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Letting the Cat out of the Bag: How Lack of Access to Animal Companionship and Husbandry Fosters Inequality for Black Americans

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# Letting the Cat out of the Bag: How Lack of Access to Animal Companionship and Husbandry Fosters Inequality for Black Americans

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*Throughout American history, animals have been used by those in power to harm and terrorize Black Americans. While state-sanctioned use of slave-patrol and police dogs have been a commonly discussed issue, there has been little to no analysis on the harms Black Americans have faced from the systemic deprivation of animal companionship and husbandry. Racism and capitalism in America have resulted in a confusing labyrinth of private actors, animal organizations, corporate industries, courts, and legislators who have worked collectively to cut off opportunities for Black Americans to benefit from animal companionship and husbandry.*

*In Part I, this Note discusses the vital benefits that humans have derived from animal companionship and husbandry. Part II presents an overview of the multitude of ways Black Americans have been systematically deprived of the benefits of animal companionship and husbandry. Part III provides examples of potential changes that could be made to create new animal-related opportunities for Black Americans. Due to the breadth of this topic, it is my intention that this Note will inspire further research and discussion on the role of animals in upholding structures of violence and inequality, the overlooked significance of animals in uplifting marginalized people, and the ways that the dominant culture has imposed its attitudes toward animals on society to the detriment of minority cultures.*

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\* J.D. graduate, class of 2021, UC Irvine School of Law. I would like to extend my utmost gratitude to Professor Swethaa Ballakrishnen, Professor Mehrsa Baradaran, and my dear friend Kayley Berger for encouraging me to write and publish this Note. I also wish to thank my parents, my nanny, and my spouse for their unending support. Lastly, I must give credit to Frisky, my service cat, without whom I would not be here today.

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### INTRODUCTION

Both historically and currently, Black Americans have been systematically deprived of the benefits of animal companionship and husbandry. When it comes to Black Americans, evidence of human-animal relationships tends to be sparse and is often actively hidden.<sup>1</sup> Human-animal relationships are a defining characteristic of American society and cannot continue to be overlooked when discussing the state of racism in America. While denial of animal companionship and husbandry has been integral to the creation and maintenance of systemic racism, creating access to meaningful and useful animal companionship and husbandry for Black Americans may be a key element to undoing some of the damage.

This Note will set forth the important benefits that animal companionship and husbandry bring to individuals and communities, the ways in which Black Americans have been systematically deprived of the benefits of animal companionship and husbandry, and several suggestions for radical changes that could serve as reparations in order to provide Black Americans with new animal-related opportunities. It is my hope that the information set forth will contribute to larger discussions around the role of animals in upholding structures of violence and inequality, the overlooked significance of animals in society, and the ways that the dominant White culture has imposed its attitudes toward animals on others.

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1. See Katheryn Lawson, *Pet Keeping and Pet Hiding in Black America*, U.S. HIST. SCENE, <https://ushistoryscene.com/article/pets-black-america> [<https://perma.cc/KR5C-Y3V6>] (last visited Jan. 30, 2022).

## I. BENEFITS OF ANIMAL COMPANIONSHIP AND HUSBANDRY

*A. Human Reliance on Animals*

For centuries, humans have relied on animals for food, clothing, pest control, transportation, recreation, companionship, and so much more.<sup>2</sup> In fact, some of the oldest images created by humans have been of animals, many of which were carved into ivory or bone.<sup>3</sup> *Bovinae* were especially integral as societies developed, with several cultures worshiping cows and others using oxen to pull plows.<sup>4</sup> Notably, “[w]riting evolved out of the need to record cattle wealth,”<sup>5</sup> and the first letter of the alphabet was designed to represent the head of a cow.<sup>6</sup> Other animals served important purposes to humans as well: by taming and herding animals, people were able to create permanent communities instead of moving with wild animals.<sup>7</sup> The use of the horse, camel, and elephant for transportation made trade with faraway lands possible.<sup>8</sup> In virtually every human society, animals were tamed to form symbiotic and companionate relationships with humans.<sup>9</sup> Humankind evolved alongside other animals and has always been interdependent on them for survival, culture, and fulfillment.<sup>10</sup> Perhaps most importantly, scholars have found through analyzing ancient texts that “animals have provided people with ways of imagining their own place in the world, as well as the resources to make the world their own.”<sup>11</sup>

Animals and animal products are still present in nearly every facet of our daily lives, even though the general population is typically unaware of the scope of this presence.<sup>12</sup> While people no longer rely on horses for travel, every single motorized vehicle is made using animal products.<sup>13</sup> Tallow, animal fat, is used in everything from banknotes to lipstick, and beeswax is used to coat most produce.<sup>14</sup> However,

2. See generally LINDA KALOF, *LOOKING AT ANIMALS IN HUMAN HISTORY* (2007).

3. *Id.* at 6.

4. *Id.* at 11–12.

5. *Id.* at 12.

6. *Meet the Animal that Inspired the Letter A*, *DICTIONARY.COM* (Oct. 31, 2014), <https://www.dictionary.com/e/a/> [<https://perma.cc/6T6J-M44N>].

7. KALOF, *supra* note 2, at 15–18.

8. *Id.* at 18; *Camels*, *AM. MUSEUM NAT. HIST.*, <https://www.amnh.org/exhibitions/traveling-the-silk-road/take-a-journey/samarkand/camels> [<https://perma.cc/YPZ4-AUGG>] (last visited Jan. 31, 2022); Zaytoen Domingo, *The History—and Future—of Elephants in Thailand*, *GVI* (2019), <https://www.gviusa.com/blog/the-history-and-future-of-elephants-in-thailand/> [<https://perma.cc/6D47-X73T>].

9. KALOF, *supra* note 2, at 8.

10. See generally *id.*

11. Barbara Wilcox, *History of the Human-Animal Relationship Is Key to Nature Preservation*, *Stanford Scholar Says*, *STANFORD NEWS*, (Mar. 25, 2015) (quoting an exhibition by Mackenzie Cooley), <https://news.stanford.edu/2015/03/25/beasts-and-books-032515> [<https://perma.cc/7ECB-KF99>].

12. See Jodie Halford, *How Difficult Is It to Avoid Animal Products in Everyday Life?*, *BBC NEWS* (Dec. 8, 2016), <https://www.bbc.com/news/uk-england-38205600> [<https://perma.cc/4YN8-BPC7>].

13. *Id.* (quoting Ryan McElroy, *Can You Buy a Car if You're a Vegan?*, *CAR KEYS*, (Nov. 1, 2017) <https://www.carkeys.co.uk/news/can-you-buy-a-car-if-you-re-a-vegan/> [<https://perma.cc/P8W5-Z4CT>]).

14. *Id.*

despite the prevalence of animal-derived products, Western cultures have begun severing the bonds between humans and animals for most ordinary civilians.<sup>15</sup> Most people and even experts today know less about animals than their ancestors who lived in closer proximity to wildlife did.<sup>16</sup> For most people outside of the animal-husbandry industries, pets remain the main or only relationship that they have to animals.<sup>17</sup> Yet, having pets as the only reference to the animal kingdom can distort people's perceptions and understandings of animals and wildlife as a whole and remove their ability to "imagin[e] their own place in the world."<sup>18</sup>

### B. Health Effects of Animal Companionship

The research on the health benefits of companion animals is so compelling that even the Centers for Disease Control and Prevention (CDC) acknowledges companion animals' important role in maintaining health.<sup>19</sup> The ways in which pets can help people's health are numerous, but some common benefits include decreased blood pressure, decreased cholesterol levels, decreased triglyceride levels, decreased feelings of loneliness, and increased opportunities for exercise and socialization.<sup>20</sup> Pets can be especially beneficial for children, who will be more likely to develop positive characteristics such as "responsibility, trust, compassion, respect and patience" when given the opportunity to own companion animal.<sup>21</sup> Additionally, exposure to pets early in life primes immune systems, reducing the chance of developing common allergens and improving the immune response for fighting off infections.<sup>22</sup>

While pets benefit the health of abled people, companion animals and service animals can have an even more profound impact on the health of disabled people in particular.<sup>23</sup> Companion animals of all breeds and species can have a strong impact on the mental- and physical-health outcomes of disabled individuals.<sup>24</sup> Service animals are companion animals that are specifically trained to do physical tasks to assist disabled people and are extremely useful in helping them gain more

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15. Wilcox, *supra* note 11.

16. *Id.*

17. *Id.*

18. *Id.*

19. *How to Stay Healthy Around Pets*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 15, 2021), <https://www.cdc.gov/healthypets/health-benefits/index.html> [<https://perma.cc/4BZ9-MPXJ>].

20. *Id.*

21. Tracy Trautner, *The Benefits of a Family Pet*, MICH. ST. UNIV. EXTENSION (Dec. 14, 2017), [https://www.canr.msu.edu/news/the\\_benefits\\_of\\_a\\_family\\_pet](https://www.canr.msu.edu/news/the_benefits_of_a_family_pet) [<https://perma.cc/FL8K-ATUD>].

22. *Id.*

23. *How Animals Lend a Helping Paw to People with Disabilities*, ARUMA (Nov. 17, 2015), <https://www.aruma.com.au/about-us/blog/how-animals-lend-a-helping-paw-to-people-with-disabilities> [<https://perma.cc/9U4A-5SZF>].

24. *Id.*

independence.<sup>25</sup> Some common tasks that they provide are guiding, alerting, and mobility assistance.<sup>26</sup>

Even when people cannot have their own pets, therapy animals owned by others can be of tremendous benefit to all people, especially disabled people.<sup>27</sup> Therapy dogs are commonly found in schools, hospitals, nursing homes, and other venues, where they “provide therapeutic stimulation and comfort.”<sup>28</sup> Horses are often utilized for therapeutic riding or hippotherapy, which was found to be extremely effective in improving cognitive, physical, emotional, and social well-being.<sup>29</sup> The therapeutic use of animals has even been put into practice by many top universities, including Harvard and Yale, both of which found it decreased symptoms of anxiety and loneliness for their students.<sup>30</sup>

While pets can offer many benefits to individuals, these benefits can be counteracted if the person experiences traumatic pet loss.<sup>31</sup> Those who experience traumatic pet loss can experience significant guilt, depressive symptoms, broken attachment, and interference with day-to-day activities.<sup>32</sup> As will be discussed in Part II, Black Americans in particular are targeted by systemic loss of pets in traumatic manners, meaning they are less likely to reap the benefits and more likely to be left with this type of trauma, making them less likely to pursue relationships with animals in the future. These health effects are especially notable when discussing Black Americans, as they experience illness and disability at disproportionately high rates and have lower life expectancy than other racial and ethnic groups.<sup>33</sup>

### *C. Health Effects of Animal Husbandry*

Like animal companionship, animal husbandry has a large and varied assortment of positive health impacts.<sup>34</sup> Studies have shown that time spent with

25. *Id.*

26. *Id.*

27. Michael Rock, *How Animals Benefit People with Disabilities*, AABR (Apr. 26, 2019), <http://aabr.org/2019/04/26/how-animals-benefit-people-with-disabilities> [<https://perma.cc/GJ4S-3GQJ>].

28. *Id.*

29. *Id.* (quoting the Professional Association of Therapeutic Horsemanship International).

30. *Animal-Assisted Therapy: A Creative Solution for College Counseling Centers*, MINDWISE INNOVATIONS (Dec. 1, 2014), <https://www.mindwise.org/blog/mental-health/animal-assisted-therapy-a-creative-solution-for-college-counseling-centers> [<https://perma.cc/3VJM-EF7Q>].

31. Kourtney Schroeder & Samantha Clark, *Traumatic Pet Loss*, SOCIETY FOR ADVANCEMENT PSYCHOTHERAPY (Dec. 8, 2019), <https://societyforpsychotherapy.org/traumatic-pet-loss> [<https://perma.cc/JSF2-W3HN>].

32. *Id.*

33. Jamila Taylor, *Racism, Inequality, and Health Care for African Americans*, CENTURY FOUND. (Dec. 19, 2019), <https://tcf.org/content/report/racism-inequality-health-care-african-americans> [<https://web.archive.org/web/20220111153624/https://tcf.org/content/report/racism-inequality-health-care-african-americans/?session=1>].

34. Kristen Boye, *How Keeping Farm Animals Keeps You Happier and Healthier*, Rethink:Rural (Oct. 10, 2019), <https://rethinkrural.raydientplaces.com/blog/how-keeping-farm-animals-keeps-you-happier-and-healthier> [<https://perma.cc/FDU8-9XQP>].

farm animals significantly lowers the risk of asthma and allergies.<sup>35</sup> Beyond that, studies show that living on a farm tends to result in “stronger immune systems, more resilient gut microbiomes and less chronic . . . disease.”<sup>36</sup> These positive health outcomes are due to many factors, including the inhalation of “microbe-rich barnyard dust,” exposure to the vitamin D boost from natural sunlight, and regular exercise attributed to farm chores.<sup>37</sup> Additionally, many of the same benefits provided by pets are provided by farm animals, such as improved health outcomes related to the heart and mind.<sup>38</sup>

Another benefit of access to animal husbandry is the ability to raise livestock on a pasture rather than in factory farming conditions, which leads to more nutritious food products.<sup>39</sup> Pasture-raised meat and eggs “contain less saturated fat and more heart healthy polyunsaturated fat[,]. . . which can reduce the risk of cardiovascular disease.”<sup>40</sup> Pasture-raised meat and eggs also “have a lower ratio of omega-6 to omega-3 polyunsaturated fats[, which] . . . may improve cognitive function and reduce the risk of heart disease and cancer.”<sup>41</sup> Pasture-raised meat has “increased levels of long-chain omega-3 fatty acids that may improve neural health.”<sup>42</sup> Additionally, “[g]rass-fed dairy products have [more] conjugated linoleic acid, which has shown efficacy against cancer and obesity.”<sup>43</sup> Pasture-raised meat and eggs have higher levels of antioxidants like vitamin E, beta-carotene, and niacin, all of which protect cells from free-radicals and some of which are critical for vision health.<sup>44</sup> Lastly, pasture-raised meats and eggs contain more vitamins and nutrients, including vitamin A, vitamin D, collagen, and protein, which help protect vision, prevent osteoporosis, reduce joint pain, and help build and maintain tissue.<sup>45</sup> Access to animal husbandry makes these many health benefits accessible.

Unfortunately, just as animal companionship can be tainted by traumatic pet loss, so too can animal husbandry be tainted by factory farming. Factory farms are designed to raise large numbers of livestock in conditions that will maximize production and minimize costs.<sup>46</sup> Currently, factory farms pull in massive profits

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35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. FOOD ANIMAL CONCERNS TR., THE NUTRITIONAL BENEFITS OF PASTURE-RAISED FOOD (2021), <https://static1.squarespace.com/static/57d30c09893fc08d22e87aaf/t/60e59f1fc0e1c746cb12effa/1625661217692/FACT+handout+-+overview+of+all+animals.pdf> [<https://perma.cc/D6AW-ZZLG>].

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Factory Farming: Bad for People, Planet and Economy*, ECOWATCH (Nov. 19, 2013, 10:29 AM), <https://www.ecowatch.com/factory-farming-bad-for-people-planet-and-economy-1881824130.html> [<https://perma.cc/RP5P-9B9P>].

from this inhumane form of animal husbandry.<sup>47</sup> While these factory farms currently benefit from access to animal husbandry, the rest of America has been suffering from deadly consequences that these factory farms pose.<sup>48</sup> However, if there were a shift back toward small, local animal husbandry, these benefits would follow, and the deadly consequences would be alleviated.<sup>49</sup>

Meat, dairy, and eggs from factory farms can contribute to a wide variety of health concerns.<sup>50</sup> America experiences shockingly high levels of foodborne illness owing primarily to conditions at factory farms and commercial slaughterhouses.<sup>51</sup> Investigators have found that hygiene incidents occur at “deeply worrying” rates, with some facilities averaging more than 150 violations a week.<sup>52</sup> The CDC estimates that about forty-eight million people contract foodborne illnesses each year, and many of them actually lose their lives to the infections.<sup>53</sup>

Factory farms utilize an alarming amount of antibiotics for their animals in order to combat superbugs brought on by the packed conditions.<sup>54</sup> When people consume these products, they ingest these antibiotics, contributing to the prevalence of antibiotic-resistant infections.<sup>55</sup> Moreover, even those who do not eat these products ingest these antibiotics because they leech into our groundwater.<sup>56</sup> Furthermore, most factory farms use injections of growth hormones for beef and dairy cows in order to increase profit margins.<sup>57</sup> Studies have linked secondhand consumption of these hormones to both reproductive issues and breast, prostate, and colon cancer.<sup>58</sup> These findings have led several countries, not including the United States, to ban the use of these hormones altogether.<sup>59</sup>

Factory farms have been at the epicenter of several deadly disease outbreaks and pandemics, including COVID-19, Mad Cow Disease, Avian Flu, Swine Flu, E. coli, MRSA, Campylobacter, and Salmonella.<sup>60</sup> As society currently is desperately

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47. *Id.*

48. *Id.*

49. *See id.*

50. Scott Weathers, Sophie Hermanns & Mark Bittman, Opinion, *Health Leaders Must Focus on the Threats from Factory Farms*, N.Y. TIMES (May 21, 2017), <https://www.nytimes.com/2017/05/21/opinion/who-factory-farming-meat-industry-.html> [<https://perma.cc/C3BY-MU7A>].

51. Tia Schwab, *Unhealthy Conditions for Farm Animals Are—No Surprise—Bad for Humans, Too*, STONE PIER PRESS, <https://stonepierpress.org/goodfoodnews/factory-farms-public-health> [<https://perma.cc/AL9V-H6GM>] (last visited Jan. 31, 2022).

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. Monica Nickelsburg, *5 Modern Diseases Grown by Factory Farming*, WEEK (Jan. 8, 2015), <https://theweek.com/articles/457135/5-modern-diseases-grown-by-factory-farming> [<https://perma.cc/YXS8-R7QV>]; Sigal Samuel, *The Meat We Eat Is a Pandemic Risk, Too*, VOX (Aug. 20, 2020, 11:50 AM), <https://www.vox.com/future-perfect/2020/4/22/21228158/coronavirus-pandemic-risk-factory-farming-meat> [<https://perma.cc/PC2U-SCXD>]; Delcianna J. Winders, Opinion, *Putting Us at*



trying to survive COVID-19, factory farms are likely to worsen the situation by unleashing more contagious disease outbreaks.<sup>61</sup> Rather than tighten restrictions, the United States has rolled back protections for factory farms and commercial slaughterhouses.<sup>62</sup> There is genuine concern of a new strain of Swine Flu breaking out and taking more lives.<sup>63</sup>

The other imminent threat facing humanity is global climate change, and factory farming plays a large part in that crisis as well.<sup>64</sup> There has been a strong push on an international level to protect the climate by reducing the size and number of factory farms.<sup>65</sup> Factory farms, especially those that produce red meat, are disproportionately responsible for contributing to greenhouse gases and deforestation.<sup>66</sup>

The health benefits of transitioning to small, local farms for communities are critical and vast, especially for Black communities.<sup>67</sup> Black communities are more likely to live in areas affected by pollution.<sup>68</sup> They are more likely to experience serious health problems and are more at risk from infections and pandemics.<sup>69</sup> They are also the most likely to be devastated by climate change and climate disasters.<sup>70</sup> By moving away from factory farming and toward accessible and widespread animal husbandry, Black communities benefit as these injustices begin to reverse.

#### *D. Animal-Related Economic Opportunities*

In terms of economic opportunity, the value of animals and animal husbandry cannot be overstated. Finding areas of economic opportunity is of special importance when considering the staggering racial disparities faced by Black

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*Risk of Another Pandemic: The USDA's Epic Failure*, N.Y. DAILY NEWS (July 5, 2020), <https://www.nydailynews.com/opinion/ny-oped-usda-americans-new-pandemic-20200705-nffa2dzccfgetmlqnc5bnmgpnq-story.html> [https://perma.cc/JFW9-K28N].

61. Winders, *supra* note 60.

62. *Id.*

63. *Id.*

64. Georgina Gustin, *Factory Farms Put Climate at Risk, Experts Say in Urging Health Officials to Speak Out*, INSIDE CLIMATE NEWS (May 23, 2017), <https://insideclimatenews.org/news/22052017/factory-farms-cafos-threaten-climate-change-world-health-organization> [https://perma.cc/6Q9V-EFCT].

65. *Id.*

66. *Id.*

67. Adelle Thomas & Rueanna Haynes, *Black Lives Matter: The Link Between Climate Change and Racial Justice*, CLIMATE ANALYTICS (June 22, 2020), <https://climateanalytics.org/blog/2020/black-lives-matter-the-link-between-climate-change-and-racial-justice/> [https://perma.cc/8NKQ-AMNN].

68. *Id.*

69. *Id.*

70. *Id.*

Americans; the net worth of a typical White family is nearly ten times greater than that of a Black family.<sup>71</sup>

Animal husbandry makes up a very large part of the farming industry and is inextricably intertwined with nearly every aspect of agriculture.<sup>72</sup> While animal husbandry and farm animals bring to mind production of meat, milk, and eggs, the uses of animals in agriculture are far more pervasive.<sup>73</sup> Animals also generate nonfood products, such as leather, wool, and dung.<sup>74</sup> Dung is used as fertilizer and soil conditioners for crops and as fuel for cooking and heating.<sup>75</sup> Many types of livestock are highly valued for their ability to control vegetation and weeds.<sup>76</sup> Several types of animals, especially bovines and equines, are used as draught animals for farm work, like “pulling agricultural implements, pumping irrigation water and skidding in forests.”<sup>77</sup> Even animals we think of as pets are vital to farming; for example, dogs are used on farms to provide protection from predators and to assist with herding livestock.<sup>78</sup> While they are often underrepresented when it comes to typical farm animals, barn cats are often said to be the most important animal on farms, as they are essential for controlling pests.<sup>79</sup> It is important to recognize that agriculture and farming are grounded in animal husbandry, so when discussing agriculture in general, the use of animal husbandry is always implied.

In 2020, Americans spent on average 8.6% of their disposable income on food, leading to a total of \$1.69 trillion spent on total food expenditures annually by U.S. consumers, businesses, and government entities.<sup>80</sup> However, small farms have been struggling to compete with large factory farms.<sup>81</sup> Despite the fact that over 94% of U.S. farms are small or midsize, large farms account for nearly 46% of

71. Kriston McIntosh, Emily Moss, Ryan Nunn & Jay Shambaugh, *Examining the Black-White Wealth Gap*, BROOKINGS: UP FRONT (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/> [<https://perma.cc/3SYP-XWSP>].

72. R. Sansoucy, *Livestock—a Driving Force for Food Security and Sustainable Development*, WORLD ANIMAL REV., no. 84/85, 1995, <https://www.fao.org/3/v8180t/v8180t07.htm> [<https://perma.cc/4C4H-N9ZY>].

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. Elizabeth Barnes & Dvm, *Farm Dogs: Guarding, Herding and Helping*, MOTHER EARTH NEWS (Aug. 10, 2020), <https://www.motherearthnews.com/homesteading-and-livestock/farm-dogs-zmaz98jjzhow> [<https://perma.cc/MN2R-S8DU>].

79. Jon Geller, *Geller: The Care, Keeping and Importance of Barn Cats*, COLORADOAN (Feb. 5, 2016, 3:31 PM), <https://www.coloradoan.com/story/life/2016/02/05/geller-care-keeping-importance-barn-cats/78414844> [<https://perma.cc/Q448-HQ4F>].

80. Anikka Martin, *Food Prices and Spending*, U.S. DEP'T AGRIC., <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/food-prices-and-spending/> [<https://perma.cc/GC3U-RSWL>] (Dec. 27, 2021).

81. THE HUMANE SOC'Y OF THE U.S., AN HSUS REPORT: THE IMPACT OF INDUSTRIALIZED ANIMAL AGRICULTURE ON RURAL COMMUNITIES 2 (2008), <https://www.humanesociety.org/sites/default/files/docs/hsus-report-industrialized-animal-agriculture-rural-communities.pdf> [<https://perma.cc/86FJ-7D3T>].

the value of production.<sup>82</sup> These large farms tend to hinder, rather than boost, economic growth in their communities.<sup>83</sup> While large factory farms currently benefit from this economic opportunity, a shift away from factory farming toward accessible and widespread animal husbandry could redistribute access to these economic benefits.<sup>84</sup>

The pet industry represents another industry that has been exploding with economic growth.<sup>85</sup> This area of spending has been consistently rising, and Americans spent \$95.7 billion on their pets in 2019, up from \$70.6 billion in 2018.<sup>86</sup> This industry is highly varied and includes opportunities in innovating pet products, manufacturing pet products, providing pet-training services, providing veterinary services, providing boarding services, and many more.<sup>87</sup> There is also the breeding and sales of the pets themselves, which is not included in the above figures as it is difficult to track.<sup>88</sup> While the pet industry is generally accessible to all people, positive experiences with animals tend to be a necessary component of access.

Beyond these industries, the mere act of having a pet could increase one's ability to financially thrive. A study found that 93% of C-suite executives grew up with a childhood pet; of those executives, 78% credited their childhood pet with helping prepare them for career success, with 24% agreeing that their childhood pet "taught them more about leadership, responsibility, and empathy than their first professional internship."<sup>89</sup> Additionally, 62% of C-suite executives believe pets had a positive impact on their ability to build relationships with coworkers and clients,<sup>90</sup> 80% "said they felt more connected to colleagues who own pets," and 79% "believe that colleagues with pets are hard workers."<sup>90</sup> This suggests that owning a pet could not only provide tools to do better at one's job but also could influence an employer's likelihood of hiring someone in the first place. It is possible that by decreasing the discrepancy between pet ownership for Black and White Americans, there may be some reduction in disparate economic outcomes as well.

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82. Kathleen Kassel, Farming and Farm Income, U.S. Dep't of Agric., <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/farming-and-farm-income/> [<https://perma.cc/9QNU-DDAP>] (Jan. 6, 2022).

83. THE HUMANE SOC'Y OF THE U.S., *supra* note 81, at 2–3.

84. Laura Reiley & Andrew Van Dam, *Advocates Hoped Census Would Find Diversity in Agriculture. It Found Old White People.*, WASH. POST (Apr. 13, 2019), <https://www.washingtonpost.com/business/2019/04/13/advocates-hoped-new-report-would-find-diversity-ag-it-found-old-white-people/> [<https://perma.cc/9VUU-JZ4L>].

85. *See Americans' Pet Spending Reaches Record-Breaking High: \$95.7 Billion*, AM. PET PRODS. ASS'N (Feb. 27, 2020), [https://www.americanpetproducts.org/press\\_releasedetail.asp?id=205](https://www.americanpetproducts.org/press_releasedetail.asp?id=205) [<https://perma.cc/E75G-TQY3>].

86. *Id.*

87. *Id.*

88. *Id.*

89. Tony McReynolds, *Survey: Being Raised with Pets Could Make You Successful*, AM. ANIMAL HOSP. ASS'N (Nov. 30, 2018), <https://www.aaha.org/publications/newstat/articles/2018-11/survey-being-raised-with-pets-could-make-you-successful> [<https://perma.cc/7L37-NZEB>].

90. *Id.*

## II. SYSTEMIC DEPRIVATION OF ANIMAL COMPANIONSHIP AND HUSBANDRY

*A. Animals as Tools of Psychological Trauma*

While dogs are one of the most beloved animals amongst White Americans, their historical and present-day connotations bring up horrific memories for many Black Americans.<sup>91</sup> In all slave states, courts allowed the use of “N\*\*\*\* dogs” for not only tracking runaway slaves but also severely mauling them and biting off their body parts.<sup>92</sup> The use of dogs as a weapon with which to control slaves was so pervasive that slaveholding states often criminalized dog ownership by slaves on the grounds that it constituted possession of a weapon.<sup>93</sup> At the same time, White Americans profited off of the use of these dogs, having created a thriving industry out of dogs’ ability to force labor out of slaves to fuel their own economy.<sup>94</sup> To add one more layer of horror, some slaves had to watch their owners feed and pamper the dogs while they were left starving on scraps.<sup>95</sup>

This legacy of using dogs to control and maul Black Americans has not ceased since the abolition of slavery. These inhumane practices were used across the South during the Civil Rights Era.<sup>96</sup> For instance, the images of attack dogs used by police against civil-rights protesters in Birmingham, Alabama, scar our collective consciousness.<sup>97</sup> Even since then, the practice of police dogs being used against Black Americans has continued in horrific ways. For example, the Los Angeles Police Department—whose “officers jokingly called Black suspects ‘dog biscuits’”—was sued in 1991 over the unjustified, disproportionate use of dogs against racial minorities.<sup>98</sup> While the department agreed to institute reform measures for how officers deployed canines as part of the settlement, a study “revealed that canine bites in the Los Angeles area were leveled solely against people of color for the first six months of 2013, and the bite ratios against Blacks and Latinos remain disproportionately high.”<sup>99</sup> Meanwhile, across the country, in Ferguson, Missouri, the Civil Rights Division of the U.S. Department of Justice concluded that Ferguson

91. Benoit Denizet-Lewis, *The People Who Are Scared of Dogs*, PAC. STANDARD (June 14, 2017), <https://psmag.com/social-justice/people-scared-dogs-86713> [https://perma.cc/JAV3-32NS].

92. Paulette Brown-Hinds, *Slave Owners’ “Negro Dogs,”* BLACK VOICE NEWS (Oct. 4, 2007), <https://www.blackvoicenews.com/2007/10/04/slave-owners-negro-dogs> [https://perma.cc/9SDX-U5PF]; see also Tyler D. Parry & Charlton W. Yingling, *Slave Hounds and Abolition in the Americas*, 246 PAST & PRESENT 69 (2020).

93. Parry & Yingling, *supra* note 92, at 95.

94. *Id.*

95. *Id.* at 94.

96. Tyler Parry, *Police Dogs and Anti-Black Violence*, BLACK PERSPS. (July 31, 2017), <https://www.aaihs.org/police-dogs-and-anti-black-violence> [https://perma.cc/JCE9-YEZX].

97. See Corky Siemaszko, *Birmingham Erupted into Chaos in 1963 as Battle for Civil Rights Exploded in South*, N.Y. DAILY NEWS (May 3, 2012, 9:26 AM), <https://www.nydailynews.com/news/national/birmingham-erupted-chaos-1963-battle-civil-rights-exploded-south-article-1.1071793> [https://web.archive.org/web/20211220102412/https://www.nydailynews.com/news/national/birmingham-erupted-chaos-1963-battle-civil-rights-exploded-south-article-1.1071793].

98. Parry, *supra* note 96.

99. *Id.*

police who were frequently using dogs to attack Black people and teenagers were doing so “not to counter a physical threat but to inflict punishment.”<sup>100</sup> Despite continued lawsuits to stop this practice, police dogs remain largely unregulated, and their bites “cause more hospital visits than any other use of force by police.”<sup>101</sup> In the last few years, we have seen gruesome reproductions of the events that occurred in Birmingham nearly sixty years ago with the recent instances of police dogs being deployed at Black Lives Matter protests.<sup>102</sup>

This use of dogs to control and attack Black Americans has led to a continued, psychic trauma for many.<sup>103</sup> Sociologists who studied this phenomenon found that many Black Americans “were psychologically conditioned to fear dogs [because] the animals were used as tools of racial hostility toward the [B]lack community.”<sup>104</sup> Furthermore, they found that the “conditioned fear [of dogs] is transmittable through families . . . and has contributed hugely to a community-wide fear of canines.”<sup>105</sup> While White communities have benefited from the companionship, protection, and economic uses of dogs, Black communities have instead suffered due to the systemic use of dogs as a means to control and enact violence against them.

### *B. Exclusion from Benefits of Animal Husbandry and Agriculture*

More than any other group of people, enslaved Black Americans in the South were responsible for the prosperity of agriculture in America.<sup>106</sup> Slave labor on agricultural plantations was responsible for propelling the United States into becoming one of the leading economies in the world and making the South its most prosperous region.<sup>107</sup> Beyond their stolen labor, White owners and America itself stole and profited off of Black innovation in animal husbandry and agriculture. For example, Black Americans’ techniques and innovations in horse husbandry and training played an integral role in the equine industry, “from slavery to soldiers, from agriculture to professional sports,” yet their contributions are generally overlooked, and the equine industry remains associated with rich, White men.<sup>108</sup> Black

100. *Id.* (quoting C.R. DIV., U.S. DEP’T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 33 (2015)).

101. Abbie VanSickle, Challen Stephens, Ryan Martin, Dana Brozost-Kelleher & Andrew Fan, *When Police Violence Is a Dog Bite*, ADVANCE LOCAL (Oct. 2, 2020), <https://www.al.com/news/2020/10/when-police-violence-is-a-dog-bite.html> [<https://perma.cc/GAZ6-22WT>].

102. *Id.*

103. Brown-Hinds, *supra* note 92.

104. Denizet-Lewis, *supra* note 91.

105. *Id.*

106. P.R. Lockhart, *How Slavery Became America’s First Big Business*, VOX (Aug. 16, 2019, 9:00 AM), <https://www.vox.com/identities/2019/8/16/20806069/slavery-economy-capitalism-violence-cotton-edward-baptist> [<https://perma.cc/E67D-EUY4>].

107. *Id.*

108. Noelle Maxwell, *International Museum of the Horse to Develop Online ‘Chronicle of African Americans in the Horse Industry’*, HORSE NATION (Feb. 19, 2019) (quoting a statement made by Karen

Americans were routinely denied patents for inventions that revolutionized agriculture.<sup>109</sup> For example, a Black “inventor named Ned invented an effective, innovative cotton scraper” that his White slave owner proceeded to profit from.<sup>110</sup>

Black Americans prior to the Civil War were deeply entrenched in the success of American animal husbandry and agriculture, while White Americans benefited from their enslavement. So deep were the ties between Black Americans and farming that when Black leaders were asked what they would like following abolition, they responded with “to have land, and turn it and till it by our own labor.”<sup>111</sup> In response, the Union promised “40 acres and a mule” to former slaves.<sup>112</sup> While General Sherman, with then-president Abraham Lincoln’s approval, issued Special Field Order No. 15 to provide the forty acres per slave, Lincoln’s successor Andrew Johnson overturned the order, and the promise never came to be.<sup>113</sup>

Without land, the freedmen could not farm crops and could not keep their own animals with which to farm.<sup>114</sup> Instead, many were coerced into sharecropping, where White landowners would provide them with land, animal power, and machinery.<sup>115</sup> However, landowners deducted the costs for these from the sharecropper’s earnings.<sup>116</sup> This coercive situation landed sharecroppers in insurmountable debt and gave White landowners control over what crops sharecroppers were allowed to grow.<sup>117</sup> Generally, they forbade subsistence farming and did not allow for animal husbandry, and so the only way for sharecroppers to eat was to earn money with which to buy food.<sup>118</sup> This system used Black labor to fulfill the needs of capitalism, so White landlords could continue to keep the economic benefits of land and animal husbandry to themselves.<sup>119</sup>

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Lanier), <https://www.horsensation.com/2019/02/19/international-museum-of-the-horse-to-develop-online-chronicle-of-african-americans-in-the-horse-industry> [https://perma.cc/49F3-3T95].

109. Shontavia Johnson, *America’s Always Had Black Inventors—Even When the Patent System Explicitly Excluded Them*, CONVERSATION (Feb. 19, 2017, 3:23 PM), <https://theconversation.com/americas-always-had-black-inventors-even-when-the-patent-system-explicitly-excluded-them-72619> [https://perma.cc/2YZZ-Z2PB].

110. *Id.*

111. Henry Louis Gates, Jr., *The Truth Behind ‘40 Acres and a Mule’*, PBS, <https://www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule> [https://perma.cc/U6V5-6SSL] (last visited Jan. 31, 2022).

112. *Id.*

113. *Id.*

114. *Sharecropping*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/sharecropping> [https://perma.cc/F9JW-CJA9].

115. *Id.*

116. *Id.*

117. SLAVERY BY ANOTHER NAME (IPT National Productions 2012).

118. *Id.*

119. *Id.*

In order to escape sharecropping and racist violence in the era of Jim Crow, most Black Americans fled to cities.<sup>120</sup> However, in these cities, subsistence farming was still impossible, and Black Americans were forced into factory jobs that continued to fulfill capitalism's need for cheap labor.<sup>121</sup> The exploitation of Black Americans continued, as they were still cut off from the means of production, and living in cities meant living under the control of White landlords and segregation policies.<sup>122</sup>

Even after Jim Crow ended, actions from private actors as well as the government have continued to keep Black Americans hyper-segregated in inner cities.<sup>123</sup> This forced an exodus from rural areas, and hyper-segregation in inner cities prevented Black Americans from benefiting from the farming industry that they were originally an integral part of. As of 2017, 95% of farmers identified as White, while only 1.3% identified as African American.<sup>124</sup> Community gardens have become increasingly popular—there are nearly 500 in New York alone—but similarly run animal-husbandry programs are still sparse.<sup>125</sup> However, research makes clear that it is livestock production that makes the most “significant contribution to the livelihoods of the poor and offers substantial scope for expansion to alleviate poverty.”<sup>126</sup> While White Americans are generally able to relocate freely and enjoy the economic benefits of farming, Black Americans tend to remain trapped in hyper-segregated areas where farming is impossible.<sup>127</sup>

### C. Government Interference with Animal Ownership

The government has used several tools to systematically deprive Black Americans of safely owning animals, such as restrictions on pet ownership for those receiving government services, general restrictions on animal ownership that align with White standards, and strategic policing of Black communities and their pets. In tandem, these systems not only deprive Black Americans of owning pets but also often force them through the trauma that comes with losing a beloved pet.

Since its creation, the American government has long subscribed to the creed that only the “deserving poor,” rather than the “undeserving poor,” should have

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120. See generally C. Vann Woodward, *The Strange Career of Jim Crow* (commemorative ed. 2002).

121. *Id.*

122. *Id.*

123. DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 81–82, 94 (1993).

124. Reiley & Van Dam, *supra* note 84.

125. Phebe Pierson, *In East Harlem, Community Gardens Provide More Than Food*, COLUM. CLIMATE SCH.: ST. OF THE PLANET (Jan. 10, 2019), <https://blogs.ei.columbia.edu/2019/01/10/community-gardens-east-harlem> [<https://perma.cc/5FLR-GRU3>].

126. J. OTTE & M. UPTON, *POVERTY AND LIVESTOCK AGRICULTURE* 1 (2005), <http://www.fao.org/3/a-bp333e.pdf> [<https://perma.cc/H2R4-U9JB>].

127. MASSEY & DENTON, *supra* note 124, at 77.

their basic needs met.<sup>128</sup> Politicians have used this dogma to justify substantial restrictions and invasive rules for anybody receiving any form of government welfare.<sup>129</sup> One “luxury” consistently denied to welfare recipients has been animal companionship.<sup>130</sup> Until the mid-1900s, those receiving welfare assistance were barred from sharing their homes with animals, despite pets being commonplace and adored by less impoverished families.<sup>131</sup> Black Americans subject to these restrictions still routinely kept pets in secret, even as case workers would conduct invasive and demeaning searches.<sup>132</sup> To this day, food-stamp recipients can be arrested for fraud if they share food with their pets.<sup>133</sup> Throughout American history, many Black Americans defied government overreach and risked their own security in order to properly care for beloved family pets.<sup>134</sup> As many Black Americans are eventually forced to relinquish their animals due to government overreach, it is no surprise that many other Black Americans have dedicated their lives and made essential contributions to veterinary and animal rescue services.<sup>135</sup>

Beyond restrictions targeted at those who receive aid, government bodies also target Black Americans with legislation that restricts their animal ownership. One notable example is breed-specific bans, which are so effective at targeting Black Americans that they have been referred to as a new form of redlining.<sup>136</sup> These bans have been implemented in over 1,000 communities in America and work by prohibiting citizens from owning certain types of dogs, most commonly “pit bull” terriers.<sup>137</sup> Individuals who own these dogs are forced either to surrender their animals to be euthanized or else to move to a different area without such restrictions.<sup>138</sup> The purported basis of these laws, that these dogs are inherently more dangerous, is not based in science but in racism.<sup>139</sup> “Strong cultural ties exist between pit bull dogs and the Black community,” and those ties infiltrate the media, which uses racist beliefs that Black Americans are dangerous to construct a belief that these dogs, which are predominantly owned by Black Americans, are also dangerous.<sup>140</sup>

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128. See generally VIRGINIA EUBANKS, *AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR* (2018).

129. See generally MATT TAIBBI, *THE DIVIDE: AMERICAN INJUSTICE IN THE AGE OF THE WEALTH GAP* (2014).

130. Lawson, *supra* note 1.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

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

137. *Id.* at 51.

138. See *id.* at 51–52.

139. See *id.* at 52.

140. *Id.*



Like breed-based discrimination, species-based discrimination also increasingly pervades state legislation and local ordinances in a similar fashion.<sup>141</sup> Black Americans may be drawn to species of pets other than those normalized by White Americans for many reasons, including having a fear of dogs, wanting a more affordable or lower-maintenance pet due to poverty, wanting to reconnect with wildlife from their ancestral homelands, or being dedicated to conservation efforts to counteract destruction of species by White people. In much the same way that the media depicts pit bulls as violent, it portrays “exotic” animals as invasive, diseased, and deadly.<sup>142</sup> While there is no doubt that some specific species of animals are likely to be invasive or dangerous to humans, the distinctions follow racist, Western preconceptions rather than scientifically sound arguments.<sup>143</sup> For example, many animals that White people consider “exotic,” such as small snakes, hedgehogs, and small wild cats, are targeted in the name of protecting native species and preventing attacks on humans.<sup>144</sup> However, there is little to no regulation of domestic outdoor cats, which kill 1.3 to 4.0 billion birds and 6.3 to 22.3 billion mammals annually and have caused multiple extinctions.<sup>145</sup> Additionally, dogs remain one of the most commonly violent animals toward humans, despite domestication, leading to an entire industry dedicated to training aggressive dogs.<sup>146</sup> All of this is not to say that cats or dogs are bad pets but rather to say that the arbitrary distinction that America has created between “pets” and “exotics” is unfounded and representative of a Western-Imperialist mindset. Restricting Black Americans to own only animals that White people deem acceptable, without science to support the purported policy concerns, is another way that America not only limits the ability of Black Americans to own pets of their choosing but also reinforces White norms in society.

“Exotic” animals are not the only targets of species-based discrimination; animals generally considered livestock also face restrictions and bans.<sup>147</sup> In many cases, Black Americans have turned to animals such as chickens to serve both as companion animals and as a clever resource for food.<sup>148</sup> Being able to have access to fresh eggs can make a big difference for health, especially for Black Americans

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141. Connie Leonard, *Local Exotic Pet Owners Fear New Laws*, WAVE (Dec. 15, 2004, 3:45 PM), <https://www.wave3.com/story/2635098/local-exotic-pet-owners-fear-new-laws> [https://web.archive.org/web/20220125014237/https://www.wave3.com/story/2635098/local-exotic-pet-owners-fear-new-laws].

142. *Id.*

143. *Id.*

144. *Id.*

145. Scott R. Loss, Tom Will & Peter P. Marra, *The Impact of Free-Ranging Domestic Cats on Wildlife of the United States*, NATURE COMM'NS, Dec. 12, 2013, at 1, 1.

146. VanSickle et al., *supra* note 101.

147. Maia McDonald, *Chicagoans Showcase Backyard Chickens Amid Issues with Proposed Livestock Ordinance*, FREE SPIRIT MEDIA (Oct. 30, 2019), <https://freespiritmedia.org/features-search/2019/10/29/chicagoans-showcase-backyard-chickens-amid-issues-with-proposed-livestock-ordinance> [https://perma.cc/6X9B-54C3].

148. *Id.*

who are more likely to be stuck in food deserts.<sup>149</sup> However, more and more often, cities have been instituting bans on chickens and similarly used livestock animals, especially in Black neighborhoods.<sup>150</sup> While these resources and companions are removed from Black Americans, similarly situated individuals in predominantly White cities have seen a resurgence in urban farming and chicken rearing.<sup>151</sup> These species-specific restrictions again unfairly target Black Americans, while White Americans continue to derive benefits.

Beyond restrictions, the government has threatened the ownership of companion animals for Black Americans via over-policing and police violence, both inside of and outside of hyper-segregated areas.<sup>152</sup> While the inhumanity of over-policing and police violence knows no bounds and can fill volumes, for the purposes of this Note, I will only be discussing it as it relates to animals. Because Black Americans are drastically over-policed, any problems stemming from policing are likely to hit Black Americans the hardest.<sup>153</sup> There are three major ways that government officials and the police use companion animals as hostages, whose lives hang in the balance if over-policed communities do not meet their demands.<sup>154</sup>

Firstly, the government often has pets euthanized for no other reason except that their owners cannot pay fines.<sup>155</sup> Animal-control agencies aggressively go after pet owners with big fines for small violations.<sup>156</sup> For example, “failing to license a pet, owning a dog that barks a lot, or accidentally letting an animal get loose in the neighborhood” can all land a person with thousands of dollars in fines.<sup>157</sup> In some cases, officials have gone door-to-door in low-income and minority neighborhoods handing out fines, often without even seeing the pets in question.<sup>158</sup> There have even been cases of officials removing animals from people’s backyards and claiming they were loose.<sup>159</sup> When owners cannot pay the excessive fines, their pets may end up euthanized and the owners may even end up in jail.<sup>160</sup> In this way, over-policing of Black communities and Black Americans often takes place using their pets as a proxy.<sup>161</sup>

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149. *Id.*

150. *Id.*

151. Erica Browne Grivas, *Coronavirus Pandemic Triggers a Wave of Self-Sufficiency Around Seattle: Vegetable Gardens, Urban Chickens Are In-Demand*, SEATTLE TIMES (Apr. 18, 2020, 2:34 PM), <https://www.seattletimes.com/life/coronavirus-pandemic-triggers-a-wave-of-self-sufficiency-around-seattle-vegetable-gardens-urban-chickens-are-in-demand> [https://perma.cc/C76B-ZE38].

152. *See generally* MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (revised ed. 2012).

153. *See generally id.*

154. Blake Ellis & Melanie Hicken, *Dogs Killed Over Unpaid Fines*, CNN MONEY (Apr. 6, 2015), <https://money.cnn.com/interactive/pf/pet-fines/index.html> [https://perma.cc/C267-D6CX].

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*

161. *See id.*

Secondly, the over-policing of Black Americans is likely to impact the lives of their pets indirectly. Black Americans are far more likely to be arrested—regardless of wrongdoing—due to factors including poverty, homelessness, and disproportionate policing.<sup>162</sup> When a person is arrested, law enforcement must often choose whether to leave their pets to starve, to allow their pets to run loose, or to bring their pets to a shelter.<sup>163</sup> Depending on the jurisdiction, animals in shelters may be immediately adopted out to another person or euthanized or may be subject to a waiting period of only a few days.<sup>164</sup> Even if an arrested person is lucky enough to have the opportunity to reclaim their animal, they are likely to face hundreds of dollars in fees from the shelter to do so.<sup>165</sup> If they cannot pay the fees quickly enough, their animal will either be euthanized or adopted out to somebody else.<sup>166</sup> Due to these factors, getting arrested is likely to result in losing beloved pets, often alongside jobs and housing, for many Black Americans.<sup>167</sup>

Lastly, the police are well known for injuring or outright killing animals. A U.S. Justice Department official estimated that the police kill 10,000 dogs per year and injure countless more.<sup>168</sup> Officers who try to shoot at a pet sometimes end up missing and shooting nearby people, creating another deadly hazard to pet owners dealing with police.<sup>169</sup> People in other professions, such as mail carriers, deal with aggressive pets regularly without resorting to violence, bringing into question the argument of necessity.<sup>170</sup> Furthermore, this violent stance is even more alarming because no police officer has ever been killed by a dog while in the line of duty.<sup>171</sup> Much like police killings of suspects in general, police killings of pets have been found to be highly concentrated in Black neighborhoods.<sup>172</sup>

These various tools created and upheld by our current government come together to systematically deny meaningful and secure animal companionship to Black Americans. Not only are they denied the benefits but also they are actively

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162. See generally ALEXANDER, *supra* note 152.

163. Mike Pearl, *What Happens to Your Dog When You Get Arrested?*, VICE (Feb. 17, 2016, 9:00 PM), <https://www.vice.com/en/article/exq9k4/what-happens-to-your-dog-when-you-get-arrested> [<https://perma.cc/V3UP-4N6B>].

164. Rebecca F. Wisch & Ashley Dillingham, *Table of State Holding Laws*, ANIMAL LEGAL & HIST. CTR. (2017), [animallaw.info/topic/state-holding-period-laws-impounded-animals](http://animallaw.info/topic/state-holding-period-laws-impounded-animals) [<https://perma.cc/DP63-3LXF>].

165. See, e.g., OC ANIMAL CARE, REDEMPTION FEES (2018), <https://www.ocpetinfo.com/sites/ocac/files/import/data/files/68558.pdf> [<https://perma.cc/8UG6-BH6Z>].

166. Wisch & Dillingham, *supra* note 164.

167. See generally ALEXANDER, *supra* note 152.

168. Conor Friedersdorf, *What Dog Shootings Reveal About American Policing*, ATLANTIC (July 13, 2017), <https://www.theatlantic.com/politics/archive/2017/07/what-dog-shootings-reveal-about-american-policing/533319> [<https://perma.cc/84GP-KWFS>].

169. *Id.*

170. *Id.*

171. Stefano Bloch & Daniel E. Martínez, *Cops Are Also Shooting Pets in Black and Brown Communities at Much Higher Rates*, SLATE (July 6, 2020, 11:34 AM), <https://slate.com/news-and-politics/2020/07/cops-shooting-dogs-police-violence-racism.html> [<https://perma.cc/VQL2-ESJF>].

172. *Id.*

harm by the violence enacted upon their pets or upon them because they own pets. This is not an accident but rather a complete government policy created long ago and maintained in a way that actively uses terror to restrict Black Americans from the benefits that countless White Americans derive from animal companions.

#### D. Private Sector Interference with Animal Ownership

The process of obtaining a pet usually is determined by a private breeder, a government-sponsored shelter, or a nonprofit rescue organization.<sup>173</sup> However, there is little to no regulation for the adoption process that any of these entities must abide by, and generally speaking, individuals decide who may adopt a pet based on personal judgment alone.<sup>174</sup> Given decades of research confirming the powers of implicit or unconscious bias, it is extremely likely that the mostly White Americans who work at these entities disproportionately deny Black Americans' adoption applications.<sup>175</sup> This is corroborated by recent studies showing that Black Americans adopted less than one percent of the dogs from shelters and pit bull rescues, while White Americans adopted over ninety percent.<sup>176</sup> Anecdotal stories confirm that, in some cases, animal rescues systematically denied every Black applicant and instead euthanized animals at alarming rates.<sup>177</sup> While White Americans seem to have few problems obtaining pets, lack of regulation has led to unchecked discriminatory practices that leave Black Americans with difficulty finding animals for companionship.

Beyond the dilemma of obtaining a pet, the difficulty of finding pet-friendly housing is another barrier to pet ownership erected by the unregulated private sector. Finding housing at all is difficult for many Black Americans, owing to poverty, redlining, and discrimination.<sup>178</sup> Home ownership is sparse; for example, in Minneapolis just 25% of Black families own their home, compared with 76% of White families.<sup>179</sup> The ability to find rental housing varies significantly by race.<sup>180</sup>

173. Kristen Pariser, *Detailed Discussion of the Laws Regulating Rescue and Foster Care Programs for Companion Animals*, ANIMAL LEGAL & HIST. CTR. (2014), <https://www.animallaw.info/article/detailed-discussion-laws-regulating-rescue-and-foster-care-programs-companion-animals> [https://perma.cc/GBV4-QPPJ].

174. *See id.*

175. *Id.*; *see also* *Animal Shelter Worker: Demographics and Statistics in the US*, ZIPPPIA [hereinafter *Animal Shelter Worker*], <https://www.zippia.com/animal-shelter-worker-jobs/demographics/> [https://perma.cc/JD6B-3SXB] (Dec. 14, 2021); *Racism in Rescue*, NJ ANIMAL OBSERVER (Aug. 3, 2015), <https://njanimalobserver.com/2015/08/03/racism-in-rescue-2> [https://perma.cc/H4Z2-8FJG].

176. *Animal Shelter Worker*, *supra* note 175; *Racism in Rescue*, *supra* note 175.

177. *Animal Shelter Worker*, *supra* note 175; *Racism in Rescue*, *supra* note 175.

178. MASSEY & DENTON, *supra* note 123.

179. Michele Lerner, *One Home, a Lifetime of Impact*, WASH. POST (July 23, 2020), <https://www.washingtonpost.com/business/2020/07/23/black-homeownership-gap/?arc404=true> [https://perma.cc/QH93-MSXL].

180. *See generally* MARIA KRYSAN, KYLE CROWDER, MOLLY M. SCOTT & CARL HEDMAN WITH SADE ADEEYO, SOMALA DIBY & SIERRA LATHAM, U.S. DEP'T OF HOUS. & URB. DEV., RACIAL AND

For example, in a Chicago study, 22% of Black renters were not able to find housing for over six months, compared to just 1% of White renters.<sup>181</sup> For this reason, Black Americans have far less choice and bargaining power when it comes to finding housing compared to White Americans.<sup>182</sup>

While no research or statistics have been gathered on the matter, one likely result of the difficulty of finding housing is that Black Americans are more likely to have to enter leases with “no pets” provisions or other pet restrictions. White households have the highest rate of pet ownership at 64.7%, and Black households have the lowest rate at 36.9%.<sup>183</sup> Thirty-five percent of people who do not own a pet report that they would have a pet if their rental housing allowed animals.<sup>184</sup> Even in cases where pets are permitted in rental housing, the average pet deposit is around \$225 but can be as high as \$700, and many landlords also require additional monthly rent for pets.<sup>185</sup> Beyond that, the base rent for rentals that allow pets is on average between 20% to 30% more expensive than housing that is not pet-friendly.<sup>186</sup> Not to mention, landlords pose an additional layer of reinforcement to the bans on certain amounts, breeds, and species of pets permitted.<sup>187</sup> A study found that only 9% of rental housing allows companion animals without any significant limitations on size or type and that 82% of tenants with animals reported having trouble finding a rental unit that would allow their pets.<sup>188</sup>

While landlords justify these bans and restrictions as a means to protect their properties and limit nuisances, studies do not support the validity of these arguments.<sup>189</sup> About half of landlords that allow pets have never experienced any damage from any companion animals in their units.<sup>190</sup> More than half of landlords that allow pets have never had complaints from anybody regarding animals, and two-thirds of landlords have never had noise problems.<sup>191</sup> Although 85% of landlords experience damages related to animals, the data suggests there is no

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ETHNIC DIFFERENCES IN HOUSING SEARCH: FINAL REPORT (2018), <https://www.huduser.gov/portal/sites/default/files/pdf/HousingSearch.pdf> [<https://perma.cc/HMV7-NFR2>].

181. *Id.* at 56.

182. *Id.*

183. AM. VETERINARY MED. ASS'N, AVMA PET OWNERSHIP & DEMOGRAPHICS SOURCEBOOK (2017–2018 ed. 2018).

184. Rebecca J. Huss, *No Pets Allowed: Housing Issues and Companion Animals*, 11 ANIMAL L. 69, 99 (2005), [https://www.animallaw.info/sites/default/files/vol11\\_p69.pdf](https://www.animallaw.info/sites/default/files/vol11_p69.pdf) [<https://perma.cc/RA7X-WSMN>].

185. Huss, *supra* note 184.

186. *Companion Animal Renters Study: The Market for Rental Housing for People with Pets*, PETFINDER, <https://www.petfinder.com/dogs/living-with-your-dog/pet-friendly-housing-study> [<https://perma.cc/342W-HX2S>] (last visited Jan. 24, 2022).

187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

statistically significant difference in overall damages between tenants with and without pets.<sup>192</sup>

Despite tight restrictions on animal ownership in rental units, over 20% of tenants surveyed reported that they are keeping pets in violation of their lease.<sup>193</sup> Violations of “no pets” provisions in leases can lead to swift evictions if a landlord chooses to act.<sup>194</sup> Involuntary moves are likely to lead to much less desirable rentals, especially for Black Americans who already have the odds stacked against them when it comes to finding housing.<sup>195</sup> Adding an eviction to one’s record on top of these factors can make finding new housing a virtual impossibility.<sup>196</sup> While there remains a lack of research, these facts suggest that Black renters are less likely to risk breaching a lease by hiding pets than White renters.

Even when a Black adopter avoids discrimination in the adoption process, differences are stark between Black renters and White renters when it comes to the ability to find rental housing, to afford additional pet fees, and to risk keeping pets in breach of lease provisions. These differences all come together to result once again in White Americans benefiting from animal companionship while Black Americans tend to be stripped of the ability to own pets in a safe and secure manner.

#### *E. Alienation and Harm from Animal-Focused Groups*

Black Americans have been alienated from and harmed by many animal-focused groups and communities because of the use of racially insensitive and offensive messaging. The depiction of Black people as animalistic, especially in terms of being closer to primates, has been promoted by slave traders, historians, and practitioners of “scientific” racism in order to justify slavery, lynching, and the creation of the Jim Crow state.<sup>197</sup> This ape characterization is not a relic of the past but an idea that studies show continues to directly result in the dehumanization of Black Americans and disproportionately worse outcomes for Black Americans in the criminal justice system.<sup>198</sup> While some animal comparisons are made to elicit disgust, such as comparisons to vermin or swine, even those made about beloved animals like dogs result in dehumanization by implying a subhuman status.<sup>199</sup> Eliciting feelings of disgust and subhuman status has been used throughout history

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192. *Id.*

193. *Id.*

194. Huss, *supra* note 184, at 99–100.

195. KRYSAN ET AL., *supra* note 180, at xii, 45, 61.

196. *Id.*

197. Brent Staples, Opinion, *The Racist Trope that Won't Die*, N.Y. TIMES (June 17, 2018), <https://www.nytimes.com/2018/06/17/opinion/roseanne-racism-blacks-apes.html> [https://perma.cc/L5UX-K4JU].

198. *Id.*

199. Nick Haslam, *Why It's So Offensive When We Call People Animals*, CONVERSATION (Apr. 17, 2017, 11:32 PM), <https://theconversation.com/why-its-so-offensive-when-we-call-people-animals-76295> [https://perma.cc/PXW3-P7PU].

to justify genocide and enslavement of marginalized peoples, and so we must be extra vigilant to avoid comparing marginalized groups to animals in any context.<sup>200</sup>

Despite this, animal-welfare and animal-rights groups continue to liken society's treatment of animals to the treatment of Black Americans under slavery.<sup>201</sup> Even after formally apologizing for comparing the Holocaust to factory farming, the People for the Ethical Treatment of Animals (PETA) in the very same year juxtaposed pictures of Black people with animals, including Black people in chains with shackled elephants, a Black civil-rights protester being beaten with a seal being bludgeoned, and a White mob surrounding two lynched Black individuals with a cow hanging in a slaughterhouse.<sup>202</sup> While these comparisons capitalize on Black suffering in order to draw attention to the suffering of animals, these groups are responsible for diverting attention from Black human beings to animals in numerous other ways.

Dating back to slavery, White Americans have consistently focused on helping animals while ignoring the suffering of Black Americans. During slavery, animals would frequently be better fed and cared for than slaves.<sup>203</sup> After Hurricane Katrina hit New Orleans, stranded dogs received more sympathetic attention in the U.S. media coverage of Hurricane Katrina than did stranded Black Americans.<sup>204</sup> So disparate was the reaction that while Black Americans were left without food, shelter, or any help to recover from the disaster, landmark legislation to protect animals from natural disasters was being swiftly enacted across the country.<sup>205</sup> In 2020, many animal groups drew attention from the Black Lives Matter movement to animal rights, even going so far as to post "All Lives Matter" in reference to animal lives.<sup>206</sup>

The racism and insensitivity displayed by these groups not only causes further harm to Black Americans but also alienates Black Americans from them.<sup>207</sup> This is especially problematic as many of the issues related to animals and Black people

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200. *Id.*

201. Seren Sensei, *Factory Farming, Though Vile, Does Not Equate to Chattel Slavery*, RIOT MATERIAL (June 13, 2018), <https://www.riotmaterial.com/factory-farming-not-chattel-slavery> [<https://perma.cc/VQ7C-KRRQ>].

202. *PETA Evaluates Charges of Racism*, CBS NEWS (Aug. 13, 2005, 6:47 PM), <https://www.cbsnews.com/news/peta-evaluates-charges-of-racism> [<https://perma.cc/C7RR-D82Y>].

203. Parry & Yingling, *supra* note 92.

204. Brigitte Nicole Fielder, *Animal Humanism: Race, Species, and Affective Kinship in Nineteenth-Century Abolitionism*, 65 AM. Q. 487, 488 (2013).

205. See Janelle Bouie, *Where Black Lives Matter Began*, SLATE (Aug. 23, 2015, 9:01 PM), [http://www.slate.com/articles/news\\_and\\_politics/politics/2015/08/hurricane\\_katrina\\_10th\\_anniversary\\_how\\_the\\_black\\_lives\\_matter\\_movement\\_was.html](http://www.slate.com/articles/news_and_politics/politics/2015/08/hurricane_katrina_10th_anniversary_how_the_black_lives_matter_movement_was.html) [<https://perma.cc/FJG8-TGZT>]. *But see* Matthew Zeitlin, *Hurricane Katrina Inspired a National Pet Evacuation Policy. The Plan Could Save Human Lives, Too.*, VOX (Nov. 15, 2019, 10:02 AM), <https://www.vox.com/the-highlight/2019/11/8/20950253/wildfires-hurricane-katrina-pet-evacuation> [<https://perma.cc/2QUW-CWJP>].

206. Summer Anne Burton, *Stop Comparing Black Lives Matter to Animal Rights*, TENDERLY (June 4, 2020), <https://medium.com/tenderlymag/stop-comparing-black-lives-matter-to-animal-rights-59a640d741f1> [<https://perma.cc/BQ86-VQ3Q>].

207. *Id.*

intersect, such as exploitation of workers in the factory-farming industry and the existence of food deserts in inner cities.<sup>208</sup> The exclusion of Black voices from these groups results in animal-related activism that is beneficial to the desires of White Americans, often to the detriment of Black Americans.

### III. PROPOSALS FOR CHANGE

In order to remedy the harms done to Black Americans from the systemic deprivation of the benefits of animal companionship and husbandry, radical, reparative changes must be made to provide them with new opportunities in these areas. The following policy suggestions are of limited scope in order to specifically address the exclusion of Black Americans from the opportunities of animal companionship and husbandry. This Note merely discusses small steps necessary to fully remedy the injustices suffered by Black Americans and in no way seeks to overtake other forms of reparations that are being pursued.

The most easily accomplished actions would be those that simply remove unnecessary governmentally imposed barriers to animal companionship. This could be accomplished by removing barriers to animal ownership that discriminate by species or breeds, unless there is clear and convincing scientific evidence that there is a legitimate danger posed that is not also posed by other allowed species and breeds. For example, three states currently have no bans on specific species, thirteen states have partial bans on specific species or breeds, and fourteen states merely have licensure or permitting requirements for specific species.<sup>209</sup> These states serve as models that demonstrate that comprehensive bans are unnecessary. Therefore, state and local governments should remove any bans in place unless the necessity for them is well supported by scientific research and there are no less restrictive means available.

The next most realistic action would be to prevent unnecessary, privately imposed barriers to animal companionship, notably to housing. The simplest way to accomplish this would be to amend Fair Housing legislation to bar discrimination against a tenant having any animal or animals that are legal to possess, with the exceptions of prohibiting animals in the household when the sharing of living areas in a single dwelling unit is involved, requiring a person to pay for any damages caused by any animal that they have willfully brought onto a property, and requiring a person to remove any animal from a property if that animal has been a nuisance and the resident has not corrected the nuisance within thirty days of notice. Currently, both Ontario and the United Kingdom have enacted similar bans on “No

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208. *Id.*

209. *Map of Private Exotic Pet Ownership Laws*, ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/content/map-private-exotic-pet-ownership-laws> [https://perma.cc/ZW6H-7L34] (last visited Jan. 24, 2022).



Pets Housing,” demonstrating that this type of legislation is entirely possible at both the local and national levels.<sup>210</sup>

Beyond the physical and economic barriers, the psychological barriers must also begin to be rectified. The trauma that is caused by the use of animals to terrorize and by traumatic pet loss needs to be stopped immediately. In order to accomplish this, legislation must place a universal ban on the practice of using animals to harm or control human beings. Additionally, there must be harsh criminal consequences for police who harm a citizen’s animal, with a high burden of proof on the officer to prove self-defense and that there was no less harmful alternative. Lastly, there needs to be reform to prevent unnecessary removal of pets from loving homes based only on arrest or the owing of fines. With these three changes, psychological damage due to animals could be mitigated, and only then can healing truly begin.

Beyond animal companionship, there needs to be reforms that change the nature and color of animal husbandry and agriculture. These changes will require large government investments and strength to stand against the entire factory-farming industry. One way to enact this sweeping reform would be to first make available free, hands-on animal-husbandry programs to Black communities. Next would be to provide Black Americans the option to use publicly managed plots of land for the purpose of animal husbandry. Most importantly, the government should place a ban on factory farming and provide grants and other incentives to those committed to starting a small farm. With these slow changes in policy made over a long period of time, we could see a shift away from factory farming and instead to Black Americans finally reaping the benefits of animal husbandry. The most obvious difficulty here lies in paying for this massive project; however, the government could consider sourcing the funding from corporations who unfairly benefitted from slavery.<sup>211</sup>

Moreover, one major problem that arises with both animal companionship and animal husbandry is the high cost of veterinary care. While we are still fighting for universal healthcare for humans, it is unlikely we will first see universal veterinary insurance. However, there could be a system put into place for animals that replicates Medicaid. This would include standardizing what must be included in veterinary insurance, as well as making veterinary insurance free for those below

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210. Katrina McCallum, *PSA: Landlords Can't Ban Your Pet*, W. GAZETTE (Nov. 20, 2019), [https://westerngazette.ca/news/psa-landlords-cant-ban-your-pet/article\\_6a598f4e-fbe5-11e9-9564-a3c3529fba3e.html](https://westerngazette.ca/news/psa-landlords-cant-ban-your-pet/article_6a598f4e-fbe5-11e9-9564-a3c3529fba3e.html) [https://perma.cc/CB6B-JXZF]; *New Standard Tenancy Agreement to Help Renters with Well Behaved Pets*, GOV.UK (Jan. 28, 2021), <https://www.gov.uk/government/news/new-standard-tenancy-agreement-to-help-renters-with-well-behaved-pets> [https://web.archive.org/web/20220110175705/https://www.gov.uk/government/news/new-standard-tenancy-agreement-to-help-renters-with-well-behaved-pets].

211. For discussion on the corporations that benefitted from slavery and the potential for reparations, see Zoe Thomas, *The Hidden Links Between Slavery and Wall Street*, BBC News (Aug. 29, 2019), <https://www.bbc.com/news/business-49476247> [https://perma.cc/JBW9-GDAW].

a certain income threshold. While even this is a lofty goal, it is necessary to prevent unintentional neglect as well as traumatic pet loss.

These proposals are a mere starting point, but inevitably more barriers will be identified and more solutions will be found. In order to ensure the government takes seriously the importance of animal companionship and husbandry, we must provide additional protections to those fighting to protect the rights to animal companionship and husbandry. Therefore, the most important and perhaps most difficult challenge would be to amend the U.S. Constitution to include access to animal companionship and husbandry as a fundamental right. This would be more than a mere symbolic victory; it would help pave the way for further progress by requiring strict scrutiny for laws that infringe on these rights. The fundamental importance of animal companionship and husbandry has been ignored for too long, and this collective ignorance has allowed inequality to fester unchecked. Only by bringing this issue into the light can America begin to make the changes necessary to leave behind its past and move toward a better future.

