack dogs in the south were still being used to hunt down deserters from plantations; all that had changed was that the label of “slave” had become “sharecropper.”⁶⁰ The Civil Rights

⁵⁰ Yingling & Parry, *supra* note 12, at 102 (citing to HARRIET BEECHER STOWE, DRED: A TALE OF THE GREAT DISMAL SWAMP 255 (1856)).

⁵¹ *Id.* at 101.

⁵² *Id.*

⁵³ *See id.* at 92–93.

⁵⁴ *See id.* at 93.

⁵⁵ *See id.*

⁵⁶ *See id.* at 95 (citing THEODORE BRANTNER WILSON, THE BLACK CODES OF THE SOUTH (1965)).

⁵⁷ *See infra* Part II.B.

⁵⁸ *See The History of Police In Creating Social Order In The U.S.*, NPR (June 5, 2020), <https://www.npr.org/2020/06/05/871083599/the-history-of-police-in-creating-social-order-in-the-u-s>; *see also* Olivia B. Waxman, *How the U.S. Got Its Police Force*, TIME (May 18, 2017), <https://time.com/4779112/police-history-origins/>.

⁵⁹ *See* Stitt, *supra* note 15, at 53.

⁶⁰ *See* Tyler Parry, *Police Dogs and Anti–Black Violence*, BLACK PERSP. (July 31, 2017),

movement was also met not just with guns and hoses but with snarling police dogs.⁶¹ All across the south, Black activists, protesters, and ordinary citizens were attacked by police dogs as a means of keeping the racist hierarchy in place.⁶²

In Birmingham, Alabama, Sheriff Bull Connor deployed police dogs at the front lines of his assault on civil rights demonstrators.⁶³ Police attack dogs mauled the young Black protestors. Lee Shambry had his clothes ripped off him by a dog's teeth and his arms, legs, and hips were bitten.⁶⁴ Jennifer Fancher, only 7-years-old at the time, was charged at and knocked to the ground by a German Shepherd with a police handler in tow.⁶⁵ Student protestors were hospitalized with dog bite wounds.⁶⁶ In Greenwood, Mississippi, police dogs attacked and wounded a Black minister.⁶⁷ All throughout the South, police dogs were a symbol of white supremacist violence and a tool to perpetuate fascistic white rule. This quickly spread throughout the country, and by the 1980s, attack dogs were being used in service of police against Black and brown communities in urban centers across the country.⁶⁸

The 1980s also saw the emergence at scale of the War on Drugs and the resulting mass incarceration crisis.⁶⁹ The federal government used racial fears, as well as public health and poverty crises, to crack down on communities of color with brutal might. A "zero tolerance" approach to drugs and crime had disastrous consequences across the country, particularly in Black and brown communities.⁷⁰ Just as slave dogs had

<https://www.aaihs.org/police-dogs-and-anti-black-violence/>.

⁶¹ *See id.*

⁶² *See id.*

⁶³ *See* Fred Gaboury, *Eight days in May: Birmingham and the struggle for civil rights*, PEOPLE'S WORLD (May 22, 2003), <https://peoplesworld.org/article/eight-days-in-may-birmingham-and-the-struggle-for-civil-rights/>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *See* Stewart, *supra* note 15, at 187.

⁶⁷ *See* Parry, *supra* note 60 (citing Murray Illson, *Cruelty in South is Laid to Police: CORE Chief says Greenwood Used Dogs on Negroes*, N.Y. TIMES (Apr. 7, 1963)).

⁶⁸ *See generally id.*

⁶⁹ *See generally* ELIZABETH HINTON, FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA (2016).

⁷⁰ *See A Brief History of the War on Drugs*, DRUG POLICY ALLIANCE, <https://www.drugpolicy.org/issues/brief-history-drug-war> (chronicling the rise of zero tolerance drug policies in the 1980s and their negative impacts despite little to no evidence they worked at all in reducing drug use); Lorna Hermosura, *School-to-Prison Pipeline is a Direct Policy Descendant of Nixon's War on Drugs*, TEXAS PERSP. (Apr. 25, 2016), <https://news.utexas.edu/2016/04/25/school-to-prison-pipeline-caused-by-war-on-drugs-policy/> (detailing how zero-tolerance drug policies contributed to the over-criminalization of minors and the school-to-prison pipeline, which affects African American students as a highly disproportional rate); Graham Boyd, *The Drug War is the*

been the most effective tool for plantation owners to manage forced labor through terror, so too did dogs become the “best weapon in [the] Drug War.”⁷¹

The largest escalation in the employment of police dogs throughout the War on Drugs was through the use of dogs as drug-sniffers.⁷² Drug-sniffing canines became a “necessity” for local police forces.⁷³ Officers swear by their sniffer dogs and judges often view dogs as “one of the few parties in court whose objectivity is beyond reproach.”⁷⁴ Yet, despite the value given to sniffer dogs by judges, their accuracy has been called into serious question. One study conducted in Australia found that in 74 percent of cases where a sniffer dog indicated it smelled drugs, none were found on the person.⁷⁵ Sniffer dog use has also exhibited racial bias as dogs search Black motorists’ vehicles at much higher rates despite finding more contraband on white motorists.⁷⁶ One explanation for these racially biased and high false positive rates is that dogs are good at reading human body language and they want to please their handler, so if their handler displays even subtle animus towards a Black motorist, the sniffer dog may be more likely to alert them.⁷⁷

Given their perceived infallibility in court, in contrast with their mixed results in practice, sniffer dogs seem to exhibit much of the same naturalization of racist biases as dogs deployed in the antebellum South. Then, dogs were trained to exhibit racial bias and this trained response was in turn seen by whites as a reason to uphold the racist hierarchy; while today, police dogs reflect the biases of their handlers and yet are seen as objective arbiters of drug possession and suspicion. This olfactory

New Jim Crow, NACLU REP. ON AM. (July/Aug. 2001), <https://www.aclu.org/other/drug-war-new-jim-crow> (describing the “caustic effect” of tough-on-crime drug policy on communities of color).

⁷¹ Richard Beene, *Best Weapon in Drug War May Be Man’s Best Friend*, L.A. TIMES (Mar. 3, 1990), <https://www.latimes.com/archives/la-xpm-1990-03-03-mn-1405-story.html>.

⁷² *See id.*

⁷³ *See id.*

⁷⁴ *Id.*

⁷⁵ *Are drug sniffer dogs incorrect 75 per cent of the time?*, ABC NEWS (Dec. 2, 2018), <https://www.abc.net.au/news/2018-12-03/fact-check-are-drug-dogs-incorrect-75-pc-of-the-time/10568410>; *see also* Radley Balko, *The Supreme Court’s ‘Alternative Facts’ About Drug-Sniffing Dogs*, WASH. POST (Feb. 4, 2019), <https://www.washingtonpost.com/opinions/2019/02/05/supreme-courts-alternative-facts-about-drug-sniffing-dogs/> (stating that trained sniffer dogs have been shown in field records to have false positive rates above 50 percent).

⁷⁶ *See Racial Disparity in Consent Searches and Dog Sniff Records*, ACLU ILL (Aug. 13, 2014), <https://www.aclu-il.org/en/publications/racial-disparity-consent-searches-and-dog-sniff-searches>.

⁷⁷ *See Stewart, supra* note 15, at 200.

“political vehicle” has been criticized as a “technology of state power” that expands the surveillance state beyond the ocular.⁷⁸ This can be framed as part of a broader whittling away of privacy rights from the War on Drugs, as dogs’ sensory signals are another arrow in the quiver of police who carry out warrantless searches and pretextual traffic stops.⁷⁹ The law enforcement community has acknowledged that an important value of sniffer dogs is their ability to instill fear in suspects.⁸⁰

This use of dogs as vehicles of carceral fear was again put to use in service of the War on Terror in the years after the 9/11 terrorist attacks. Following the horrific history of dogs used for prisoner torture in concentration camps and gulags,⁸¹ the U.S. military used dogs to traumatize inmates in both the Abu Gharib prison in Iraq and the Guantanamo Bay Detention Camp in Cuba.⁸² Detainees at Guantanamo Bay reported attack dogs “brutalizing” inmates who later demonstrated “‘extreme’ psychological trauma.”⁸³ Like with the instilling of fear being an integral component of police dogs, during the War on Terror, it was the violence and terror that dogs caused which was the ultimate point of their deployment. This incitement of fear in “the enemy,” as well as their perceived disposability relative to humans, is a part of why non-human animals have been used in wars and major conflicts across the globe.⁸⁴

From the very first colonial dogs on American soil through chattel slavery and Jim Crow into the present day, dogs have been and continue to be used as unwilling biological weapons of the carceral state and of white supremacy. Modern policing has adopted the use of the dog and horse as weapons with which to wage war against criminalized populations and to surveil and intimidate BIPGM communities. This paper

⁷⁸ Wall, *supra* note 19, at 2.

⁷⁹ See Jacob Sullum, *End the War on Drugs*, REASON (Oct. 2020), <https://reason.com/2020/09/19/end-the-war-on-drugs/>.

⁸⁰ See Stitt, *supra* note 15, at 54 (“The fear exhibited by drug traffickers is in itself a reward to the law enforcement community”).

⁸¹ See Wall, *supra* note 19, at 4.

⁸² See *id.*; *Prisoner Says Gitmo Detainees Abused with Attack Dogs, Drugs*, FOX NEWS (Dec. 9, 2004), <https://www.foxnews.com/story/prisoner-says-gitmo-detainees-abused-with-attack-dogs-drugs>; *US approved use of dogs on Guantanamo prisoners*, ABC NEWS (June 22, 2004), <https://www.abc.net.au/news/2004-06-23/us-approved-use-of-dogs-on-guantanamo-prisoners/1997692>.

⁸³ *Prisoner Says Gitmo Detainees Abused with Attack Dogs, Drugs*, *supra* note 82.

⁸⁴ See generally Ryan Hediger, *Animals in War*, in THE PALGRAVE INTERNATIONAL HANDBOOK OF ANIMAL ABUSE STUDIES (Jennifer Maher et al. eds., 2017) (detailing the suffering animals experience in war, in particular horses, dogs, and pigeons, who are most abused by the very same mechanisms of war that terrorize humans); ANIMALS AND WAR: CONFRONTING THE MILITARY-ANIMAL INDUSTRIAL COMPLEX (Anthony J. Nocella II et al. eds., 2013) (covering everything from the exploitation of animals in military training to the non-consenting use of non-human animals as weapons of war).

analyzes this intersection between the oppression of humans and non-human animals by the carceral state and argues that an essential part of dismantling the prison industrial complex is to radically transform our relationship with non-human animals. Breed-specific legislation should be banned, as should the use of non-human animals by the police as part of the broader abolition project.

II. THE MODERN USE OF ANIMALS TO POLICE AND TERRORIZE BIPGM COMMUNITIES

The use of dogs as tools of oppression for Black, Indigenous, and other communities of color may have its roots in colonialism and slavery, but it is very much a continuing daily factor of life for many in the United States with no end in sight. Today, there are estimated to be more than 50,000 police dogs actively working across the United States,⁸⁵ and they are disproportionately used to target people of color. Studies have shown police dogs are used to attack and injure Black and brown residents at much higher rates than other racial groups,⁸⁶ and police use sniffer dogs to search Black drivers' cars more often than white motorists.⁸⁷ Horses are used to quell political and racial dissent, sometimes violently disrupting protests.⁸⁸ At the same time, police animals are rarely considered a use of lethal force despite their violent records, and police can shoot at or kill animals with little to no accountability.⁸⁹

A. The Racist Deployment of Police Animals

Police departments across the United States continue to deploy non-human animals in violent and invasive ways, primarily against Black and brown Americans. A study of the Los Angeles Sheriff's Department use of dogs found that in the first half of 2013 every single victim of a police

⁸⁵ JoAnna Lou, *Surprising Cause of Death for Police Dogs*, BARK (Nov. 2015), <https://thebark.com/content/surprising-cause-death-police-dogs#:~:text=Diesel's%20role%20in%20Wednesday's%20mission,dogs%20in%20the%20United%20States> (“Jim Watson, director of the North American Police Work Dog Association estimated that there may be around 50,000 active police dogs in the United States. But that number may be higher now, given the growing need for trained pups to assist officers and sniff out bombs and drugs.”).

⁸⁶ See Walker, *supra* note 2; GOFF ET AL., *supra* note 3, at 43.

⁸⁷ See *Racial Disparity in Consent Searches and Dog Sniff Records*, *supra* note 76.

⁸⁸ See Jessica Scott-Reid, *At Black Lives Matter Protests, Police Horses Become Another Troubling Symbol of Oppression*, SENTIENT MEDIA (Jun. 25, 2020), <https://sentientmedia.org/black-lives-matter-protests-police-horses-oppression/>.

⁸⁹ See *infra* Part III.B.

dog bite was Black or Latinx.⁹⁰ The report also found that police dog bites occurred almost entirely in poorer communities of color and hardly ever in the most affluent parts of the city.⁹¹ This 2013 study only affirmed a long-known trend amongst Los Angeles criminal justice circles. In 1991 the Christopher Commission, created after the violent beating of Rodney King by LAPD officers earlier that year, released its report on police violence in the city. It found, unsurprisingly to many, that LAPD attack dogs were being used primarily against Black and Latinx residents of the city.⁹² During a five-year period in the 1980's, more than 80 percent of police dog attacks targeted racial minorities in Los Angeles—with over 98.5 percent of those victims being unarmed.⁹³

Of course, the problem of racist police use of animals as force is not limited to Los Angeles, or even the United States. A 2015 report by the Center for Policing Equity found that across several police departments nationwide the rate of bites targeting Black people was more than double that targeting white people.⁹⁴ In Ferguson, Missouri, the United States Department of Justice (DOJ) found that deployment of dogs was “frequently unreasonable.”⁹⁵ The DOJ report found that Ferguson officers used dogs when it was not necessary to protect the officer and that oftentimes the deployment of police dogs was more for inflicting punishment than for countering physical threats.⁹⁶

In one story the DOJ report tells, Ferguson police set an attack dog on a 14-year-old boy who was meeting up with his friends in an abandoned lot.⁹⁷ The young boy told the DOJ investigators that he was surprised by the police dog who leapt at him, biting his left arm.⁹⁸ He also reported that the police officers were laughing about the attack.⁹⁹ In Montgomery, Alabama, police sent a dog and handler into a house in response to an alleged burglary call.¹⁰⁰ The police dog mauled the man inside, 51-year-

⁹⁰ See Walker, *supra* note 2.

⁹¹ See *id.*; Wall, *supra* note 19, at 5.

⁹² See *The Christopher Commission on Tuesday issued a 228-page report on the activities of the Los Angeles Police Department. Here are excerpts.*, L.A. TIMES (July 10, 1991), <https://www.latimes.com/archives/la-xpm-1991-07-10-mn-1962-story.html>.

⁹³ See Wall, *supra* note 19, at 5.

⁹⁴ See GOFF ET AL., *supra* note 3, at 43.

⁹⁵ UNITED STATES DEP'T OF JUSTICE CIVIL RIGHTS DIV., INVESTIGATION OF FERUGSON POLICE DEPARTMENT 33 (2015).

⁹⁶ See *id.*

⁹⁷ See *id.* at 31–32.

⁹⁸ See *id.* at 32.

⁹⁹ See *id.*

¹⁰⁰ See Melissa Brown, *Authorities want fatal Joseph Pettaway K9 mauling body cam footage under wraps. Here's why*, MONTGOMERY ADVISOR (Oct. 19, 2020), <https://www.montgomeryadvertiser.com/story/news/2020/10/19/joseph-pettaway-police-dog-mauling-city-argues-body-cam-footage-puts-cops-officers-at->

old Joseph Pettaway, to death.¹⁰¹ During the response to Hurricane Katrina in New Orleans, a National Guardsman used an M-16 rifle to order a man trying to find his family down onto the ground, whereby the Guardsman then directed (or allowed) his police dog to violently tear at the man's limbs until another officer eventually called the canine off.¹⁰²

More broadly, the use of attack dogs is one of the most common ways that police exert violent and even lethal force on suspects. In British Columbia, Canada, for example, dog bites are the most common form of police use of force.¹⁰³ In Los Angeles, on a per-use basis, police dogs have a higher rate of causing injury than any other police use of force—including batons, tear gas, and even firearms.¹⁰⁴

In addition to using dogs as excessively violent force, police also use animals to intimidate and shame the communities they are policing. LAPD officers have been accused of referring to Black suspects as “dog biscuits.”¹⁰⁵ In Talladega, Alabama, an officer swore in a deposition that his police Lieutenant had said while recruiting and training canines “they wanted a dog that would bite a [n-word]”.¹⁰⁶ Such trained racial animus in canines is the same bio-justification for subjugation used by plantation owners.¹⁰⁷ In Ferguson, just hours after the police killing of Michael Brown, a Ferguson Police Department officer had his canine urinate on a makeshift memorial at the scene of the killing.¹⁰⁸ This grotesque sign of hatred and disrespect is in line with the placement and valuing of attack dogs above Black people that dates back to antebellum slavery.¹⁰⁹ But it is not just police dogs whose use harkens back to slavery with frightening clarity.

In 2019, police in Galveston, Texas arrested a Black man for allegedly trespassing and transported him back to the police station by tying his

risk/5967193002/; Ashley Remkus & Challen Stephens, *Alabama's Ugly Secret: Police Dog Attacks*, MARSHALL PROJECT, <https://www.themarshallproject.org/2020/10/13/alabama-s-ugly-secret-police-dog-attacks>.

¹⁰¹ See Remkus & Stephens, *supra* note 100.

¹⁰² See Andrea J. Ritchie & Joey L. Mogul, *In the Shadows of the War on Terror: Persistent Police Brutality and Abuse of People of Color in the United States*, 1 DEPAUL J. SOC. JUST. 175, 230 (2008).

¹⁰³ See Wall, *supra* note 19, at 5.

¹⁰⁴ See Walker, *supra* note 2.

¹⁰⁵ Parry, *supra* note 60.

¹⁰⁶ Challen Stephens, *Police Wanted “A Dog That Would Bite a Black Person”*, MARSHALL PROJECT (Oct. 29, 2020), <https://www.themarshallproject.org/2020/10/29/police-wanted-a-dog-that-would-bite-a-black-person>.

¹⁰⁷ See Yingling & Parry, *supra* note 12, at 70.

¹⁰⁸ See Stewart, *supra* note 15, at 187–88.

¹⁰⁹ See *supra* Part I.A.

hands and leading him with a rope behind a horse through the streets.¹¹⁰ Many were quick to make the comparison to how slaves were punished by being dragged behind horses.¹¹¹ The size and strength of horses has also, tragically, made them very popular for police to take advantage of when responding to protests. During the racial uprising and national protests in the wake of George Floyd's murder at the hands of police in the summer of 2020, horses were used by officers to intimidate and attempt to control crowds.¹¹² Animal and human rights advocates alike criticized this deployment of police horses as unnecessary, cruel, and of a kind to how slaveholders used horses to survey and police their slaves.¹¹³

Modern domestic surveillance and policing have been defined by the War on Drugs. The growth of policing and mass incarceration during this period was concurrent with an increase in the use of non-human animals by police forces in service of this drug war. The mechanisms, both animal and not, of policing are biased against people of color, and the use of sniffer dogs is no different. An ACLU report from Illinois found in 2014 that Black drivers were 55 percent more likely to be subjected to dog sniffs than white drivers, even though white drivers were found with contraband 14 percent more often.¹¹⁴ Similarly, Illinois State Troopers subjected Latinx drivers to drug sniffs more than twice as frequently as white motorists, despite white drivers being found with contraband 64 percent times more often than Latinx drivers.¹¹⁵ In spite of the well-documented racial bias in their deployment for both physical attacks and drug searches, police dogs continue to be used nationwide with little accountability.

Courts have declined to find police dogs a per se lethal force,¹¹⁶ instead typically applying the more lenient 'totality of circumstances' analysis they would apply to cases of human use of force against a suspect under a

¹¹⁰ See Scott-Reid, *supra* note 88.

¹¹¹ See *supra* Part I.A.

¹¹² See Scott-Reid, *supra* note 88.

¹¹³ See *id.*

¹¹⁴ See *Racial Disparity in Consent Searches and Dog Sniff Records*, *supra* note 76.

¹¹⁵ See *id.*

¹¹⁶ See, e.g., *Becker v. Elfreich*, 821 F.3d 920, 926 (2016) (holding that police dog's "bite and hold" technique is not per se use of deadly force); *Garlick v. County of Kern*, 167 F.Supp.3d 1117, n.14 (2016) (level of force is determined based on unique factual circumstances of each case on not on whether or not a dog was used or not); *Robinette v. Barnes*, 854 F.2d 909, 913 (1988) (discussing how "even if" use of police dogs constituted lethal force, their use in this case would still be reasonable under *Garner* analysis). See also Blake Nelson, *N.J.'s new rules for when cops can use force leaves 1 big unanswered question: What about police dogs?*, NJ.COM (Jan. 4, 2021), <https://www.nj.com/news/2021/01/njs-new-rules-for-when-cops-can-use-force-leaves-1-big-unanswered-question-what-about-police-dogs.html>.

Fourth Amendment balancing inquiry.¹¹⁷ The factors in this analysis include consideration of whether or not the suspect was fleeing police, the severity of the alleged crime, or whether the suspect posed a threat to police.¹¹⁸ Courts are highly deferential to police dog handlers when such cases are brought.¹¹⁹ At the same time, officers can often use lethal force against non-human animals with little to no repercussions.¹²⁰

The criminal legal system in the United States is systemically racist and unjust,¹²¹ and police use of animals as a part of that system is no different. Police dogs are disproportionately set loose on Black and brown suspects and sniffer dogs are used on Black motorists more often than white drivers. Horses and dogs are used in a manner that harkens back to slavery to control and humiliate people of color. This violence is not recognized as a per se deployment of lethal force, and police are given greater leeway to exert violence directed at non-human animals. Officers and departments across the country have used this authority to use pet ownership as a pretext for policing and surveilling BIPGM communities.

B. Using Companion Animals as Justification to Surveil and Police BIPGM Communities

In addition to their use as non-consenting agents of the carceral state, non-human animals are also used as a pretext to police communities of color. Legislative efforts often passed with the best intentions to reduce

¹¹⁷ See *Brewer v. City of Napa*, 210 F.3d 1093, 1097 (2000) (applying totality of circumstances test from *Graham* for reasonableness of use of force in case where police dog bit a suspect on his lower leg, upper leg, hand, and face); see also *Graham v. Connor*, 490 U.S. 386, 396 (1989) (outlining test of reasonableness when considering officer use of force); Natasha Dobrott, *Excessive Force, Police Dogs, and the Fourth Amendment in the Ninth Circuit: The Use of Summary Judgement in Lowery v. City of San Diego*, 59 B.C. L. REV. 1, 2 (2018).

¹¹⁸ See *Graham*, 490 U.S. at 396.

¹¹⁹ See *Stewart*, *supra* note 15, at 195–96.

¹²⁰ See *infra* Part III.B; see, e.g., District of Columbia Metropolitan Police General Order–RAR–901.07: Use of Force (Nov. 3, 2017) (defining “serious use of force” as any firearm discharges except for those directed at non-human animals).

¹²¹ See SENTENCING PROJECT, REPORT OF THE SENTENCING PROJECT TO THE UNITED NATIONS SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA, AND RELATED INTOLERANCE: REGARDING RACIAL DISPARITIES IN THE UNITED STATES CRIMINAL JUSTICE SYSTEM (2018); VERA INST. JUST., AN UNJUST BURDEN: THE DISPARATE TREATMENT OF BLACK AMERICANS IN THE CRIMINAL JUSTICE SYSTEM (2018); Wendy Sawyer, *Visualizing the racial disparities in mass incarceration*, PRISON POL’Y INITIATIVE (Jul. 27, 2020), <https://www.prisonpolicy.org/blog/2020/07/27/disparities/>; Radley Balko, *There’s overwhelming evidence that the criminal justice system is racist. Here’s the proof.*, WASH. POST (Jun. 10, 2020), <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/>.

animal cruelty, such as anti-tethering, leash laws, and licensing requirements, are regularly enforced in a socioeconomically and racially disparate manner.¹²² Restrictions on ownership of certain breeds of dog, much like the nation's drug laws, are rooted in a history of racist association of ownership between certain breeds and certain marginalized communities.¹²³ These laws and their unequal enforcement ultimately harms both people and non-human animals, as police kill an alarming number of pet animals while using the guise of protecting animals to surveil and lock up humans.

The last several decades have seen the range of criminalized acts and the prison time for violations expand in the name of animal justice.¹²⁴ As part of this expansion, more than thirty states now have codified anti-tethering laws, meant to protect animals from extended periods of time being chained up.¹²⁵ While noble in intent, such laws often grant too much discretion to police officers and the result is a racial and socioeconomic bias in enforcement.¹²⁶ Officers can usually unilaterally make the call as to how long is too long to leave a pet tied up,¹²⁷ and in doing so disproportionately impact “visibly poor pet owners” who not only have fewer options for care for their dogs while performing daily functions but also are more likely to face prison time as they cannot pay excessive monetary fines.¹²⁸ Mandatory license and registration fees can also be prohibitively expensive for some pet owners who are then met not with support to help them manage their pet but with criminalization.¹²⁹

Similarly, leash laws that require dogs be leashed at all times in most public spaces, are not enforced across cities in a racially equitable manner. In Chicago, for example, the largest share of tickets for violating the city's leash law are handed out in the poorer and blacker neighborhoods on the south side of the city.¹³⁰ These neighborhoods are already overpoliced, but on top of that, they are dog park deserts.¹³¹ The City of Chicago oversees several dog parks—areas where dogs are allowed and encouraged to run

¹²² See *infra* notes 124–39 and accompanying text.

¹²³ See *infra* notes 140–48 and accompanying text.

¹²⁴ See JUSTIN MARCEAU, *BEYOND CAGES* 56 (2019).

¹²⁵ See RUBY ALIMENT, SEATTLE SCH. L. HOMELESS RTS. ADVOC. PROJECT, *NO PETS ALLOWED: DISCRIMINATION, HOMELESSNESS & PET OWNERSHIP* 27 (Sara Rankin & Kaya Lurie eds., 2016).

¹²⁶ See *id.*

¹²⁷ See *id.* at 27–28.

¹²⁸ *Id.* at 28.

¹²⁹ See *id.* at 22–27.

¹³⁰ See Kriston Capps, *Are Dog Parks Exclusionary?*, BLOOMBERG CITYLAB (Feb. 28, 2019), <https://www.bloomberg.com/news/articles/2019-02-28/not-everyone-loves-your-new-dog-park-this-is-why>.

¹³¹ See *id.*

off-the-leash—and all but one of them are located in the wealthier, whiter parts of the city to the north.¹³²

When Black dog owners take their pets to these supposedly pet-friendly spaces, they often find themselves policed by other citizens as well as state agents. For example, in Brookline, Massachusetts, dog-owner Mohamed was threatened with pepper spray by a white woman because he had his dog off the leash.¹³³ Yet, often the converse is true for white pet owners who use their privilege to get out of obeying rules they would enforce against others. Christian, a Black bird watcher, had the police called on him in Central Park when he reminded Amy Cooper that her dog should have been leashed in that part of the park.¹³⁴

In fact, the very standards by which law enforcement often become involved in matters of pet ownership are racially coded. Most states criminalize lack of adequate care for pet animals.¹³⁵ Again, this is facially a decent and worthy intention, but the vagueness in the black letter of the law means that these statutes can be used to criminalize already marginalized communities.¹³⁶ Animal control agencies “disproportionally target communities of color with their enforcement interventions” since the vague codified standards of care as written are often “unattainable for anyone . . . other than white, middle and upper-class individuals.”¹³⁷

It is not only law enforcement who use companion animals as a pretext to surveil people of color. White neighbors, in the name of protecting animals, often take it upon themselves to surveil people of color who own pets.¹³⁸ This is already invasive and can make people of color feel unsafe in white-coded spaces, but it also frequently leads to law enforcement being called. One study conducted in CreekrIDGE Park, a multi-racial

¹³² See *id.*

¹³³ See Jenna Fisher, ‘Are You From This Country?’ Woman Asks Man With Dog, PATCH (Aug. 7, 2019), <https://patch.com/massachusetts/brookline/are-you-country-woman-confronts-man-brookline>.

¹³⁴ See Jan Ransom, *Amy Cooper Faces Charges After Calling Police on Black Bird-Watcher*, N.Y. TIMES (July 6, 2020), <https://www.nytimes.com/2020/07/06/nyregion/amy-cooper-false-report-charge.html>; see generally Sarah Mayorga-Gallo, *Whose Best Friend? Dogs and Racial Boundary Maintenance in a Multiracial Neighborhood*, 33 SOC. F. 505, 508 (2018) (discussing how dogs are used by white neighbors to enforce racial boundaries and how white residents often refuse “to obey leash laws and pick up their dogs’ waste.”).

¹³⁵ See ALIMENT, *supra* note 125, at 29.

¹³⁶ See *id.* at 30.

¹³⁷ Sloane M. Hawes et al., *Punishment to Support: The Need to Align Animal Control Enforcement with the Human Social Justice Movement*, 10 ANIMALS 1902, 1902–03 (2020).

¹³⁸ See Mayorga-Gallo, *supra* note 134, at 515 (“Sometimes specific dog breeds, such as pit bulls, were the marker white CreekrIDGE Park homeowners used to justify surveillance.”).

mixed-income neighborhood of Durham, North Carolina detailed how white residents repeatedly called police on a house with Latinx residents who owned pit bulls out of a fear of alleged dog fighting taking place on the property.¹³⁹ This story is indicative of the broader breed-specific discrimination trend that regulates and restricts certain dog breeds based largely on the historically racist notions of who owned what types of dogs.

In 1989, New York City's Mayor, Ed Koch, pushed to ban pit bulls citywide as part of the city health code, citing the breed's association with "drug dealers."¹⁴⁰ Yet, at the same time, Mayor Koch was more than happy to advocate for violent dogs to work on behalf of the state – at one point saying "I wouldn't put in dogs, but wolves" when talking about his preference for unsupervised German Shepherds patrolling subway storage yards.¹⁴¹ Mayor Koch's language echoes that used by the Nixon White House when ramping up the drug war, which we know from Nixon's domestic policy chief John Ehrlichman was part of a concerted effort to link marijuana and heroin with his political opponents.¹⁴² Ehrlichman has publicly stated that by falsely associating in the public's eye certain drugs with certain demographic groups, "[w]e could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night."¹⁴³ The same racially coded associations have been made with dog breeds and form the basis for modern breed-specific legislation.

When Miami-Dade County was contemplating breed-specific laws, legislators played on fears of Cuban migration and associated newcomers to the city with pit bulls.¹⁴⁴ In Ellenville, New York, the dog whistling was put aside and officials specifically enumerated the reason for breed-specific legislation as a means of addressing a growing share of "Mexicans moving into the community."¹⁴⁵ Supporters of a pit bull ban in Sterling Heights, Michigan commented that it was needed to exclude "inner-city people" who had bought homes in the community.¹⁴⁶ Given this explicit targeting of people of color, some have called breed-specific legislation "a new form of redlining."¹⁴⁷ The racist association of Black men with violence has been transposed onto their pets as well, to the point that Black

¹³⁹ *See id.*

¹⁴⁰ BRONWEN DICKEY, PIT BULL: THE BATTLE OVER AN AMERICAN ICON 215 (2016).

¹⁴¹ *Id.*

¹⁴² *See* Tom LoBianco, *Report: Aide says Nixon's war on drugs targeted blacks, hippies*, CNN (Mar. 24, 2016), <https://www.cnn.com/2016/03/23/politics/john-ehrichman-richard-nixon-drug-war-blacks-hippie/index.html>.

¹⁴³ *Id.*

¹⁴⁴ DICKEY, *supra* note 140, at 215.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Ann Linder, *The Black Man's Dog: The Social Context of Breed Specific Legislation*, 25 ANIMAL L. 51, 52 (2018).

men's dogs are blamed for violence they never caused and may falsely suffer consequences just as their owners have been falsely accused of crimes for centuries.¹⁴⁸

Just as Ehrlichman freely admitted that the Nixon Administration had lied about the science of drug use in order to police its political opponents,¹⁴⁹ so too do supporters of breed-specific legislation fail to cite any concrete evidence of its necessity or efficacy.¹⁵⁰ In particular, there is no reliable agreed upon method by which law enforcement officers can determine a given dog's species,¹⁵¹ and so enforcement often becomes highly subjective—allowing for greater bias against owners to infiltrate the analysis.

As was the case with the War on Drugs, it was never about scientific evidence or broad community safety when it comes to breed-specific legislation. At best, breed-specific legislation has been a thinly veiled attempt to exclude and police marginalized communities. The same cannot be said for other anti-cruelty statutes, many of which do seem to have originated from a place of good faith. However, the mechanisms of the carceral state are such that enforcement of anti-tethering laws and other ordinances passed in the name of animal safety result in the criminalization

¹⁴⁸ For example, when actor Ving Rhames' caretaker died of a heart attack, the LAPD was quick to jump to the conclusion that his dogs must have mauled him to death. Animal control swiftly arrived and seized all four of his dogs. However, the coroner's report later confirmed that he died of a heart attack and not a dog attack. See *Ving Rhames' Caretaker Died of Heart Attack, Dogs Cleared*, DOGSTER (Jan. 22, 2008), <https://www.dogster.com/lifestyle/ving-rhames-caretaker-died-of-heart-attack-dogs-cleared>; *Coroner: Ving Rhames' dogs didn't kill man*, TODAY (Aug. 17, 2007), <https://www.today.com/popculture/coroner-ving-rhames-dogs-didnt-kill-man-1C9429364>; see also Daniele Selby, *From Emmett Till to Pervis Payne – Black Men in America Are Still Killed for Crimes They Didn't Commit*, INNOCENCE PROJECT (July 25, 2020), <https://innocenceproject.org/emmett-till-birthday-pervis-payne-innocent-black-men-slavery-racism/> (detailing the long history of falsely accusing Black men of violent crimes in America).

¹⁴⁹ See LoBianco, *supra* note 142 (Ehrlichman told a reporter: "Did we know we were lying about the drugs? Of course we did.").

¹⁵⁰ See AM. VETERINARY MED. ASS'N, A COMMUNITY APPROACH TO DOG BITE PREVENTION 5 (2001) ("[L]aw enforcement personnel typically have no scientific means for determining a dog's breed that can withstand the rigors of legal challenge, nor do they have a foolproof method for deciding whether owners are in compliance or in violation of laws."); *What Is Breed-Specific Legislation?*, ASPCA, <https://www.asPCA.org/animal-protection/public-policy/what-breed-specific-legislation> (last visited Apr. 13, 2021) ("There is no evidence that breed-specific laws make communities safer for people or companion animals."); *Breed-Specific Legislation*, HUMANE SOC'Y UNITED STATES, <https://www.humanesociety.org/resources/breed-specific-legislation> (last visited Apr. 13, 2021) ("The CDC recommends against using breed as a factor in dog-bite prevention policy.").

¹⁵¹ See AM. VETERINARY MED. ASS'N, *supra* note 150, at 5.

of BIPGM communities. This expansion of policing with racially and socioeconomically disparate outcomes not only betrays the animal movement's core value of compassion for all beings, but ultimately reinforces the speciesist hierarchy that sees non-human animals as disposable and subservient to humans in a way that causes enormous harm to human and non-human animals alike.

III. THE OPPRESSION OF NON-HUMAN ANIMALS BY THE CARCERAL STATE

Non-human animals—including dogs, dolphins, horses, and other animals—are more than just non-consenting co-oppressors, forced into service in the name of the carceral state. They are also victims of the same system of oppression that has created and reproduced harm to marginalized human communities. The carceral state inflicts untold harm on non-human animals, from the brutality of training for police animals and their placement in harm's way to the direct murder of tens of thousands of companion animals each year by police officers. As animal activist Laura Schleifer put it, animals “are the victims of violence” by a state that believes only in the personhood of those animals it can take advantage of to perpetuate and legitimize its use of violence.¹⁵² It is essential to recognize the intersection between the oppression of human and non-human animals by the same carceral state, and to end the state use and abuse of animals as part of the broader abolitionist movement.

A. Harm to Non-Human Animals in Police Care

Police forces have been training and using dogs for over one hundred years in the United States,¹⁵³ but the history of abusing dogs in order to literally beat racism and violence into them is much older.¹⁵⁴ Current methods of training police dogs remains alarmingly medieval, with police trainers often using “prong collars, choke chains, and forced submission accomplished by seizing dogs’ testicles.”¹⁵⁵ Police dogs are bred for aggressiveness—with jaws and teeth powerful enough to bore through

¹⁵² Timothy Hurwitz, *A History of Animal Use by American Police*, COLLECTIVELY FREE (Oct. 6, 2016), <http://www.collectivelyfree.org/animal-use-american-police/>.

¹⁵³ See Stewart, *supra* note 15.

¹⁵⁴ See *supra* Part I.A.

¹⁵⁵ D. T. Renaud, *Captain's story – a tragic window into police service dog training*, PIVOT LEGAL (June 20, 2013), https://www.pivotlegal.org/the_tragic_truth_of_police_dog_training_practices_in_bc.

sheet metal.¹⁵⁶ Training practices reinforce aggression and reactivity by causing harm to the dogs with the promise that the pain and suffering will end when they bite someone.¹⁵⁷ This echoes the same cycle of violence seen in other parts of the carceral system. When someone causes harm to another and is entered into the criminal legal system, they are subjected to even more harm at the hands of the carceral state rather than addressing other underlying needs or problems;¹⁵⁸ the cycle of harm is repeated through incarceration.¹⁵⁹ Here too, police dogs are made to suffer during training only so that they can later be made to induce suffering in others.

Even under standard practices, the harm caused to future police dogs during training is unnecessarily cruel. But there are also reported instances of police officers assaulting dog trainees in ways that go above and beyond the cruelty already permitted during training. In one such instance in Salisbury, North Carolina, an officer was caught on video body slamming a dog into a patrol car.¹⁶⁰ The officer lifted the dog up off the ground by his neck, swung him into a car several times, yelled at him, and beat him on the head.¹⁶¹

The brutality of this training does little to create better trained police dogs. In fact, the violence of it likely makes police dogs more fearful and aggressive. Even the “best-trained” police dogs still bite infants or attack people who are asleep.¹⁶² Given this inefficacy at improving outcomes when it comes to biting babies and the unconscious, it seems that the cruelty of training is instead intentionally creating angrier and more volatile dogs. Officers have readily admitted that the fear dogs instill in suspects “is in itself a reward.”¹⁶³ Slaveowners similarly found that the brutal beating of their dogs led to them being more unpredictable and

¹⁵⁶ See Abbie Vansickle et al., *When Police Violence Is a Dog Bite*, MARSHALL PROJECT (Oct. 2, 2020), <https://www.themarshallproject.org/2020/10/02/when-police-violence-is-a-dog-bite>.

¹⁵⁷ See Renaud, *supra* note 155.

¹⁵⁸ See Press Release, Alexi Jones & Wendy Sawyer, Arrest, Release, Repeat: How police and jails are misused to respond to social problems (Aug. 2019), <https://www.prisonpolicy.org/reports/repeatarrests.html>.

¹⁵⁹ See *id.*

¹⁶⁰ See Annette Weston, *N.C. officer resigns after viral video showed him body-slaming K-9 into car*, LOCAL 12 (Apr. 2, 2021), <https://local12.com/news/nation-world/nc-officer-resigns-after-viral-video-showed-him-body-slaming-k-9-into-car-james-hampton>.

¹⁶¹ See *id.*

¹⁶² See Richard H. Polsky, *Animal behavior analysis of attack-trained police dogs*, DOG EXPERT, <https://www.dogexpert.com/animal-behavior-analysis-of-attack-trained-police-dogs/>.

¹⁶³ Stitt, *supra* note 15, at 54.

violent in a manner that proved useful at enforcing the slave economy status quo.¹⁶⁴

As the cruel training practices demonstrate, police dogs and other non-human animals used by law enforcement and military are seen as disposable in relation to their human counterparts. Police departments and military forces continually put their non-consenting animal workers in harm's way, subjecting them to psychological and physiological trauma on a regular basis. The U.S. Navy, for example, has placed dolphins and sea lions in harm's way as part of its Marine Mammal Program.¹⁶⁵ Non-consenting marine mammals are used by the Navy as bomb detectors and are deployed in arenas of war.¹⁶⁶ Dolphins forced into military service have died both in combat and even during training activities due to blast trauma.¹⁶⁷

In the policing context, K-9s have been left in hot cars to overheat¹⁶⁸—in fact, one investigation found that 40 percent of law enforcement dog fatalities are due to heat exhaustion.¹⁶⁹ The investigation cited numerous examples of police dogs dying in hot cars due either to their handler's carelessness or to mechanical failings that, given the dogs already vulnerable status, left them without help.¹⁷⁰

Even when they are not forgotten about in hot cars, the primary role of most police dogs is to be pushed into harm's way, allegedly to protect human officers. Police dog handlers have said their use is to “help[] officers go home at night” by putting their dog in the line of danger instead of a human police officer.¹⁷¹ This perpetuates speciesism as it places non-human animals firmly below human in the hierarchy of moral value. Their lives are seen as disposable in a way that humans are not, despite the fact that police dogs cannot provide consent to their labor or the danger it

¹⁶⁴ See *infra* Part I.A.

¹⁶⁵ See Lina Zeldovich, *The Great Dolphin Dilemma*, HAKAI MAG. (Feb. 5, 2019), <https://www.hakaimagazine.com/features/the-great-dolphin-dilemma/>.

¹⁶⁶ See *id.*; *Dolphin's Death Laid to Bacterial Infection*, TOLEDO BLADE, Nov. 18, 1987, at 18 (describing the death of a Navy dolphin that had been deployed in the Gulf War).

¹⁶⁷ See Tony Barboza, *Dolphins die after underwater Navy training exercise near San Diego*, L.A. TIMES (Mar. 26, 2011), <https://www.latimes.com/local/la-xpm-2011-mar-26-la-me-0326-dolphins-military-20110326-story.html>.

¹⁶⁸ See Krista Kihlander, *Police Dogs: A Necessity or a Disservice*, SENTIENT MEDIA (Oct. 22, 2019), <https://sentientmedia.org/police-dogs-a-necessity-or-a-disservice/>.

¹⁶⁹ See Lou, *supra* note 85.

¹⁷⁰ For example, two police dogs cited in the study died when the air conditioning failed in the police car they were locked inside. See *id.* In another instance, an officer “inadvertently left” two dogs in his police car leading to their overheating. See *id.*

¹⁷¹ Maurice Chammah & Abbie Vansickle, *She Went Out For A Walk. Then Drogo The Police Dog Charged.*, MARSHALL PROJECT (Oct. 15, 2020), <https://www.themarshallproject.org/2020/10/15/she-went-out-for-a-walk-then-drogo-the-police-dog-charged>.

entails. Even when their service ends, many police dogs are euthanized rather than adopted out or sent to sanctuaries.¹⁷²

Furthermore, police use of dogs as little more than modern-day cannon-fodder relies on the assumption that engaging suspects by giving chase or exacting violence is always the proper approach to policing. This ignores the alternative abolitionist framework for community safety that argues chasing suspects and engaging in violence is not the right approach at all.¹⁷³ Thus, instead of debating whether or not it should be a human officer or a canine who chases down a suspect or runs into an abandoned home primed for violence, we should be asking why we have so many armed state agents so ready to perpetuate violence to begin with.

The movement to divest from or defund the police, in order to invest more in communities, was moved to the forefront of the national discourse following the widespread uprisings and protests over the summer of 2020 following the deaths of George Floyd, Breonna Taylor, and other Black Americans at the hands of police.¹⁷⁴ The way these peaceful calls for an end to police terror were met with brutal crackdowns only further demonstrated the need to recenter safety away from police.¹⁷⁵ However, the law enforcement response also further exemplified their deployment of non-human animals in the service of white supremacy.

Police officers used horses' bodies as weapons to disrupt protests, positioning them as co-oppressors and thus instilling fear of and resentment against sentient beings who are also suffering under the same boot of the carceral state.¹⁷⁶ Horses are sensitive animals, and placing them

¹⁷² See Kihlander, *supra* note 168.

¹⁷³ See generally CRITICAL RESISTANCE, OUR COMMUNITIES, OUR SOLUTIONS: AN ORGANIZER'S TOOLKIT FOR DEVELOPING CAMPAIGNS TO ABOLISH POLICING (2020); Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES: OPINION (June 12, 2020), <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html>; Madison Pauly, *What a World Without Cops Would Look Like*, MOTHER JONES (June 2, 2020), <https://www.motherjones.com/crime-justice/2020/06/police-abolition-george-floyd/>; *10 Action Ideas for Building a Police-Free Future*, MPD 150, <https://www.mpd150.com/10-action-ideas-for-building-a-police-free-future/> (last visited Apr. 14, 2021).

¹⁷⁴ See Sam Levin, *Movement to defund police gains 'unprecedented' support across US*, THE GUARDIAN (June 4, 2020), <https://www.theguardian.com/us-news/2020/jun/04/defund-the-police-us-george-floyd-budgets>.

¹⁷⁵ See, e.g., Janelle Bouie, *The Police Are Rioting. We Need to Talk About It.*, N.Y. TIMES (June 5, 2020), <https://www.nytimes.com/2020/06/05/opinion/sunday/police-riots.html>; Matthew Dessem, *Police Erupt in Violence Nationwide*, SLATE (May 31, 2020), <https://slate.com/news-and-politics/2020/05/george-floyd-protests-police-violence.html?fbclid=IwAR0Ukyhl7-M21eSg2PH5WLv8NPevQXa14q4tjfeeIn-E0yVJU7UGXVKNGk>.

¹⁷⁶ See Scott-Reid, *supra* note 88.

in the middle of chaotic crowd conditions leads to erratic stress-induced behavior.¹⁷⁷ After reviewing footage of police horses being used to break up Occupy Wall Street protests in New York City, philosopher and author of *Animal Liberation*, Peter Singer, said this was highly unethical and that it was clear the horses were trying to resist being used as weapons.¹⁷⁸ As the suffering of Navy dolphins, as well as police horses and dogs demonstrates, non-human animals are only valued by the carceral state for their ability to perpetuate and legitimize state violence.

B. *Police Killing of Companion Animals and Qualified Immunity*

Non-human animals that do not serve this pro-carceral purpose, including personal companion animals, are granted even less moral consideration. Police routinely kill pet animals with no consequences. A somewhat conservative estimate from the U.S. Department of Justice said that police shoot and kill over 10,000 pet dogs per year.¹⁷⁹ Some observers have suggested that number is much higher, such as the Puppicide Database Project that argues the true number is closer to 180,000 annually.¹⁸⁰

In many of these cases, officers seem to go out of their way to kill dogs that clearly pose no threat. Take the case of Arzy, a young Lab-Newfie mix who was tied on a leash when, as eyewitnesses recall, a police officer walked up and unprovoked-shot Arzy between the eyes.¹⁸¹ Seven, a St. Bernard, was shot and killed by a police officer in front of his 12-year-old owner after the officer entered their backyard without a warrant on the

¹⁷⁷ See Michael Tracey, *Why Did the NYPD Use Horses on Occupy Wall Street Protesters?*, NATION (Oct. 25, 2011), <https://www.thenation.com/article/archive/why-did-nypd-use-horses-occupy-wall-street-protesters/>.

¹⁷⁸ See *id.*

¹⁷⁹ See Dale Chappell, *DOJ: Police Shooting Family Dogs has Become 'Epidemic'*, CRIM. LEGAL NEWS (June 16, 2018), <https://www.criminallegalnews.org/news/2018/jun/16/doj-police-shooting-family-dogs-has-become-epidemic/>.

¹⁸⁰ See *Puppicide Alert: Police on an Unprecedented Dog-Killing Spree*, EXPRESS INFORMER (Oct. 30, 2020), <https://expressinformer.com/puppicide-alert-police-on-an-unprecedented-dog-killing-spree/>; see also Radley Balko, "Why did you shoot me? I was reading a book": The new warrior cop is out of control, SALON (July 7, 2013), https://www.salon.com/2013/07/07/%E2%80%9Cwhy_did_you_shoot_me_i_was_reading_a_book_the_new_warrior_cop_is_out_of_control/.

¹⁸¹ See John Whitehead, *Don't shoot the dogs: The growing epidemic of cops shooting family dogs*, OVERTON COUNTY NEWS (Jan. 7, 2020), https://www.overtontownnews.com/lifestyles/don-t-shoot-the-dogs-the-growing-epidemic-of-cops-shooting-family-dogs/article_98757e76-318f-11ea-8d4f-e35f8b517936.html.

basis of a false tip.¹⁸² Chloe, a 10-year-old Rottweiler Doberman, was killed by officers in Windsor, Ontario in her owner's backyard.¹⁸³ Rodley Balko, a journalist of policing, has written that officers have "shot dogs that were chained, tied, or leashed, going so far as to kill pets while merely questioning neighbors about a crime in the area, cutting across private property while in pursuit of a suspect, and after responding to false burglar alarms."¹⁸⁴

This epidemic of police murdering dogs has largely gone unchallenged by the institutional forces meant to hold police accountable. In some jurisdictions, discharging a firearm at non-human animals is even excluded from the police force's definition of serious use of force.¹⁸⁵ Yet, at the same time, harming a police dog comes with enormous repercussions,¹⁸⁶ demonstrating the value placed on dogs' lives only when they are acting in service of the police. All police officers need to do to justify shooting and killing a dog or any other non-human animal is to allege a perceived imminent threat to their own safety.¹⁸⁷ The Sixth Circuit has held that a dog barking and moving during the commotion of a raid is sufficient to justify killing the dog.¹⁸⁸ In fact, the Sixth Circuit held in the same case that killing an already shot and wounded dog was perfectly reasonable for officers even if the wounded dog had gone to hide in a corner of the basement and the officer who fired the final shot had to go behind the furnace to find her and kill her.¹⁸⁹ Given that the officers' conduct was seen by the court as reasonable, the doctrine of qualified immunity protected them from civil liability.¹⁹⁰

¹⁸² *See id.*

¹⁸³ *See* Jennifer La Grassa, *Windsor woman in disbelief after police shoot, kill dog in her backyard*, CBC NEWS (Mar. 18, 2021), <https://www.cbc.ca/news/canada/windsor/windsor-woman-shoot-police-dog-1.5955583> (Police came and knocked on the door, looking for a friend of the homeowner's son's. At the same time, other officers circled to the back of her house, entered her yard – where she had let her dog out once she heard the doorbell – and proceeded to shoot and kill her dog Chloe).

¹⁸⁴ RADLEY BALKO, *THE RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA'S POLICE FORCES* 291 (2013).

¹⁸⁵ *See, e.g.*, District of Columbia Metropolitan Police G.O. RAR-901.07, *supra* note 120.

¹⁸⁶ For example, in Texas, engaging in conduct likely to kill or seriously injure a police animal is a second-degree felony punishable by up to 20 years in prison. *See* TEX. PENAL CODE ANN. § 38.151 (West 2021); *see also* FLA. STAT. ANN. § 843.19 (West 2021) (making injuring or killing a police animal a second-degree felony punishable by up to 15 years in prison).

¹⁸⁷ *See* *Brown v. Battle Creek Police Department*, 844 F.3d 556, 567 (6th Cir. 2016).

¹⁸⁸ *See id.* at 569.

¹⁸⁹ *See id.* at 570.

¹⁹⁰ *See id.* at 564–65.

Qualified immunity works more broadly to shield law enforcement officers, not just when they kill companion animals, but when they engage in all manner of harmful behavior that violates peoples' constitutional rights.¹⁹¹ Take the case of Malaika Brooks, a mother who was tased three times and dragged into the street in front of her 11-year-old son even after informing police that she was seven months pregnant.¹⁹² When Ms. Brooks sued the Seattle Police, federal judges agreed her constitutional rights had been violated but dismissed the case due to qualified immunity.¹⁹³ The doctrine means that when police officers violate peoples' rights, there is no avenue for victims to seek remedy if the criminal legal system fails to hold officers accountable. Qualified immunity is thus a perfect example at the intersection of how the carceral state and legal system oppress both marginalized people and non-human animals. In both Malaika Brooks' case and that of the dog shot and killed while hiding behind the furnace in its basement, the same theory of qualified immunity protected the armed officers from any accountability for their brazen use of violent force. This same structure and systems of legal oppression work to uphold state violence against marginalized human communities and non-human animals alike.

Non-human animals are violently and systemically oppressed by the carceral state. They are co-opted into service and placed in the line of danger, brutalized during training, and killed by police officers in people's backyards. But animals are sometimes also seen as co-oppressors, such as the horses who disrupt protests or the attack dogs who bite civilians. Importantly, animals have no agency in their relationship with law enforcement. Dolphins are not signing up to join the Navy. Dogs do not choose to endure brutal training only to be sent into dangerous situations or left to die in hot cars by their handlers. In fact, animals frequently exhibit signs that they reject being used as weapons. Horses show their fear before being kicked and forced into crowds.¹⁹⁴ Police dogs only bite because they have been conditioned over several years that biting is the only way to end the pain.¹⁹⁵ Rather than seeing animals as co-oppressors, they should be seen as allies suffering under the same system of oppression.

¹⁹¹ See Amir H. Ali & Emily Clark, *Qualified Immunity: Explained*, APPEAL: LAB (June 19, 2020), <https://theappeal.org/the-lab/explainers/qualified-immunity-explained/> (as one example, the authors cite the case of Malaika Brooks, a seven month pregnant woman who was tased three times, taunted, and dragged along the concrete by Seattle police officers who were never held accountable).

¹⁹² See *id.*

¹⁹³ See *id.*

¹⁹⁴ See Tracey, *supra* note 177.

¹⁹⁵ See Renaud, *supra* note 155.

The privileged status some animals may enjoy ends the moment they cease to be useful to the carceral state. This is how police departments can publicly praise their K-9 officers while their human officers go out and kill pet dogs on the job. This mirrors the conditional rights granted to some members of marginalized communities when their interests overlap with or serve the purpose of the carceral state but that can still be taken away at a moment's notice.¹⁹⁶ The system works the same way when faced with opposition to adapt itself and maintain its power. When the opposition to police violence against Black communities is loudest, the system will sacrificially give up on one of its own to save the system as a whole.¹⁹⁷ Similarly, when an instance of particular police brutality against an animal is captured on film, that officer is held up as a bad apple and individually punished while the rest of the force goes on shooting and killing

¹⁹⁶ See, e.g., Calvin Eaton & Emily Hessney Lynch, *For Black Americans, Freedom is Conditional*, I HEART ROC (June 5, 2020), <http://www.iheartroc.com/work/freedom-is-conditional/> (“For Calvin and other Black folx, everything is always conditional. You have to act the “right” way. You can’t exude Blackness in a way that threatens white people. You have to cut your hair a certain way or shave a certain way. Freedom is conditional.”); see also Opal Palmer Adisa, *Sister Outsider*, in TEMBA TUPU/WALKING NAKED: AFRICANA WOMEN’S POETIC SELF–PORTRAIT (Nagueyalti Warren ed., 2008) (“we/women Black/are always/outside/even when/we believe/we’re in”).

¹⁹⁷ In April 2021 when officer Derek Chauvin was convicted of second-degree murder for his killing of George Floyd, many activists saw the fact that his superior officers had turned on him as evidence that the police will turn over one of their own if it works towards accomplishing their ultimate end of reducing public scrutiny and continuing their work terrorizing communities. See, e.g., Zoe Christen Jones et al., *What Derek Chauvin’s guilty verdict means for the future of policing*, CBS NEWS (Apr. 24, 2021), <https://www.cbsnews.com/news/derek-chauvin-guilty-verdict-policing-future/> (“Alexis Hoag, a former civil rights lawyer and lecturer at Columbia Law said, ‘I’m of the mind that the Minneapolis Police Department, and really the state of Minnesota, offered Derek Chauvin up as a sacrificial lamb to assuage the demands of the public.’”); Degen Pener, *Kendrick Sampson: Why the Derek Chauvin Guilty Verdict is “Huge” but “Not Justice”*, HOLLYWOOD REP. (Apr. 20, 2021), <https://www.hollywoodreporter.com/news/kendrick-sampson-on-derek-chauvin-verdict/> (“[T]hey want to separate themselves and have Chauvin act as the sacrificial lamb so that they can get back to business as usual.”); Bree Newsome (@BreeNewsome), TWITTER (Apr. 20, 2021, 6:06 PM), <https://twitter.com/BreeNewsome/status/1384629632494866435> (“The establishment wanted to use George Floyd case & the conviction of Chauvin as evidence that the system can work, offering Chauvin up as the sacrificial lamb to preserve the policing system.”). See also Mariame Kaba & Kelly Hayes, *A Jailbreak of the Imagination: Seeing Prisons for What They Are and Demanding Transformation*, TRUTHOUT (May 3, 2018), <https://truthout.org/articles/a-jailbreak-of-the-imagination-seeing-prisons-for-what-they-are-and-demanding-transformation/> (discussing the conviction of pharmaceutical executive Martin Shkreli as a moment that is “held up as one where the system worked, because someone we feel contempt for was punished. The system will occasionally offer such kernels, but they don’t add up to justice.”).

animals.¹⁹⁸ It is through recognizing this shared system of oppression that animal liberation must be incorporated into police and prison abolition.

C. *The Language of Oppression*

The shared system of carceral oppression similarly uses language to buttress the parallel and mutually reinforcing systems of speciesism, racism, and sexism.¹⁹⁹ The most extreme forms of language as a tool of oppression may make headlines, such as when LAPD officers refer to Black and brown suspects as “dog biscuits.”²⁰⁰ But there are also more commonly accepted entries in our daily vernacular that reinforce speciesist and racist hierarchies.²⁰¹ We use racist, animalistic metaphors to describe Black and brown suspects,²⁰² while animalized imagery is also utilized to legitimize law enforcement’s use of violence. Laws are said to “have teeth” or not have any “bite” while police dogs act as the literal “teeth of the law” with humans using dogs’ strength to enforce “the sovereign principle of order.”²⁰³ This language even reaches into our advertising to children with McGruff, the crime-fighting, trench coat-wearing bloodhound promising to “take a bite out of crime.”²⁰⁴ This eclectic “lexicon of devourment,” as sociologist and historian Tyler Wall has put it,²⁰⁵ legitimizes oppression through daily reminders of the violence supposedly needed to maintain order.

This use of animalistic language lends legitimacy to the exercise of state violence through biopower as the natural maintainer of order as well as further isolating non-human animals from the realm of moral consideration. Police animals become coded as a form of advanced social control technology rather than as sentient beings with their own desires and emotional needs. In this way, language supports the subjugation of

¹⁹⁸ See, e.g., Weston, *supra* note 160 (an officer captured on video body slamming a dog into a car during training was fired and his superiors discussed how this was an individual’s failings, without evaluation of how brutal dog training can be or how officers can kill dogs in the line of work).

¹⁹⁹ See generally MARGARET WETHERELL & JONATHAN PORTER, *MAPPING THE LANGUAGE OF RACISM: DISCOURSE AND THE LEGITIMATION OF EXPLOITATION* (1992); Roger Yates, *Language, Power, and Speciesism*, 3 *CRITICAL SOC’Y* 11 (2010).

²⁰⁰ Parry, *supra* note 60.

²⁰¹ See JANE H. HILL, *THE EVERYDAY LANGUAGE OF WHITE RACISM* (2008); George Jacobs, *Bias Against Other Animals: A Language Awareness Issue?*, 19 *GLOBAL ISSUES: INTEGRATING GLOBAL ISSUES INTO LANGUAGE TEACHING* 25 (2006).

²⁰² See Eduardo A. Vasquez et al., *The animal in you: Animalistic descriptions of a violent crime increase punishment of perpetrator*, 40 *AGGRESSIVE BEHAV.* 337 (2014) (describing the dehumanization that members of marginalized communities face during criminal proceedings and how that has been linked with harsher sentencing).

²⁰³ Wall, *supra* note 19, at 3–4.

²⁰⁴ See *id.*

²⁰⁵ *Id.*

racial minorities as well as non-human animals through a linguistic tradition of white male supremacy.

The language used when discussing aggressive police animals also encodes gender carceral power, with police forces preferring male dogs over females who are seen as lacking the “right temperament” for street patrol.²⁰⁶ This plays into the broader machismo culture of hyper-masculine policing that posits performing maleness ought to include responding to disrespect with violence and that equates physical domination with righteousness.²⁰⁷ Male police dogs are preferred over female according to a reading of some pre-supposed natural hierarchy and then animalistic language is coded onto humans to subjugate female-coded bodies. Bodies coded as female or non-male are derogatorily referred to as “dogs,” “bitches,” “chicks,” “catty,” “cows,” or “dumb bunnies.”²⁰⁸ The obvious implication being that to be any of these animalistic traits is to be lower than the most “quintessentially human” heterosexual white male.²⁰⁹

The sociologist Carol L. Glasser has written that advertising and popular language that accepts this positioning that women and racial minorities are animals, and thus degraded relative to the non-animal white male, reinforces all oppression.²¹⁰ This is not to say that this shared oppression takes the same form when applied to different groups, in fact it manifests itself in very different ways, but it is demonstrative of the overarching power dynamic that accepts the secondary status of non-males, non-whites, and non-humans.²¹¹ Philosopher and ethicist Lori Gruen has characterized this intersection by asking “who benefits?” and

²⁰⁶ *Id.* at 6.

²⁰⁷ See generally Frank Rudy Cooper, “Who’s the Man?”: *Masculinities Studies, Terry Stops, and Police Training*, 18 COLUM. J. GENDER L. 671 (2009); Aurelia Terese Alston, *The Force of Manhood: the Consequences of Masculinity Threat on Police Officer Use of Force* (Apr. 17, 2017) (MS thesis, Portland State University) (on file with Portland State University); Frank Rudy Cooper, *America’s police culture has a masculinity problem*, CONVERSATION (July 19, 2016), <https://theconversation.com/americas-police-culture-has-a-masculinity-problem-62666>; Myisha Cherry, *The Police and Their Masculinity Problem*, HUFFPOST (Nov. 26, 2014), https://www.huffpost.com/entry/the-police-and-their-masc_b_6225834.

²⁰⁸ See Joan Dunayer, *Sexist Words, Speciesist Roots*, in ANIMALS AND WOMEN: FEMINIST THEORETICAL EXPLORATIONS 11–12 (Carol J. Adams & Josephine Donovan eds., 1995).

²⁰⁹ Harvard Animal Law, *2/25/19 – Carol Adams “#MeToo and the Sexual Politics of Meat”*, YOUTUBE (Mar. 31, 2019), <https://www.youtube.com/watch?v=kd9phAMfisI>; see generally CAROL ADAMS, *THE SEXUAL POLITICS OF MEAT* (1990).

²¹⁰ See Carol L. Glasser, *Tied Oppressions: An Analysis of How Sexist Imagery Reinforces Speciesist Sentiment*, 12 BROCK REV. 51 (2011).

²¹¹ See *id.*

noting that in both contexts it is the same people, privileged white men, who come out on top.²¹²

D. *Intersectional Roots*

As activist and co-founder of the VINE Sanctuary, patrice jones has articulated, systems of intersecting oppression “spring from the same roots.”²¹³ As this paper has discussed, they use many of the same tactics and “have the same patterns of thought and patterns of behavior behind them.”²¹⁴ For example, in the Western worldview much of the world is seen in ranked dualisms – thus, white is opposed to and dominant over non-white, human is opposed to dominant over non-human, and so on.²¹⁵ These dualisms then translate into commodification, control, and privilege.²¹⁶

Psychologist Dr. Melanie Joy has described these dualisms and the psychology of oppression as dysfunctional relational dynamics.²¹⁷ While Dr. Joy says humans are often good at acknowledging these dysfunctional relational dynamics when they see them in others, it is far harder to truly appreciate our own role in dysfunctional social power relations.²¹⁸ patrice jones similarly notes that almost all people simultaneously hold statuses as oppressor and oppressed, with the former being harder to accept.²¹⁹ However, failure to truly account for the psychology and anatomy of oppression, including our role in it, will make any struggle for justice susceptible to “reproducing the oppressive framework in our own liberation movements.”²²⁰

A failure to relate to one another in compassionate ways inhabits the moral landscape of both the animal rights and racial justice movements. In the carceral context, these often spring from the same root – a dualism that pits the police against anyone not working in service of the carceral capitalist state. Police dogs may be given some degree of moral

²¹² See Activist History, *Anti-Carceral Veganism Webinar*, YOUTUBE (Jul. 13, 2020), https://www.youtube.com/watch?v=BIsx5R-4kXk&ab_channel=ActivistHistory.

²¹³ Farm Animal Rights Movement, *Commonalities of Oppression – patrice jones*, YOUTUBE (Apr. 10, 2013), https://www.youtube.com/watch?v=x0FjZQC8gcs&list=WL&index=113&t=362s&ab_channel=FarmAnimalRightsMovement.

²¹⁴ *Id.*

²¹⁵ *See id.*

²¹⁶ *See id.*

²¹⁷ See MELANIE JOY, POWERARCHY: UNDERSTANDING THE PSYCHOLOGY OF OPPRESSION FOR SOCIAL TRANSFORMATION 16 (2019).

²¹⁸ *See id.* at 16–17.

²¹⁹ *See Commonalities of Oppression*, *supra* note 213.

²²⁰ APH KO, *Why Animal Liberation Requires an Epistemological Revolution*, in APHRO-ISM 88, 90 (2020).

consideration while they are useful to police but are then euthanized when their service ends.²²¹ Companion animals, of no use to the carceral state, are afforded even less moral consideration and are even more disposable. This disposability is heightened for dogs owned by people of color, who were once explicitly banned from owning dogs²²² and now are restricted by racially coded breed-specific legislation.²²³ Thus, by working alongside police many animal activists are in fact tacitly condoning the hierarchy that subjugates non-human animals to secondary status.

Similarly, author and animal activist Syl Ko has been critical of the racial justice movement for reinforcing white supremacist hierarchies by ending the analysis of animalization by arguing that people of color are humans not animals.²²⁴ Such an argument does nothing to counter the assumption that dualisms exist and that non-humans can be subjected to pain and suffering, it is merely a dispute about where to draw the species line. The binary framework of “human” and “animal” that this argument works within is not organic but produced, and in failing to critique this, it can effectively reproduce the same system of oppression that places whiteness at the top and animal at the bottom.²²⁵ Conversely, many anti-speciesist efforts fail to consider the racist logic of “species” in their analysis.²²⁶

In fact, as Ko has also argued, some anti-speciesist campaigns may be encouraging the very same animal-human divide they are trying to fight by falsely conflating outcomes of oppression instead of systems of oppression.²²⁷ Ko notes that comparisons between the aesthetics of suffering, such as posters conflating the chains of the Atlantic slave trade to the bars of factory farm cages, are wrong because they fail to get at the, as Jones puts it, common root of both systems of oppression. It is not that oppression is experienced the same way; in fact, it is experienced in wildly

²²¹ See Kihlander, *supra* note 168.

²²² See Yingling & Parry, *supra* note 12, at 95.

²²³ See Linder, *supra* note 147.

²²⁴ See SYL KO, *Addressing Racism Requires Addressing the Situation of Animals*, in APHRO-ISM 44, 45 (2020); see also Vevolution, *Christopher Sebastian McJeters: Exploring Connections between Black Liberation & Animal Liberation*, YOUTUBE (Mar. 4, 2017), https://www.youtube.com/watch?v=H_ebX07H4wM (arguing that the false binary which places people of the global majority in competition with nonhuman animals over the status of animality and humanity as one created by a white supremacy society, and that “Black liberation doesn’t exist in opposition to animal rights, they’re two things that need to be destabilized together”).

²²⁵ See *id.* at 46.

²²⁶ See *id.* at 48.

²²⁷ See SYL KO, *We Can Avoid the Debate About Comparing Human and Animal Oppression, if We Simply Make the Right Connections*, in APHRO-ISM 82, 84 (2020).

different ways by different populations. Rather, the origin of oppressions is what is shared.

Understanding this shared origin and incorporating it into advocacy is to acknowledge that anti-speciesist, anti-racist, and anti-genderist work must challenge the carceral state's hegemonic status of domination. This paper has analyzed the intersection between the use of non-human animals to oppress BIPGM communities in forced service to the carceral state and the oppression of those same animals at the hands of the carceral state by attempting to understand the common root that binds these systems of oppression. As a response, this paper argues that ending the use and abuse of animals is an integral component of the abolitionist project.

IV. ENDING THE USE OF ANIMALS BY THE CARCERAL STATE IS AN ESSENTIAL PART OF ABOLITION

Given the tremendous suffering inflicted on non-human animals co-opted into service for the carceral state, this paper argues there is a moral imperative to end the use of animals by the carceral state immediately. This would mean no dogs would need to endure the suffering of police academy training, no horses would be forced into confusing and dangerous crowds against their will, and no dolphins would be killed fighting in wars they should have no part in. But ending the use of animals by the carceral state is alone insufficient—decarceration is an essential component of the animal liberation project. Vice versa, the police and prison abolitionist movement should include non-human animals in its moral consideration in order to fully address the hierarchy and dualities of white supremacy and colonialism that racial justice movements seek to dismantle.

In policy terms, this means ending the use of non-human animals by the carceral state. This is not unprecedented, and varying degrees of moratoria or bans have been proposed in jurisdictions across the country on police use of canines.²²⁸ Current police animals should be adopted out and those not eligible for adoption due to aggression, severe anxiety, or PTSD should be provided sanctuary care. A handful of such sanctuaries

²²⁸ See, e.g., DIST. OF COLUMBIA POLICE REFORM COMM'N, DECENTERING POLICE TO IMPROVE PUBLIC SAFETY: A REPORT OF THE DC POLICE REFORM COMMISSION 110 (2021) (recommending a moratorium on most police uses of canines); Matt Misterek, *Police dog Maverick retires. Could he be among last of his kind in Washington state?*, NEWS TRIBUNE (Mar. 12, 2021), <https://www.thenewstribune.com/opinion/article249880773.html> (reporting that Washington State legislature had considered a full ban on police dogs but diluted it down to a consideration of limitations on their use during arrests); *NJ's Attorney General Considering Ban on Using K-9s During Arrest*, POLICEMAG (Jan. 6, 2021), <https://www.policemag.com/589514/njs-attorney-general-considering-ban-on-using-k-9s-during-arrests>.

and adoption programs already exist,²²⁹ and they should be given the funding needed to aid in the transition to a world without police animals.

Qualified immunity, the doctrine that is used to protect police officers when they commit atrocious harms against both people and their companion animals,²³⁰ should be ended as well. A number of jurisdictions have already done away with qualified immunity,²³¹ and these efforts should be made nationwide. Furthermore, a necessary policy response is divesting away from police departments to invest in communities.

Reducing the police budget and reallocating resources helps protect the interests of both abolitionist and animal liberation activists as it means there will be fewer police and therefore fewer situations where harm can arise. If there are simply fewer police officers, there will be fewer officer-involved shootings of people and animals alike. Given the epidemic of police killings, this is a priority. Cities and counties across the country should sharply cut their police budgets over the next few years.²³² This money should be reallocated and invested in communities. That means counsellors rather than cops in schools, replacing police with mental health first responders or animal-trained responders whose first instinct is not to shoot, and implementing violence intervention programs that can prevent harm before it happens—including harm against non-human animals. As Dr. A. Breeze Harper, an activist and scholar of race and veganism, has advocated, animal activism should be incorporated into harm prevention programs.²³³

Outside of the law enforcement context, racist breed-specific legislation should be ended. Breed-specific laws were passed largely to enforce against and to exclude people of color.²³⁴ They cause harm to

²²⁹ See, e.g., Laura Mueller, *Adopting Retired Police Dogs*, SPRUCE PETS (Apr. 6, 2021), <https://www.thesprucepets.com/how-to-adopt-retired-police-dogs-4584724> (explaining how retired police dogs, or dogs who fail training, are adopted out to officers and the general public); BRANTÔME POLICE HORSES & FRIENDS / MAISON DE REPOS DES CHEVAUX, <http://www.brantomepolicehorses.com/> (last visited Apr. 26, 2021) (sanctuary in France that provides a forever home for former British police horses).

²³⁰ See *supra* Part III.B.

²³¹ E.g., H.B. 4, 55th Leg., 1st Sess. (N.M. 2021); NEW YORK, N.Y., INT. NO. 2220 (2021).

²³² See, e.g., *Defund MPD and Refund Our Communities FY 2022 Budget*, ACTION NETWORK, <https://actionnetwork.org/petitions/defund-mpd-and-refund-our-communities-fy2022-budget/> (last visited Apr. 27, 2021) (petition by Black-led coalition to reduce the Metropolitan Police Department's budget by 50 percent over the next three years and to reinvest that money into communities).

²³³ See Vera L. Chang, *Redefined Palate: Sistah Vegan Project's Breeze Harper Dishes on Mindful Eating*, CIV. EATS (Dec. 19, 2013), <https://civileats.com/2013/12/19/redefined-palate-sistah-vegan-projects-breeze-harper-dishes-on-mindful-eating/>.

²³⁴ See *supra* Part II.B.

people and to dogs, and they should be overturned and prohibited. Similarly, more public resources should be put towards helping people with companion animals keep them in their homes rather than removing pets from people without the resources to care for them. A model here is the Humane Society of the United States' "Pets for Life" program, which provides free veterinary care for those otherwise unable to access or afford services.²³⁵ As a means of responding to breed-specific legislation and the racially disparate impacts of policing animal cruelty, Pets for Life is a success in taking an explicitly racial and economic justice approach to its work.

Even more broadly, as part of this decarceration effort, human use of non-human animals should be ended across a range of fields; from policing to cosmetic testing²³⁶ to entertainment.²³⁷ Like with policing, the use of non-human animals in these other contexts reaffirms the hierarchy that places human above non-human, and thus perpetuates white supremacy. Expanding our moral consideration will mean not only ceasing to needlessly harm animals, but also ending the use of animals as tools to cause violence to other living beings.

Finally, animal advocates and police and prison abolitionists can achieve more by working together than on their own. The systems of oppression that work against BIPGM communities and non-human animals spring from the same source and many of the same tools are used in both contexts, from language and physical violence to the control of reproduction and bodily autonomy. By recognizing this shared mission and taking policy steps to truly address the underlying power structure, we can all work towards a better world for all peoples and animals.

CONCLUSION

Every year in the United States, police officers acting on behalf of the public shoot and kill thousands of family's dogs. Dogs, horses, and other

²³⁵ See *Keeping Pets for Life*, HUMANE SOC'Y UNITED STATES, <https://www.humanesociety.org/issues/keeping-pets-life> (last visited Nov. 23, 2020); HUMANE SOC'Y UNITED STATES, COMMUNITY SUPPORT: THE FUTURE OF COMPANION ANIMAL WELFARE 1 (2017).

²³⁶ See *generally Be Cruelty-Free Campaign*, HUMANE SOC'Y INT'L, <https://www.hsi.org/issues/be-cruelty-free/> (last visited Apr. 27, 2021); *Ending cosmetic testing on animals*, CRUELTY FREE INT'L, <https://www.crueltyfreeinternational.org/what-we-do/our-campaigns/ending-cosmetics-testing-animals> (last visited Apr. 27, 2021).

²³⁷ See *generally Animals in Entertainment*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/issue/animals-in-entertainment/> (last visited Apr. 27, 2021); *Ending wild animal entertainment*, WORLD ANIMAL PROTECTION, <https://www.worldanimalprotection.us/our-work/animals-wild/ending-wild-animal-entertainment-02> (last visited Apr. 27, 2021).

non-human animals are also harmed and exposed to violence by police when they are drafted into police work. These non-consenting animals are then used as tools of the carceral state to perpetuate violence, largely against BIPGM communities. This trend extends back to the very origins of colonialism and antebellum slavery in the Americas and manifests itself in the present day by the racially disparate deployment of police dogs and patrol horses.

The hierarchy that accommodates the racist nature of American policing is the same that reinforces the duality between human and non-human animals. These systems of oppression share the same origin and many of the same trappings and tactics. Tackling these inequities thus requires a mutual understanding of liberation: that decarceration is necessary to animal liberation and vice versa that addressing animal suffering is essential to the project of combatting white supremacy. This paper recommends that to address the root cause of the use and abuse of animals by the carceral state, changes be made that rethink public safety from ending qualified immunity to divesting from police and investing in communities. Current police animals should be adopted or provided sanctuary forever-homes. It also recommends a reconsideration of our relationship to non-human animals through the end of breed-specific legislation and other discriminatory laws. Through these and other subsequent changes, we can begin to move towards a world in which non-human animals are no longer used as tools of violence. It will be a long process, but it begins with an understanding of the shared history of systemic oppression and hopefully results in successful mutual liberation.