

WHAT COMES AFTER DEFUND?: LESSONS FROM POLICE AND PRISON ABOLITION FOR THE ANIMAL MOVEMENT

By
Michael Swistara¹

Abstract

As the mass incarceration crisis skyrocketed, the animal protection movement adopted many of the mechanisms of the carceral state. Improving the status of animals was equated with pushing for lengthier sentences for those who caused harm to animals, placing more people into cages for longer periods of time. This disproportionately harmed Black, Indigenous, and People of the Global Majority (BIPGM) communities who are the most heavily policed, surveilled, and imprisoned. Allying with the carceral state has also harmed animals—advocates are labeled terrorists, potential allies are dissuaded from action, and companion animals are killed by officers of the state. This approach is both cruel and ineffective. It does nothing to address the root causes of harm to animals and betrays the core liberationist values of the movement. Many in the mainstream animal protection movement have begun to agree with and incorporate criticisms of an overly carceral approach but remain unsure of where to go next. This Article proposes an alternative paradigm, drawing lessons from the prison abolition movement, that adopts a harm prevention approach to animal protection. Through divesting from carceral solutions and investing in new ways to prevent harm and respond to those who cause harm, the animal protection movement can effectively ally with other social justice organizations and be true to its core values in creating a world that is better for all living beings.

I. INTRODUCTION	90
II. BACKGROUND	91
III. DISCUSSION	98
A. <i>How Working with the Carceral State Harms the Animal Movement</i>	98
i. <i>Repeating Cycles of Violence and Hindering Movement Building</i>	98
ii. <i>Failing to Address the Root Causes of Harm to Animals</i>	103
B. <i>Anti-Carceral Alternatives</i>	104
i. <i>Lessons from Other Anti-Carceral Movements</i>	105
ii. <i>Divesting from the Prison Industrial Complex</i>	108

* J.D./M.P.P., expected 2022, The George Washington University; M.A., Economics, 2016, Columbia University; B.A., Political Science and Economics, 2015, McGill University.

iii. Investing in Ways to Prevent Harm	110
iv. Investing in Ways to Respond to Those Who Cause Harm	113
IV. CONCLUSION	116

I. INTRODUCTION

*“[T]here is a connection between . . . the way we treat animals and the way we treat people who are at the bottom of the hierarchy.”*²

– Angela Davis

The protests that followed the murders of George Floyd, Breonna Taylor, and many other Black people at the hands of police officers across the United States have led to a renewed call to defund the police.³ The militarized and often violent police response⁴ to these peaceful protests across the country injected newfound interest in the movement to abolish the Prison Industrial Complex (PIC) and all of its supporting actors, including the police.⁵ This energy toward greater racial justice has influenced many within the animal protection movement.⁶

In many ways, the animal movement was long overdue for a self-evaluation of the role it plays in aligning with racist institutions and systems of imprisonment and oppression. The present era reveals the harms this approach has caused and presses upon the animal movement the need to acknowledge the mutual benefits and deeply woven intersectionality of liberation. In rethinking its alliances, the movement can better advance its ultimate mission of animal protection.

The animal movement is somewhat unique amongst modern social justice movements in how wedded it is to the mechanisms of the carceral state. The tools and techniques of the carceral state, from throwing humans into metal cages called prisons to the police surveillance network that supports it, causes direct harm to the animal movement. Animal activists are jailed, dogs are routinely shot by officers of

² Jon Hochschartner, *Vegan Angela Davis Connects Human and Animal Liberation*, COUNTER PUNCH (Jan. 24, 2014), <https://perma.cc/P37N-6KSJ> (accessed Dec. 3, 2021).

³ See Sam Levin, *Movement to Defund Police Gains ‘Unprecedented’ Support Across US*, THE GUARDIAN (June 4, 2020), <https://perma.cc/9B47-394T> (accessed Oct. 16, 2021) (explaining how the movement to defund the police gained support across America after the eruption of protests following the killing of George Floyd).

⁴ See, e.g., Jamelle Bouie, *The Police Are Rioting. We Need to Talk About It.*, N.Y. TIMES (June 5, 2020), <https://perma.cc/ZG8F-5AZB> (accessed Oct. 16, 2021) (describing some of the violent tactics used by police during riots); see also, Matthew Dessem, *Police Erupt in Violence Nationwide*, SLATE (May 31, 2020), <https://perma.cc/9ED6-3CTN> (accessed Oct. 16, 2021) (providing descriptions of tear-gassing, driving vehicles through crowds, etc.).

⁵ See, e.g., Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), <https://perma.cc/233U-Y5HE> (accessed Oct. 16, 2021) (discussing the idea of abolishing prisons and redirecting funds to other social welfare needs).

⁶ See, e.g., Aryenish Birdie, *Animal Advocates: It’s Time We Move from Performance to True Antiracism*, SENTIENT MEDIA (Oct. 1, 2020), <https://perma.cc/4F87-5NKL> (accessed Oct. 16, 2021) (comparing the movement for racial justice with animal rights).

the state, and companion animals in over-policed communities of color are more likely to be confiscated, euthanized, or removed to shelters for longer periods. The harm caused to any one animal, human or non-human, is multiplied in a revenge-based system of 'justice' that does little to nothing to reduce future threats to nonhuman animals.

In addition to failing to address the underlying causes of harm to animals, our current approach betrays the values of the animal movement and dissuades future animal advocates from joining the cause. Therefore, the animal movement needs to adopt a new paradigm to rethink how to prevent and confront harm. There is much to be learned through this paradigm shift from the long-standing work of those at the forefront of the prison abolition movement.

This Article argues that the current punitive approach to dealing with harms to animals is inefficient, insufficient, and unnecessarily cruel. In order to best protect the welfare of animals going forward and to truly live up to the nonviolent, compassionate, and liberationist aspirations of the animal movement, steps must be taken to eliminate and replace the current punitive model of addressing harm to domesticated animals. This begins with divesting from police and reinvesting in community resources, such as pet ownership programs, harm prevention intervention, and restorative justice initiatives.

Part II of this Article provides a brief history of the animal movement's alliance with the carceral state and the rise of retributive policies into the animal protection mainstream. Part III draws lessons from other anti-carceral movements and proposes a slate of policies for both animal advocacy organizations and governments to implement. This includes redirecting funding from police and prisons toward community-based methods of harm prevention and accountability. Systems of harm and accountability are incredibly complex. This article is only able to scratch the surface of abolition, justice, speciesism, and other nuanced and intertwined fields of study. Further reading on topics ranging from the debate over carceral feminism to effects of the war on drugs is encouraged.

There is no silver bullet to solve the vastly complex twin problems of mass incarceration and cruelty to animals, but our current system of responding to animal cruelty fails to prevent harm to animals and exacerbates the problems of mass incarceration. Through the changes proposed here, the animal movement can live up to its aspirational ideals and address the underlying causes of harm to animals while also acknowledging and remedying the harm the carceral approach has had in the past. This will pave the way toward a future in which all animals and their human companions can thrive.

II. BACKGROUND

The role of the criminal legal system in the United States is, and always has been, to uphold the status quo and reinforce preexisting power dynamics. This system of punishment and enforced social order,

derived from slave patrols in the South and union-busting in the North,⁷ has grown over the last forty years to the point that the United States incarcerates more of its own citizens than any other country on the planet.⁸ The brunt of this force has not been borne equally, and from the post-emancipation prison labor camps to the respective racial rates of incarceration today, Black men are a disproportionate target of the police and prison system's violence.⁹

Over the last forty years, the number of people locked away in America's prisons has ballooned to over 2.3 million people spread across federal and state prisons, jails, juvenile, and immigration detention facilities.¹⁰ The rapid growth in the country's detained population since 1980 is largely due to the War on Drugs and the War on Crime.¹¹ The federal government used racial fears, as well as public health and poverty crises, to crack down with all the brutal might of the state on communities of color and poorer communities.¹² A "zero tolerance" approach to drugs and crime had disastrous consequences across the country, particularly in Black and brown communities.¹³

⁷ See All Things Considered, *The History of Police in Creating Social Order in the U.S.*, NPR: OPB (June 5, 2020), <https://perma.cc/XH79-BATY> (accessed Oct. 16, 2021) (discussing how the police force evolved from slave patrols and unions); see also, Olivia B. Waxman, *How the U.S. Got Its Police Force*, TIME (May 18, 2017), <https://perma.cc/5SFT-WJNG> (accessed Oct. 17, 2021) (describing how policing institutions grew out of chasing runaways, preventing slave revolts, and fears of unions).

⁸ By the early 1990s, the United States already had a higher incarceration rate than apartheid South Africa and the Soviet Union. Today, America incarcerates one and a half times as many people as China, a nation with a population more than four times our size. The United States also incarcerates a higher percent of our citizens than anyone else, placing well above the next highest incarcerating nations of El Salvador and Turkmenistan. See *U.S. Has Highest Rate of Imprisonment in World*, N.Y. TIMES (Jan. 7, 1991), <https://perma.cc/CVV8-HNW5> (accessed Nov. 8, 2021) (explaining that the incarceration rate in the United States is higher than the rates in South Africa and the Soviet Union); see also, John Gramlich, *American's Incarceration Rate Falls to Lowest Level Since 1995*, PEW RSCH. CTR. (Aug. 16, 2021), <https://perma.cc/CTE9-HJ2A> (accessed Nov. 9, 2021) (stating that the United States still "incarcerates a larger share of its population than any other country," despite the overall rate falling in 2019).

⁹ See *Race and the Criminal Justice System*, EQUAL JUST. INITIATIVE (Oct. 1, 2014), <https://perma.cc/6ZMR-LWKB> (accessed Oct. 16, 2021) (providing statistics of the disproportional number of non-white prisoners and explaining the effect of the 'war on drugs' and mandatory sentencing policies that disproportionately impacted Black Americans).

¹⁰ Press Release, Prison Policy Initiative, *Mass Incarceration: The Whole Pie* (Mar. 24, 2020), <https://perma.cc/Q77M-UA4Q> (accessed Dec. 3, 2021).

¹¹ See generally ELIZABETH HINTON, *FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA 1—7* (2016) (discussing the Johnson administration's "War on Crime," the Reagan administration's "War on Drugs," and their effects on increased incarceration rates).

¹² See *id.* at 31–32, ("[T]he War on Poverty is best understood not as an effort to broadly uplift communities . . . but as a manifestation of fear about urban disorder and about the behavior of young people, particularly young African Americans.").

¹³ See *A Brief History of the Drug War*, DRUG POLY ALL, <https://perma.cc/G8AW-QC9F> (accessed Oct. 16, 2021) (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 De-*

As Alex Vitale, a professor of sociology at Brooklyn College and a scholar of modern American policing, has said, “our criminal justice system has become a giant revenge factory” more interested in retribution than rehabilitation.¹⁴ America’s incarcerated population is the least rehabilitated in the world.¹⁵ The United States locks up more of its citizens than any other country and boasts the highest recidivism rate in the world.¹⁶ Lackluster reentry programs make leaving prison harder and harder for those with criminal records.¹⁷ Often, lauded alternatives like house arrest are merely a different shade of incarceration.¹⁸ American prisons further a cycle of violence and poverty that, for many, begins with the school-to-prison pipeline.¹⁹

During the 1990s, with both the War on Drugs and the War on Crime in full swing, incarceration rates rose at unprecedented levels.²⁰

scendant of Nixon’s War on Drugs, U.T. NEWS (Apr. 25, 2016), <https://perma.cc/WQ6B-EX7M> (accessed Oct. 16, 2021) (detailing how zero-tolerance drug policies contributed to the over-criminalization of minors and the school-to-prison pipeline, which affects African American students at a highly disproportional rate); Graham Boyd, *The Drug War is the New Jim Crow*, NACLA REPORT ON THE AMERICAS (Jul./Aug. 2001), <https://perma.cc/2WLH-53TV> (accessed Oct. 16, 2021) (describing the “caustic effect” of tough-on-crime drug policy on communities of color). Additionally, please note that this article follows The New York Times style guide in capitalizing Black but not capitalizing brown or white. See Nancy Coleman, *Why We’re Capitalizing Black*, N.Y. TIMES (Jul. 5, 2020), <https://perma.cc/FD2N-QTQA> (accessed Dec. 3, 2021).

¹⁴ Verso Books, *How to Abolish the Police State* at 58:54, YOUTUBE (June 4, 2018), <https://perma.cc/R5SA-QTPH> (accessed Dec. 3, 2021).

¹⁵ See Christopher Zoukis, *U.S. Prisoners the Least Rehabilitated in the World*, HUFFPOST (Sept. 16, 2017), <https://perma.cc/HJ48-CGLP> (accessed Dec. 3, 2021) (“In addition to locking people up at unprecedented rates, America also lays claim to the highest recidivism rate in the world . . .”).

¹⁶ *Id.*

¹⁷ See BRIE WILLIAMS & LEANN BERTSCH, THE JUSTICE COLLABORATIVE INSTITUTE, NO EXCUSES: GOVERNORS MUST PURSUE DECARCERATION ALONG WITH INVESTMENTS IN REENTRY SERVICES, 4-5 (2020) (“Ultimately, reentry services are crucial for the success of people re-integrating into society . . .”); Wanda Bertram, *Returning from Prison and Jail is Hard During Normal Times – It’s Even More Difficult During COVID-19*, PRISON POLICY INITIATIVE (Sep. 2, 2020), <https://perma.cc/AEJ4-7F8C> (accessed Dec. 3, 2021) (“[E]ven during ‘normal’ times, these organizations are direly under-resourced.”); see also Wanda Bertram, *Who’s Helping the 1.9 Million Women Released from Prisons and Jails Each Year?*, PRISON POLICY INITIATIVE (Jul. 19, 2019), <https://perma.cc/2WN6-NT7N> (detailing the lack of resources for reentry programs for women, the primary concerns upon reentry—most notably housing—and looks at a model reentry project in Los Angeles).

¹⁸ See MAYA SCHENWAR & VICTORIA LAW, PRISON BY ANY OTHER NAME: THE HARMFUL CONSEQUENCES OF POPULAR REFORMS (2020) (critiquing prison substitutes as maintaining the same level of physical control under the state as traditional prisons).

¹⁹ See, e.g., THE CENTER FOR POPULAR DEMOCRACY, THE \$746 MILLION A YEAR SCHOOL-TO-PRISON PIPELINE: THE INEFFECTIVE, DISCRIMINATORY, AND COSTLY PROCESS OF CRIMINALIZING NEW YORK CITY STUDENTS (2017) (describing how over-policing and enacting harsh disciplinary policies in schools is connected to later criminal legal issues).

²⁰ See German Lopez, *Mass Incarceration in America, Explained in 22 Maps and Charts*, VOX (Oct. 11, 2016), <https://perma.cc/8UZU-5R2M> (accessed Dec. 3, 2021); see also Peter K. Enns, *The Public’s Increasing Punitiveness and Its Influence on Mass In-*

The mainstream animal movement began to adopt the rhetoric, and more importantly the tools, of the “tough on crime” movement that has caused so much unnecessary suffering.²¹ Animal advocates arguably began their “war on animal cruelty” after seeing civil litigation fail while criminalization received attention and funding.²² While some of the pressure to focus on criminalization certainly came from within animal organizations, the immense pressure to achieve tangible, quantifiable wins for supporters cannot be discounted.²³ In many ways, this was not unique to the animal movement. As Professor James Forman Jr. detailed in his book, *Locking Up Our Own*, the Black community reacted to the crime spike of the 1970s and 1980s by asking for a range of supportive programs from more job and housing programs to better policing.²⁴ In the halls of power of state capitals and Washington alike, the response was near unanimous support for more policing and mili-

carceration in the United States, 58 AM. J. POL. SCI. 857, 862 (2014) (finding “rising levels of punitiveness from the mid-1960s into the 1990s”).

²¹ Rhetorically, many mainstream animal advocacy organizations used language about being “tough” on animal crime during this time. *See, e.g., The Year in Review*, ANIMALS’ ADVOCATE, Summer 2001, at 7 (“ALDF’s Zero Tolerance for Cruelty Campaign stepped up its push for more aggressive prosecutions of crimes against animals, and for tough sentences for those convicted of such crimes.”); Ann Church, *State Anti-Cruelty Laws Take Giant Leap Forward*, AWI QUARTERLY, Winter 1996, at 18 (discussing the recent flurry of new anti-cruelty criminal laws and equating harsher criminal sentences with wins for nonhuman animals). This period also saw more criminal laws being pursued and passed by animal advocates. *See, e.g., id.* (“Thirteen [felony cruelty] laws have been enacted since 1989, with ten of those having been enacted since 1993! This year already Colorado and Arizona have made a first or second offense of cruelty a felony, and Utah increased its fine and jail term.”).

²² In 1994, the Animal Legal Defense Fund (ALDF) announced its “war on animal cruelty” as part of a new national strategy to push for “stiffer laws, more vigorous prosecution . . . [and longer sentences].” This came after attempts in the 1980s by the ALDF to seek civil law remedies for animal cruelty, only to be soundly rejected by the courts. JUSTIN MARCEAU, *BEYOND CAGES: ANIMAL LAW AND CRIMINAL PUNISHMENT* 14, 20-21 (2019).

²³ In the context of other social justice movements, the use of the punitive states has been referred to as “carceral progressivism” by some scholars. *See, e.g., Savannah Shange, Progressive Dystopia: Multiracial Coalition and the Carceral State* 15-16 (2017) (Ph.D. dissertation, University of Pennsylvania) (proposing the concept of “carceral progressivism” as a means to describe social reforms that perpetuate anti-Black racism while trying to eliminate it).

²⁴ JAMES FORMAN JR., *LOCKING UP OUR OWN: CRIME AND PUNISHMENT IN BLACK AMERICA* 76 (2017) (chronicling the response by D.C.’s Black community to the rise in crime during the 1970s, with particular emphasis on demands for more investment in education, housing, and job training that fell on deaf ears. Forman writes that by 1975, such efforts to improve people’s lives were seen as “a symbol of the hopeless naïveté of 1960s liberalism.”); *id.* at 12 (“African Americans wanted more law enforcement, but they didn’t want *only* law enforcement. . .they [also] called for jobs, schools, and housing.”); *see id.* at 79 (describing calls for the hiring of more Black police officers, whether thought to be less abusive and racist or simply better crimefighters, as “an essential, if forgotten, part of our nation’s civil rights struggle”).

tarized surveillance with no investment in communities to prevent harm.²⁵

After declaring a ‘war’ on animal cruelty, the animal movement began to adopt many of the other turns of phrase brandished by the War on Drugs. For example, some began referring to animal cruelty as a “gateway crime” in much the same way marijuana had been labeled a “gateway drug” for years.²⁶ This branding of a gateway crime had very real implications as the war against such harms necessitated a “zero-tolerance” approach to animal cruelty.²⁷ Primarily, this militaristic framing places harm to animals firmly within the realm of a crime to be policed away (implicitly by force), rather than treated as a more complex social policy issue. A zero-tolerance approach is what supports the prosecution of individual factory workers who are themselves often victimized by the same cruel food system. Similarly, those without the resources to provide for their companion animals are constructed as “criminals” and punished rather than given the tools they need for them and their animals to thrive. Furthermore, the gateway crime narrative perpetuates the argument that harm to animals matters more as a means of stopping possible later harm to humans rather than validating the experience of animals as victims, an argument often advanced by pro-carceral animal advocates.

This zero-tolerance approach has meant that since the 1990s animal advocates have pushed for longer sentences, statutory mandatory minimums, the treatment of children as adults when prosecuting animal cruelty, and have directly worked hand-in-glove with prosecutors and police officers to ensure that criminal charges are brought.²⁸ While many state anti-cruelty laws had been on the books

²⁵ See *id.* at 76-77 (By the 1980s, “[c]onservatives won,” and the consensus became that the solution to crime was not addressing causes like poverty but was, as Nixon put it, “convicting more criminals.”).

²⁶ See, e.g., NAT’L SHERIFFS’ ASS’N, ANIMAL CRUELTY AS A GATEWAY CRIME (2018) (recommending methods and tools for police enforcement of animal cruelty laws); see also MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS 136 (2010) (explaining that if anything, marijuana arrests have been used as a gateway to funnel Black youth into the criminal legal system).

²⁷ See Steve Ann Chambers, *Animal Cruelty Legislation: The Pasado Law and Its Legacy*, 2 ANIMAL L. 193, 193-195 (1996) (describing the ALDF’s “zero tolerance” approach to drive its “aggressive enforcement campaign”); see, e.g., Stephen Wells, *Letter from the Executive Director: Putting Abusers Behind Bars*, ANIMALS’ ADVOCATE, Spring 2013, at 2 (describing ALDF’s efforts to work hand-in-glove with prosecutors and their successful fights to increase the harshness of penalties for animal abuse, including a sign-off that advocates for zero-tolerance policing: ‘Abuse an Animal, Go to Jail!’).

²⁸ See MARCEAU, *supra* note 21, at 60-61 (“Advocates have endorsed imposing mandatory minimum sentences for animal abuse crimes.”); *id.* at 61-62 (“[W]hen animal abuse occurs at the hands of juveniles, advocates have urged that the children be charged and sentenced as adults.”); Joyce Tischler, *A Brief History of Animal Law, Part II (1985-2011)*, 5 STAN. J. ANIMAL L. & POL’Y 27, 58 (2012) (“These findings are regularly used to educate prosecutors and law enforcement about the interconnectedness of violence and the importance of prosecuting animal cruelty cases.”).

since the 1800s,²⁹ it was during the 1990s that organizations like the Animal Legal Defense Fund (ALDF) began to push for widespread criminalization of harm to animals.³⁰ Between 1990 and 2008, the number of states with felony animal cruelty statutes rose from four to forty-five.³¹ There are now felony animal cruelty laws on the books in all fifty states plus D.C. and Puerto Rico, as well as at the federal level.³²

These “zero-tolerance” efforts from the 1990s soon became the standard amongst many of the largest animal protection organizations. Leading animal protection organizations began pushing for broader laws that criminalized more behavior,³³ as well as for harsher punishments and fewer due process rights for those accused of animal cruelty.³⁴ While fighting to prevent animal cruelty is a noble effort, much like the well-intentioned anti-drug crusaders of the 1970s,³⁵ it was in working with the carceral state that animal advocates began to harm their own movement and became culpable in the untold suffering brought on by mass incarceration.³⁶

Prosecutions have long since been a “cornerstone of American animal protection”,³⁷ but it is only in these last few decades that the movement’s carceral turn flourished along with the broader rise of mass incarceration. Many of the largest animal advocacy organiza-

²⁹ David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800’s*, 1993 DETROIT COLL. L. REV. 1, 6–12 (1993) (“While the first half of the 1800’s saw tentative attempts at the adoption of anti-cruelty legislation, the real legislative effort would not occur until the 1860’s and beyond.”).

³⁰ *E.g.*, WASH. REV. CODE § 16.52.205 (2020) (establishing the short title of the statute as the “Pasado Law,” and making intentional cruelty to animals a felony); *see also* Pamela D. Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L. 69 (1999) (“[S]tate anti-cruelty statutes provide the principal, and in some cases the only, legal protection available to animals in our society[.]”).

³¹ THE HUMANE SOC’Y OF THE UNITED STATES, *FIRST STRIKE: THE VIOLENCE CONNECTION* 9 (2008).

³² Press Release, Humane Soc’y of the United States, *Extreme Animal Cruelty Can Now Be Prosecuted as a Federal Crime*, <https://perma.cc/7JBA-HC3A> (accessed Nov. 25, 2019).

³³ One example that has had a particularly racially disparate impact is anti-tethering laws that criminalize leaving an animal tied up in a yard. *See* MARCEAU, *supra* note 21, at 56. This is not to excuse the very real harm that can come from tethering animals, but it is important to understand that, like the monitoring of “dangerous” animals, anti-tethering laws are not equally enforced across communities. *See* 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).

³⁴ *See* MARCEAU, *supra* note 21, at 56-60 (detailing efforts by academics and advocacy organizations alike to remove requirements of mens rea and to increase statutory mandatory minimums for animal crimes).

³⁵ *See* FORMAN JR., *supra* note 23, at 17-46 (detailing the rise of addiction problems in Black communities and the numerous well-intentioned attempts to address the problem during the 1970s-1990s).

³⁶ *See* MARCEAU, *supra* note 21, at 46 (“In an age of mass incarceration, not even the animal rights movement has avoided the temptation to call for more cages and structural State violence against living creatures.”).

³⁷ Tischler, *supra* note 27, at 57.

tions now regularly work alongside police and prosecutors, providing trainings and free legal work.³⁸ Even Gary Francione, the legal scholar arguably most associated with the “abolition” of animal exploitation,³⁹ has failed to apply a true abolitionist lens. Instead, Francione co-opts the mantle of “abolition” long-associated with Black liberation to boost his message while supporting the use of cages to contain and confine humans.⁴⁰

Many appear to offer a justification for this carceral turn due to the unavailability (or at least lack of awareness) of tangible alternative methods to addressing animal cruelty.⁴¹ However, the fact that the animal movement’s carceral turn largely came later than for other movements is fairly incriminatory.⁴² The last two decades could be characterized among social justice organizations by the mainstreaming of anti-carceral ideals that have long since been noted and advocated for by academics and activists.⁴³ Throughout this time, national organizations like the National Association for the Advancement of Colored People (NAACP), the American Civil Liberties Union (ACLU), and the Sentencing Project have been making the case publicly that a

³⁸ See, e.g., *Criminal Justice: Collaborating with Prosecutors and Law Enforcement on Animal Cruelty Cases*, ANIMAL LEGAL DEF. FUND, <https://perma.cc/N3FR-3U9H> (accessed Nov. 14, 2020) (ALDF provides free legal assistance to law enforcement and prosecutors); *Partnership with the Humane Society of the United States*, NAT’L SHERIFFS’ ASS’N, <https://perma.cc/H5X8-4MGZ> (accessed Nov. 14, 2020).

³⁹ See, e.g., Gary L. Francione, *Reflections on Animals, Property, and the Law and Rain Without Thunder*, 70 L. & CONTEMP. PROBS. 9, 40-41 (2007) (critiquing “welfarism” and advocating a position of abolishing animal exploitation); see generally ANNA E. CHARLTON & GARY L. FRANCIONE, *ANIMAL RIGHTS: THE ABOLITIONIST APPROACH* (2015).

⁴⁰ See Francione, *supra* note 38, at 45, 51 (arguing that more prosecutions and more criminalization is needed to address the problem of animals’ status as property).

⁴¹ Skeptics of abolition make the same arguments in other categories of harm too—such as: if we abolish the police, how will we stop murder or hold assaulters accountable? See, e.g., Paul H. Robinson, *Don’t Abolish the Police. It Didn’t Work for 1960s Communists and it Won’t Work for Us.*, USA TODAY (June 21, 2020), <https://perma.cc/9N36-GJH4> (accessed Dec. 3, 2021).

⁴² Using criminal animal cruelty legislation as a measure, the movement’s key carceral victories came between the mid 1990s and late 2000s, but continue well into the 2010s. See HUMANE SOC’Y *supra* note 30. This came after the drastic rise in the prison population, after the carceral feminist movement culminating in the Violence Against Women Act, and after the anti-drug movement’s carceral turn that culminated in the 1984 drug sentencing law. See Alex Press, *#MeToo Must Avoid “Carceral Feminism”*, VOX (Feb. 1, 2018) (detailing the criminal approach to sex work and domestic violence during the 1970s through to the 1990s), <https://perma.cc/BQZ7-ZJTT> (accessed Jan. 18, 2022); *Federal Drug Sentencing Laws Bring High Cost, Low Return*, PEW TRUSTS (Aug. 27, 2015), <https://perma.cc/S9WU-5AAC> (accessed Jan. 18, 2022).

⁴³ See Ira Glasser, *American Drug Laws: The New Jim Crow*, 63 ALBANY L. REV. 703, 723 (2000) (arguing that “drug prohibition has become a replacement system for segregation”); *Criminal Justice Fact Sheet*, NAACP, <https://perma.cc/SV9B-UA7R> (accessed Oct. 18, 2021) (broadly outlining the American criminal justice system and its impacts of racial disparity, including details on incarceration); see generally ALEXANDER, *supra* note 25 (comprehensively analyzing how increasing criminal laws, in particular drug laws, led to mass incarceration and the creation of a police state that disproportionately targets Black men and boys).

prison population as large and racially distinct as ours is incompatible with democracy and the values of a free society.⁴⁴ This reflects the amplification and propagation of century-old critiques of American justice as ineffective and inherently racially biased.⁴⁵

The animal movement's prolonged failure to deal with the racial and economic justice concerns to which their work has contributed since the 1990s weighs heavily on the movement and actively inhibits its success toward improving animal welfare. It prevents future allies from advocating on behalf of animals and it misdirects resources in such a way that not only fails to address the underlying causes of harm to animals but that directly hurts people in the process. Now seems as good a time as any for the movement to reflect on these failures and to take proactive steps to better protect humans and nonhumans alike.

III. DISCUSSION

The animal movement's turn toward carceral remedies has had some success in individualized cases⁴⁶ but these have come at a much larger cost to the movement. In repeating cycles of violence, partnership with the PIC has betrayed a core value of the movement: compassion for all living beings. A heightened focus on criminalization dissuades future allies and potential animal advocates. Importantly, this punitive approach to harm has also failed to address the root causes of harm to animals. The current moment presents an opportunity for the animal movement to craft an explicitly anti-carceral approach that incorporates anti-racist policies to make humans and nonhuman animals safer.

A. *How Working with the Carceral State Harms the Animal Movement*

i. *Repeating Cycles of Violence and Hindering Movement Building*

The systemic racial and class consequences of our current approach to animal cruelty cannot be untangled from the carceral state.⁴⁷ As abolitionist activist Mariame Kaba has articulated, “there is not a single era in United States history in which the police were not

⁴⁴ MARCEAU, *supra* note 21, at 117.

⁴⁵ See Rachel Kushner, *Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind*, THE NEW YORK TIMES MAG. (Apr. 17, 2019), <https://perma.cc/2YPK-9APC> (accessed Oct. 21, 2021) (stating that in 1902, famed attorney Clarence Darrow said, while speaking at a prison in Chicago, that “there should be no jails,” for “[t]hey do not accomplish what they pretend to accomplish”).

⁴⁶ Perhaps the best example of the criminal approach working “well” the instances in which prosecutions can be brought against farm owners or operators rather than just lineworkers. See, e.g., *Owner of Tyson-Contracted Factory Farm Charged with Animal Cruelty, Enters Plea Agreement*, ANIMAL OUTLOOK (Feb. 14, 2019), <https://perma.cc/U3GN-MKUV> (accessed Dec. 3, 2021).

⁴⁷ See All Things Considered, *supra* note 7.

a force of violence against [B]lack people.”⁴⁸ A failure to understand and engage with this history has harmed the animal movement. Not only does aligning the movement with the same prosecutors and police who perpetuate violence in Black and brown communities dissuade those who otherwise may support animal liberation from joining the movement, but it betrays the underlying principles of compassion and nonviolence that animate the animal movement.

The animal movement’s turn toward criminalization came later than many other movements, meaning it occurred amidst a growing consensus as to the ineffectiveness of such a punitive approach, making the animal protection movement seem uniquely out of touch with other social justice movements. The turn towards a carceral approach also gives the impression that the animal protection movement is only welcoming to privileged white people, as the systemic racial implications of relying on the carceral state seem unconsidered or intentionally ignored.⁴⁹ Part of the reason for the animal movement’s ignorance of intersectionality and zeal for carceral punishment was the movement’s longtime struggle with internal misogyny.⁵⁰ Fortunately, progress has been made in recent years to address this toxic culture and the obliviousness to gender and racial intersectionality that it caused within the movement.⁵¹

⁴⁸ Kaba, *supra* note 5.

⁴⁹ See Charlie Mitchell, *Is the Vegan Movement Ready to Reckon with Racism*, CIV. EATS (Aug. 26, 2020), <https://perma.cc/7L3B-L2ES> (accessed Oct. 21, 2021) (critiquing the “single-minded commitment” of mostly white staffed and led mainstream animal organizations to issues of animal welfare without consideration of intersectionality); Dr. Amie Breeze Harper, *Dear PETA, Black Lives Matter . . . So, Where Are You in All This Mess?*, THE SISTAH VEGAN PROJECT (Dec. 19, 2014), <https://perma.cc/S69V-YABX> (accessed Oct. 18, 2021) (“I wonder if it is easier to give up your speciesist power than it is to give up the collective neoliberal white privilege power most of your leadership has and simply cannot revoke.”).

⁵⁰ See, e.g., Julie Bosman et al., *Humane Society C.E.O. Resigns Amid Sexual Harassment Allegations*, THE NEW YORK TIMES (Feb. 2, 2018), <https://perma.cc/G3WX-VWE5> (accessed Dec. 3, 2021) (describing the resignation of the Humane Society of the United States’ chief executive after sexual harassment allegations surfaced); Dr. Hope Ferdowsian, *A Reckoning with #MeToo Within the Animal Protection Movement*, MEDIUM (Feb. 16, 2018), <https://medium.com/@hopeferdowsian/a-reckoning-with-metoo-within-the-animal-protection-movement-f3620e082d26> (accessed Oct. 21, 2021) (“Scholars . . . have for decades described the relationship between misogyny and cruelty to animals”); Chase Purdy, *Animal Activism is a Boys’ Club. Silicon Valley Could Change That*, QUARTZ (Feb. 13, 2020), <https://perma.cc/CP4M-6DNJ> (accessed Oct. 21, 2021) (stating that most of the people who are behind the success of plant-based food companies like Impossible Foods and Beyond Meat are majority white men).

⁵¹ See Press Release, Humane Soc’y of the United States, *The Humane Society of the United States Announces Reconciliation Process As the Latest Among Multiple Efforts to Improve Workplace Culture* (Oct. 1, 2018), <https://perma.cc/Q33W-TP22> (accessed Oct. 18, 2021); Press Release, Mercy For Animals, *Our Pledge to Help End Sexual Harassment and Discrimination in Our Movement* (Jan. 31, 2018), <https://perma.cc/2JTL-D27P> (accessed Dec. 3, 2021). Additionally, many of the major animal organizations released statements on racial injustice during the summer of 2020 at the height of the George Floyd protests. See, e.g., Erica Meier, *Standing in Solidarity*, ANIMAL OUTLOOK (Jun. 3, 2020), <https://perma.cc/F5VG-RZ8J> (accessed Dec. 3, 2021); Leah Garcés *Why*

Excellent work is being done to incorporate new intersectional theory into understanding speciesism.⁵² This analysis goes beyond comparing speciesism to sexism or racism, instead placing inter-species hierarchies into a broader understanding of “how these logics of domination are intertwined”⁵³ to demonstrate that “[a]ll social inequities are linked.”⁵⁴ As vegan activist and writer Aph Ko has put it, intersection is a “matrix” and the disconnect among animal advocates between anti-racist and anti-speciesist work can come from de-politicizing animal liberation.⁵⁵ Similarly, Carol Adams, author of *The Sexual Politics of Meat*, has spoken about intersectionality and how speciesism goes hand-in-hand with white supremacy in that the sexual exploitation of animals, women, and people of color all reinforce one another in establishing the white male as the most “quintessentially human.”⁵⁶

Incorporating this intersectional approach to understand how anti-cruelty laws can be disproportionately enforced and thus harm communities of color is necessary for the animal movement going forward. For example, by defining pet ownership standards in subjective terms such as “sufficient,” anti-cruelty laws combine with law enforcement’s implicit bias and reinforce structural inequities.⁵⁷

A reliance on punishment also harms animals and animal advocates. Given the systemic biases in our criminal legal system, pet ani-

Mercy For Animals Must Mean Mercy For Everyone: Our Commitment to Fighting Racial Injustice, MERCY FOR ANIMALS (Jun. 11, 2020), <https://perma.cc/5SWB-HKG2> (accessed Dec. 3, 2021); *Statement on Racial Injustice*, HUMANE SOC’Y UNITED STATES (June 2, 2020), <https://perma.cc/6L8E-54QM> (accessed Dec. 3, 2021). This, combined with the growth of outside pressure for more acknowledgement of racial inequality in the movement, is a step in the right direction.

⁵² See, e.g., Maneesha Deckha, *Welfarist and Imperial: The Contributions of Anticruelty Laws to Civilizational Discourse*, 65 AM. Q. 515, 515 (2013) (“This intersectional claim that ideas of species difference and nonhumans are affected by other hierarchies of difference is relatively new to intersectionality theory . . .”).

⁵³ *Id.*

⁵⁴ Patrice Jones, *Afterword: Liberation as Connection and the Decolonization of Desire*, in *SISTAH VEGAN: BLACK FEMALE VEGANS SPEAK ON FOOD, IDENTITY, HEALTH, AND SOCIETY* 194 (A. Breeze Harper ed., 2010) (quoting Michelle Loyd-Paige).

⁵⁵ APH KO, *RACISM AS ZOOLOGICAL WITCHCRAFT: A GUIDE TO GETTING OUT* 97 (2019) (“[M]any activists are adding animal experiences to the intersectional matrix of oppressions.”); see also Corey Lee Wrenn, *Breaking the Spell: A Critique of Intersectionality and Veganism in Anti-Racist Activism*, 28 SOC’Y & ANIMALS 327 (June 28, 2020) (reviewing APH KO, *RACISM AS ZOOLOGICAL WITCHCRAFT: A GUIDE TO GETTING OUT* (2019)).

⁵⁶ Harvard Animal Law, *2/25/19 – Carol Adams “#MeToo and the Sexual Politics of Meat”*, YOUTUBE (Mar. 31, 2019), <https://perma.cc/E3DX-4C8M> (accessed Oct. 15, 2021); see generally CAROL ADAMS, *THE SEXUAL POLITICS OF MEAT* (1990) (connecting misogyny to the meat industry).

⁵⁷ See Sloane M. Hawes et al., *Punishment to Support: The Need to Align Animal Control Enforcement with the Human Social Justice Movement*, 10 ANIMALS 2 (Oct. 16, 2020) (“[A]nimal control agencies should examine if the enforcement of their policies is laden with implicit bias and if their policies reflect a recognition of how the circumstances surrounding an animal welfare issue. . . might be driven by the very same structural inequities and social determinants of health that influence health outcomes for socially disadvantaged human populations.”).

mals in communities of color suffer worse health outcomes, are euthanized and confiscated at higher rates, and spend more time in animal shelters on average.⁵⁸ Police routinely shoot and kill dogs, with most estimates putting the number well above 10,000 dogs killed by police every year during raids.⁵⁹

Several scholars have criticized overly carceral animal advocates for partnering with a system that will just as easily go after allied animal advocates as it will animal abusers.⁶⁰ This crackdown on animal advocates includes Ag-Gag laws that silence whistleblowers' reporting on animal abuse,⁶¹ the creation of federal terrorism cases out of the obstruction of "animal enterprises,"⁶² and property felony charges levied against activists who rescue or feed animals in need.⁶³ In addition, anti-cruelty laws that exempt most forms of harm to animals are routinely passed with support from mainstream animal advocacy organizations,⁶⁴ further entrenching a hierarchy between types of

⁵⁸ See *id.* (detailing the harms to animals from the over-policing of pet control in communities of color).

⁵⁹ See Dale Chappell, *DOJ: Police Shooting Family Dogs Has Become 'Epidemic,'* CRIM. LEGAL NEWS (June 16, 2018), <https://perma.cc/E5JR-DXHW> (accessed Oct. 15, 2021). Note that some estimates place the number as high as 250,000 annually, but this estimate has been criticized by writers on the subject. See, e.g., 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://perma.cc/7DNE-C9Q6> (accessed Oct. 21, 2021) ("One dog handler. . . estimate[d] there are up to 250,000 cop-shoots-dog cases each year.").

⁶⁰ See MARCEAU, *supra* note 21, at 48 ("The very prosecutors and justice system that is reified by the animal protection movement when it seeks to incarcerate animal abuse will treat a foie gras investigator or a journalist exposing factory farm abuses as criminals or terrorists.").

⁶¹ See *Ag-Gag Laws*, ANIMAL LEGAL DEF. FUND, <https://perma.cc/5L4D-T3MD> (accessed Nov. 9, 2021) (explaining that "Ag-Gag laws seek to 'gag' would-be whistleblowers and undercover artists by punishing them for recording footage of what goes on in animal agriculture" in order to prevent the public from learning about animal cruelty); see, e.g., H. 1665, 91st Gen. Assemb., Reg. Sess. (Ark. 2017) (making whistleblowing a civil offense).

⁶² E.g., Animal Enterprise Terrorism Act, Pub. L. No. 109-374, 120 Stat. 2652 (2006) ("An Act To provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror."); see generally WILL POTTER, *GREEN IS THE NEW RED: AN INSIDER'S ACCOUNT OF A SOCIAL MOVEMENT UNDER SIEGE* (2011) (providing an account of how the FBI and other law enforcement agencies have begun to target animal rights activists and environmental activists under expanded "terrorist" laws).

⁶³ See, e.g., Justin Wm. Moyer, *Animal Rights Activists Who Removed Two Piglets from Factory Farm Charged After FBI Raids*, THE WASH. POST (May 25, 2018), <https://perma.cc/284D-H4F3> (accessed Oct. 15, 2021) (explaining how five activists were charged with the theft of two piglets after attempting to rescue the piglets); see also, Nicole Pallotta, *Activist Faces Criminal Charges for Giving Water to Thirsty Pigs*, ANIMAL LEGAL DEF. FUND (Aug. 27, 2016), <https://perma.cc/HUE9-DZ8Q> (accessed Oct. 15, 2021) (detailing the trial of Anita Krajnc, a Canadian animal advocate who was arrested and criminally charged for "interfering with the use, enjoyment, and operation of property" after she gave water to dehydrated pigs en-route to the slaughterhouse on a summer day).

⁶⁴ See Justin Marceau, *Palliative Animal Law: The War on Animal Cruelty*, 134 Harv. L. Rev. F. 250 (2021) (criticizing the PACT Act, which was supported by many of

animal victims and creating cover for legal harm to befall millions of animals.⁶⁵ Even when criminal actions are pursued by advocates, law enforcement is sometimes more hostile to the animal advocates than the animal abusers.⁶⁶ Accordingly, while some wins for individual animals have certainly been achieved through traditional punitive measures, greater harm to animals and the animal movement is caused by taking such an approach that directly conflicts with the purported values at the heart of the movement.⁶⁷

The modern animal protection movement has largely been defined by Peter Singer's landmark 1975 book *Animal Liberation*.⁶⁸ As such, the movement has professed the noble values of compassion for all living beings, of equal opportunity to avoid unnecessary suffering, and liberation from speciesist hierarchies.⁶⁹ Yet, in partnering itself with the forces of the carceral state, the animal movement has betrayed those core values. Locking humans in cages in the name of animal liberation is not an act of compassion for all beings. As vegan activist and academic Christopher Sebastian has said, animal advocates are "here to abolish hierarchies, not perpetuate them."⁷⁰ Justice can never truly be achieved if it comes at the expense of another's liberty. On top of this hypocrisy and racialized cruelty, carceral attempts to address harm to animals are also highly ineffective and do nothing to address root causes of suffering, ultimately failing to prevent the same harms to animals from reoccurring in the future.

the largest animal protection organizations, for exempting animals raised to be killed for food, animals on dairies, "pest" animals like raccoons or stray cats, and more); MARCEAU, *supra* note 21, at 98-110 (arguing that there is a correlation between felony animal cruelty laws and exceptions that permit most harms to animals; especially in the agricultural context).

⁶⁵ In a study conducted to measure attitudes towards punishment in animal cruelty cases, researchers found that animal type was highly predictive of punishment ratings—with harm to puppies being deemed much more worthy of punishment than harm to chickens. See Valerie K. Sims et al., *Don't Be Cruel: Assessing Beliefs About Punishment for Crimes Against Animals*, 20:3 ANTHROZOËS 251, 253-56 (2007).

⁶⁶ See MARCEAU, *supra* note 21, at 279 (recounting a story from 2017, in which a prosecutor lambasted the Humane Society of the United States when they turned over evidence of abhorrent cruelty on a local farm).

⁶⁷ This is not unlike the experience of anti-carceral feminists, who have criticized feminists who collaborated with the carceral state for ignoring the ways race and class cut with gender to make certain women more vulnerable, as well as the fact that investing in police and prisons as a way to combat domestic violence "diverts attention from the cuts to programs that enable survivors to escape, such as shelters, public housing, and welfare." Victoria Law, *Against Carceral Feminism*, JACOBIN MAG. (Oct. 17, 2014), <https://perma.cc/NQ5P-K3Y7> (accessed Oct. 15, 2021).

⁶⁸ See generally PETER SINGER, ANIMAL LIBERATION (1975) (arguing in the tradition of Jeremy Bentham that nonhuman animal interests should be considered given their ability to suffer, and popularizing the concept of "speciesism" as the framework through which nonhuman animal interests are often ignored by the public).

⁶⁹ *Id.*

⁷⁰ Christopher Sebastian, *A Seven-Point Plan to Disrupt White Supremacy and U.S. American Exceptionalism (they gon' be mad)*, FACEBOOK (Nov. 13, 2016) [website link no longer active].

ii. *Failing to Address the Root Causes of Harm to Animals*

Locking people in cages does not prevent future harm to animals. Research demonstrates that punitive action does not rehabilitate individuals who may have caused harm,⁷¹ longer sentences do not dissuade intentional harm,⁷² and unintentional harm like neglect cannot be prevented by harshly punishing the humans who are often also suffering as a result of poverty or mental illness.⁷³ Instead, the animal movement should holistically seek to address and reduce harm by addressing the root causes of neglect and cruelty.

This failure to treat symptoms points to the ineffectiveness of the PIC as a means to respond to harm to animals. If an individual inflicts intentional harm on an animal and is locked away for a few years, all this accomplishes is further suffering. No effort is made to change the individual's attitude toward animals or to modify the circumstances of their life that led them to harm an animal in the first place. As Angela Davis put it, “[p]risons do not disappear social problems, they disappear human beings.”⁷⁴ When an individual gets out of prison after a few years, their job prospects are abysmal, their family and community ties are strained, and nothing has actually been done to reduce the likelihood that they cause harm to another animal.⁷⁵

⁷¹ See *supra* Part I.

⁷² See Bryan Lufkin, *The Myth Behind Long Prison Sentences*, BBC (May 15, 2018), <https://perma.cc/9YMF-QA8C> (accessed Nov. 9, 2021) (explaining how “[r]esearch shows that long prison sentences don’t really work” and generally do not deter crime due to a range of factors, from the likelihood of getting caught to time-discounting by potential criminals).

⁷³ Correlations between poverty and higher reported animal crime rates suggest that situations of poverty cause harm to nonhuman animals, that criminal laws are written and enforced with particular emphasis on how neglect manifests in lower economic communities (such as harms out in public rather than inside homes), or some combination of both. Regardless, punishing neglect without addressing socioeconomic conditions will not eliminate the circumstances for similarly coded neglect to reoccur. See Jodi Levinthal, *The Community Context of Animal and Human Maltreatment: Is There a Relationship Between Animal Maltreatment and Human Maltreatment: Does Neighborhood Context Matter?* 54, 66 (Publicly Accessible Penn Dissertations, 2010) (finding poverty is positively correlated with reported animal neglect); Keri B. Burchfield, *The Sociology of Animal Crime: An Examination of Incidents and Arrests in Chicago*, 37 *DEVIAANT BEHAV.* 368 (analyzing Chicago Police Department animal crime statistics to find that most crimes are reported as neglect and that most reported animal crimes were correlated with instances of poverty and other socioeconomic hardship); see also Radley Balko, *Opinion: Child Protective Services and the Criminalization of Parenthood*, *WASH. POST* (Oct. 2, 2015), <https://perma.cc/3MEP-KUZU> (accessed Dec. 3, 2021) (arguing in the child neglect context that a punitive approach ignores the reality that parents often cannot comply even if they want to—such as going to required parenting classes without transportation—and criticizes unquestioned state intervention that may not be addressing the underlying problem it claims to be aimed at solving).

⁷⁴ Angela Davis, *Masked Racism: Reflections on the Prison Industrial Complex*, *HISTORY IS A WEAPON*, <https://perma.cc/3C8R-8VVU> (accessed Oct. 19, 2021).

⁷⁵ Perhaps even more illustrative of the harm the criminal legal system causes are in cases of animal neglect, in which owners mean no harm to the animal. In *Beyond*

This suggests there are two responses to address harm to animals. The first response is to double-down on the current carceral approach, locking up alleged animal abusers for longer and ramping up post-release surveillance, such as publicly listing names and preventing abusers from future ownership of or interaction with animals. Such a response would only amplify the already deeply cruel system of mass incarceration and mass surveillance, and would further entrench racial and economic inequalities. It would also cost untold sums of money and do little to change outcomes for animals.⁷⁶

Alternatively, the second response to the current dysfunctional system is charting a new course that focuses on reducing future harms rather than endlessly punishing for past harms. This Article proposes such an approach, one that learns from other anti-carceral movements and seeks to redirect funding from punitive measures toward community-based solutions. In practice, this approach means redirecting resources away from police and prosecutors toward community harm prevention organizations and restorative justice programs.

B. Anti-Carceral Alternatives

This Article proposes a slate of policies that would refocus animal cruelty prevention efforts on decarceral interventions, rather than on punishment. In doing so, it draws lessons from other anti-carceral social justice movements. This approach involves divesting from policing and prosecution and reinvesting that money in community resources that aim to eliminate the root causes of harm to animals while also

Cages, Professor Justin Marceau tells the story of Sammy, a cocker spaniel who was neglected by a couple during their divorce. Sammy experienced kidney disease, medical expenses, suicidal tendencies, and other traumas and was neglected by the couple. Sammy was deeply malnourished and had to be removed from their care, and the couple (including the wife who had moved out) were both sentenced to six months in prison. Removing and rescuing Sammy was clearly necessary, but how does throwing these two people who were traumatized—to the extent that the trauma then harmed their pet—into prison help animal flourishing in the future? See MARCEAU, *supra* note 21, at 49.

⁷⁶ Even if carceral approaches to harm were effective, the vast majority of cruelty prosecutions target cruelty toward companion animals. See Greg Cima, *FBI Gathers Animal Cruelty Data, But Patterns Have Yet to Emerge*, AM. VETERINARY MED. ASS'N (Mar. 27, 2019), <https://perma.cc/5GV4-MB4P> (accessed Dec. 3, 2021) (stating that, in 2016, 760 people were arrested for animal cruelty, with 70% of those arrested charged for cruelty that occurred in the home); see also, *Animal Cruelty Facts and Stats*, THE HUMANE SOC'Y OF THE U.S., <https://perma.cc/692J-VK3H> (accessed Oct. 19, 2021) (“The animals whose abuse is most often reported are dogs, cats, horses and livestock.”). Criminal cruelty statutes usually exempt agriculture and the incalculable suffering caused by factory farming and climate change is not addressed by punitive approaches. See Matthew Zampa, *How Many Animals Are Killed for Food Every Day?*, SENTIENT MEDIA (Sept. 16, 2018), <https://perma.cc/EV38-N4A8> (accessed Oct. 19, 2021) (estimating that some 3 billion animals are killed every single day, across all species, including chicken and fish); Jonathan Lovvorn, *Climate Change Beyond Environmentalism Part I: Intersectional Threats and the Case for Collective Action*, 29 GEO. ENV'T L. REV. 1, 40–42 (2017). Thus, carceral approaches cannot deliver on most of the harm caused to animals, even if they worked as promised.

responding to harm compassionately and effectively when it does occur.

i. Lessons from Other Anti-Carceral Movements

The key insight from prison abolitionists is, as human rights lawyer Derecka Purnell has stated, that abolition is not just about “firing cops and closing prisons,” it is about “eliminating the reasons people think they need cops and prisons in the first place.”⁷⁷ In the animal context, this insight means eliminating the reasons that people ever get into a situation where they would neglect or intentionally harm an animal in the first place. Put differently, applying the abolitionist perspective says it is not just about closing slaughterhouses and factory farms, but that the animal movement should imagine a world without the need for slaughterhouses in the first place. This process requires unlearning reliance on the carceral system and creatively imagining a different, brighter future.

Civil rights writer and professor, Michelle Alexander, has written about how part of realizing this more compassionate future is questioning ideas—such as the expectation of calling the police as a default response to all manner of issues.⁷⁸ This also involves redefining terms like harm and crime. The mere fact that something has been criminalized does not mean it is necessarily harmful, and vice versa there are many things that are harmful that have not been made criminal. For example, being housing unstable or unhoused does not make someone harmful, yet houselessness at the individual level has been criminalized in jurisdictions all over the country.⁷⁹ However, the many forces causing houselessness, from corporations buying up homes and increasing prices⁸⁰ to landlords evicting tenants who use 911 services⁸¹ are not criminalized. It is important to untangle the individual from the system in this way. Dr. A. Breeze Harper, an author and academic on food geography, human ecology, feminism, and veganism, highlights the work being done to connect the PIC with the “food-industrial

⁷⁷ Derecka Purnell, *How I Became a Police Abolitionist*, THE ATLANTIC (July 6, 2020), <https://perma.cc/3VH5-4FNB> (accessed Nov. 7, 2021).

⁷⁸ *See id.*

⁷⁹ *See, e.g.*, Minneapolis, Minnesota, Municipal Code § 244.60(a) (2013) (banning use of a tent on “any public street or on any public or private premises or street in the city”); Columbia, South Carolina, Municipal Code § 14-105(a)(1) (2007) (banning sleeping “in a single place for any substantial prolonged period of time”); Toledo, Ohio, Municipal Code § 509.08 (defining loitering as “remaining idle in essentially one location”); *see also* NAT’L LAW CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS 2019: ENDING THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 45-46 (2019) (“[T]he criminalization of homelessness is prevalent across the country and has increased in every measured category since 2006[.]”).

⁸⁰ *See* Elena Botella, *Investment Firms Aren’t Buying All the Houses. But They Are Buying the Most Important Ones.*, SLATE (Jun. 19, 2021), <https://perma.cc/BNU3-MVQ9> (accessed Dec. 3, 2021).

⁸¹ *See* Jerusalem Demsas, *Why People are Getting Evicted for Calling 911*, VOX (Mar. 15, 2021), <https://perma.cc/8GPB-F8AE> (accessed Dec. 3, 2021).

complex” in a way that both bolsters anti-speciesist solidarity and takes young people “off the track of entering the [PIC].”⁸²

Applying this systemic logic to the harms that domesticated animals experience, it is important for animal advocates to ask themselves who or what is being criminalized when we pass harsher animal cruelty laws. For example, in unintentional neglect cases when the owner has a hoarding disorder,⁸³ criminalizing or otherwise punitively addressing this harm effectively acts to punish someone for their own health affliction. Other anti-carceral movements would point out that the harm we ought to address is instead the lack of adequate mental health care or other earlier interventions that could have prevented the harm to the animal from occurring in the first place.

If the owner’s mental health condition itself is considered the harm in need of remedy, criminalizing the owner and locking them up may be a logical response. However, under an abolitionist perspective, the person experiencing mental health issues is seen as a human being struggling under the weight of society that devalues them and their companion animal, who also suffers as a result. With a recognition that it is a failure of society that has led an animal owner to neglect their companion animal to begin with, rather than an individual moral failure, the solution to this problem can be anti-carceral. Unlike incarcerating an individual for animal neglect, an anti-carceral approach will improve the lives of both the owner and the companion animal by addressing the underlying mental health issues of the individual and, in turn, creating a better environment for both that animal and future animals that could otherwise have ended up in similar circumstances. Through redefining harm and crime in the animal law context, policy tools and goals that may have been previously unattainable become available and will undoubtedly lead to greater flourishing for all.

Additionally, anti-carceral movements provide lessons on how to respond to those who intentionally cause harm to animals. First, steps should be taken to reduce situations that can lead to intentional harm. Most people age out of crime—the majority of crimes are committed by young men under the age of twenty-five.⁸⁴ Abolitionists also teach that

⁸² Vera L. Chang, *Redefined Palate: Sistah Vegan Project’s Breeze Harper Dishes on Mindful Eating*, CIV. EATS (Dec. 19, 2013), <https://perma.cc/3F5X-YJLC> (accessed Nov. 9, 2021) (describing how “urban farming” and healthier eating can be a way to take kids “off the track of entering the prison-industrial complex, and how the prison-industrial complex is connected to the military-industrial complex, which is connected to the food-industrial complex”).

⁸³ *Impact of the DSM-IV to DSM-5 Changes on the National Survey on Drug Use and Health: Table 3.29, DSM-5 Hoarding Disorder*, SUBSTANCE ABUSE & MENTAL HEALTH SERV. ADMIN. (June 2016), <https://perma.cc/W3KK-Q6PN> (accessed Nov. 9, 2021) (describing hoarding disorder as a mental condition recognized by the Diagnostic and Statistical Manual of Mental Disorders).

⁸⁴ See Dana Goldstein, *Too Old to Commit Crime?*, THE MARSHALL PROJECT (Mar. 20, 2015), <https://perma.cc/8E4R-SBUC> (accessed Nov. 7, 2021) (finding that most criminal careers “peak” in the late teens or early 20’s and rarely, if ever, last more than five to ten years total).

crime is often linked to circumstances, like poverty and trauma.⁸⁵ Numerous studies demonstrate that early intervention can significantly curb later violence.⁸⁶ Thus, early intervention to both curb general tendencies toward violence and to establish a positive relationship with animals would likely lead to fewer instances of intentional harm to animals.

The second key insight the abolition movement teaches is how to hold accountable those who intentionally cause harm to animals. Ultimately, abolition is not just about tearing down the walls of oppression, but is just as importantly about “creating new models for living.”⁸⁷ These new models for living must still include accountability. But, as geographer and abolitionist Ruth Wilson Gilmore has said, post-carceral forms of accountability must avoid the worst retributionist impulses of the current carceral model.⁸⁸ One promising model is an approach centering ‘love with accountability,’ as Victoria Law has advocated.⁸⁹ This ‘love with accountability’ framework would emphasize asking how to ensure the harm that occurred does not happen again, and how amends might be made in responding to an instance of harm.⁹⁰

In the context of animal cruelty, community groups should lead these anti-carceral forms of accountability with larger organizational or governmental support and funding, and could include the perpetrator of the harm distancing themselves from a neighborhood, social circle, or job that enabled the harm to occur. Accountability could involve financial restitution and donating time to give back and redress harm. Importantly, the solution should be tailored to fit the needs of those harmed and be grounded in the goal of ensuring that harm will not

⁸⁵ *Frequently Asked Questions*, MPD150, <https://perma.cc/YLX7-J9RH> (updated Dec. 14, 2020) (accessed Dec. 3, 2021) (“Crime isn’t random. Most of the time, it happens when someone has been unable to meet their basic needs through other means. Sol,] to really ‘fight crime,’ we don’t need more cops; we need more jobs, more educational opportunities, more arts programs, more community centers, more mental health resources, and more of a say in how our own communities function.”).

⁸⁶ *See, e.g.*, NAT’L INST. JUST., OFF. JUV. JUST. AND DELINQ. PREVENTION, CHANGING LIVES: PREVENTION AND INTERVENTION TO REDUCE SERIOUS OFFENDING 3 (2014) (summarizing the Seattle Social Development Project and the Montreal Longitudinal-Experimental Study, both of which used randomized control trials to find intervention in pre-teen and childhood years led to significantly lower rates of violence and substance abuse by the participants in later teenage years).

⁸⁷ CRITICAL RESISTANCE, A WORLD “WITHOUT” WALLS: THE CR ABOLITION ORGANIZING TOOLKIT 27 (2004) (“At its core, abolition isn’t only about throwing all the prison doors wide open. It is also about creating new models for living.”).

⁸⁸ *Intercepted: Ruth Wilson Gilmore Makes the Case for Abolition (Part 2)* at 09:52, THE INTERCEPT (June 10, 2020, 3:02 AM), <https://perma.cc/U33L-SH43> (accessed Oct. 18, 2021) (speaking to Chenjeri Kumanyika about her family’s experience when her cousin was shot and killed, and how as an abolitionist, she did not want the perpetrator to be imprisoned for life because that would only amplify her family’s pain).

⁸⁹ Victoria Law, *How Can We End Child Sexual Abuse Without Prisons?*, TRUTHOUT (Oct. 2, 2019), <https://perma.cc/LFB8-JW9E> (accessed Oct. 18, 2021).

⁹⁰ *Id.*

reoccur. Not only would a community-centered model of accountability be more in line with the core values of the animal movement in its compassion, but it focuses on preventing future harm to animals. In order to move toward a ‘love with accountability’ focused model of justice for both animals and the people who love them, resources must first be allocated away from the current punitive model.

ii. Divesting from the Prison Industrial Complex

Animal advocates should join the calls by abolitionists to divest money from traditional carceral regimes and reinvest those funds in community-based resources.⁹¹ This is focused on moving away from mass incarceration and its supportive logic of punishment as the primary method of accountability, as well as divesting from “all the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social and political problems.”⁹² Redirecting funds toward community-based resources will lessen the racial and economic inequities exasperated by our current criminal legal system and animals’ lives will be saved by keeping them out of dangerous situations. The PIC is far more than just police, prosecutors, and prisons, but as the primary entry and engagement point with the system for many, shifting resources from police budgets to community-based resources is a good place to start. District Attorney offices should pledge to cease all criminal charges brought against animal owners for hoarding or neglect, as well as redirect inflictors of intentional harm into restorative justice programs.

As cities like Denver and San Francisco have already demonstrated, police do not need to be the first responders for every 911 call.⁹³ In reducing funding to the police force, its size and scope also decreases, reducing the number of opportunities for police to come into contact with companion animals and cause harm.⁹⁴ An excellent start would be for animal advocates to support cutting law enforcement budgets and activities in half.⁹⁵ The same cuts should be made to prison populations and funding. Animal advocates should demand that no new prisons are built to expand the state’s holding capacity and that no new police academies are formed.

⁹¹ Importantly, working alongside coalition partners means that animal advocates are not unilaterally disarming in a way that could be seen to devalue animal life relative to human life (although it is worth critiquing the idea that criminal punishment alone values the lives of those harmed).

⁹² *What is the PIC? What is Abolition?*, CRITICAL RESISTANCE, <https://perma.cc/3RM4-MXX4> (accessed Nov. 18, 2021).

⁹³ See Grace Hauck, *Denver Successfully Sent Mental Health Professionals, Not Police, to Hundreds of Calls*, USA TODAY (Feb. 6, 2021), <https://perma.cc/D2M6-JZ2W> (accessed Dec. 3, 2021); Westervelt, *infra* note 121 (discussing San Francisco’s new system to send paramedics and mental health professionals in lieu of police for people in psychiatric distress).

⁹⁴ See Purnell, *supra* note 76.

⁹⁵ *Id.*

These budget cuts can be done without completely abolishing state-level responses to violent animal offenders. Some abolitionist organizations, like MPD150, acknowledge that “we may need a small, specialized class of public servants whose job it is to respond to violence” in the long term.⁹⁶ The dramatic changes, investments, and budget recommended by this paper ought not be precluded by debates on the margins about response to rare circumstances of more extreme violence.⁹⁷

The key distinction between abolitionist reforms and procedural justice reforms is that abolitionists want to build a world with as little need for police and prisons as possible, while procedural justice advocates “want to restore the public’s trust in the police so that the police can go back to policing.”⁹⁸ Critical Resistance, an abolitionist organization, has drawn distinctions between what it calls “reformist reforms” and “abolitionist steps.”⁹⁹ In comparing these two categories, Critical Resistance asks a series of questions, including: “Does this reduce the reach of jails and prisons in our everyday lives?”; “Does this challenge the notion that police increase safety?”; and “Does this strengthen capacities to prevent harm?”¹⁰⁰ After asking these questions, Critical Resistance rejects proposed reforms that provide more funding and authority to police, like body camera programs, or expand the capacity to incarcerate, like building new prisons.¹⁰¹ “Abolitionist steps” include suspending police officers under investigation without pay, withdrawing police participation from militarized programs, and reducing the number of people in prisons and jails.¹⁰² The distinction between these two categories is thus whether or not a proposal re-entrenches existing harm-causing systems or challenges those same systems.

Applying this lens to animal law, an analogous series of questions could be generated by which advocates can evaluate proposed reforms. This could include: “Does this challenge the norm that nonhuman animals are lesser than humans?”; “Does this reduce the possibility of fu-

⁹⁶ *Frequently Asked Questions*, *supra* note 85.

⁹⁷ In response to presentations I have given and in casual conversations, I have been confronted with people defending the status quo by using horrific examples of extreme violence to animals. I am as disgusted by such heinous acts as any other animal advocate, but I disagree with the notion that rare instances of extreme violence can justify the use of punitive measures in neglect cases, which we know make up the vast majority of animal crimes. I am advocating that we dramatically shift focus away from carceral punishment and towards preventative measures and more effective and compassionate accountability, and I think we can agree to the majority of these changes before we need to even address the fringe cases of horrific violence.

⁹⁸ Madison Pauly, *What a World Without Cops Would Look Like*, MOTHER JONES (June 2, 2020), <https://perma.cc/88NX-Z3ND> (accessed Oct. 19, 2021).

⁹⁹ CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS TO END IMPRISONMENT (2021), <https://perma.cc/M6U6-Q2UL> (accessed Dec. 3, 2021); CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING (2021), <https://perma.cc/5LHH-JBJP> (accessed Dec. 3, 2021).

¹⁰⁰ *See id.*

¹⁰¹ *See id.*

¹⁰² *See id.*

ture animals being harmed in a similar way?"; and "How does this meet the needs of the nonhuman animal victim?"¹⁰³ Under this framework, doubling down on animal-focused law enforcement teams or focusing advocacy efforts on individual bad actors does not answer the questions posed. Instead, these questions could be answered affirmatively by challenging standard industry practices by farms and pet stores alike, building cruelty-free alternatives like transformation projects,¹⁰⁴ investing in pet ownership resources, and demilitarizing police.¹⁰⁵

iii. Investing in Ways to Prevent Harm

The funding made newly available by divesting from the PIC must be invested in community resources to improve the lives of animals and their human companions. Defunding components of the PIC alone, like police and prisons, will not significantly improve conditions for animals. First, reallocated police funding should be directed toward harm prevention programs. This includes, but is not limited to, pet ownership programs, afterschool programs, mental health care services, and community-centered youth outreach. Second, funding should be directed toward community-based transformative justice initiatives and other radical new programs designed to respond to those who cause harm to animals under a "love with accountability" framework.

In order to get the best outcomes for humans and nonhuman animals alike, animal advocates should champion the work of other social justice and welfare organizations that indirectly help reduce harm to animals. This includes work on anti-poverty campaigns and harm reduction efforts. As the Seattle Social Development Project, a multi-year school-centered risk-reduction intervention program aimed at providing opportunities and building skills for young people,¹⁰⁶

¹⁰³ Note that when considering the needs of animal victims, advocates should be careful not to read their own interests in revenge onto animals. Advocates should remember that there are many ways to feel when tragedy strikes, and they are all valid. For example, since Ruth Wilson Gilmore lost her cousin, she has taken care to say that she does not want his killers to be locked up as "that wouldn't bring [him] back." *Intercepted: Ruth Wilson Gilmore Makes the Case for Abolition*, THE INTERCEPT (Jun. 10, 2020), <https://perma.cc/S9DN-2HFD> (accessed Dec. 3, 2021). A common denominator seems to be an interest in ensuring that any immediate needs of the animal victim are met to ensure they live out the rest of their life as best as possible, and addressing the circumstances that allowed for the harm to occur with an eye on making sure such harm does not reoccur.

¹⁰⁴ Transformation is an initiative created by animal rights organizations like Mercy For Animals that seeks to help animal farmers transition toward plant farming. See THE TRANSFORMATION PROJECT, <https://perma.cc/C7R5-ZY3M> (accessed Nov. 18, 2021).

¹⁰⁵ See *infra* Part B.III.

¹⁰⁶ See *The Seattle Social Development Project: An Implementation of the Raising Healthy Children Intervention (SSDP)*, U.S. NAT'L LIBR. MED. (Sept. 3, 2019), <https://perma.cc/FV6M-UQNR> (accessed Dec. 3, 2021).

demonstrated, early intervention can curb violence, including violence toward animals.¹⁰⁷

Similarly, mental health interventions can reduce instances of neglect and other unintentional harm. In these cases, pet owners “have every intention of caring for the animals” but, because of their mental health status, they continue to accumulate or adopt animals and neglect occurs as a result.¹⁰⁸ Studies have shown that early mental health interventions can reduce future interpersonal violence,¹⁰⁹ and it reasons that similar effects would be seen in reductions to violence against nonhuman animals. Many of the studies analyzing early interventions focus on children, which is useful for long term strategies. But, in the short term, it reasons that expanding mental health services in partnership with greater animal shelter and veterinary outreach programs will help catch potentially harmful issues like hoarding before they lead to greater harm. An effective way to roll this out would be to partner mental health services with pet ownership programs that are community-led and focused at the hyper-local level.

As Dr. A. Breeze Harper highlights, animal activism should be incorporated into harm prevention programs,¹¹⁰ and animal organizations can take the lead here. Local nonprofits, shelters, and community organizations can promote long term pet ownership in historically underfunded and over-policed, borrowing from the Humane Society of the United States (HSUS) “Pets for Life” model, as well as leading programs that engage youth in community centers and after school.

Pet ownership programs provide the tools and resources needed for successful long term human and nonhuman family health. For example, the HSUS Pets for Life program borrows the spirit of federal programs like Social Security, which provides needed resources for humans, and provides free direct medical care for companion animals whose owners are otherwise unable to access or afford services.¹¹¹

¹⁰⁷ See NAT'L INST. JUST., OFF. JUV. JUST. & DELINQ. PREVENTION, *supra* note 86, at 3 (describing the results of school-based intervention programs in Seattle).

¹⁰⁸ *Animal Hoarding*, ANXIETY & DEPRESSION ASS'N OF AM., <https://perma.cc/TJM7-5DTA> (accessed Oct. 17, 2021).

¹⁰⁹ *E.g.*, E. Michael Foster et al., *Can Better Mental Health Services Reduce Risk of Juvenile Justice System Involvement?*, 94 AM. J. PUB. HEALTH 859, (2004) (finding “that better mental health services reduced the risks of initial and subsequent juvenile justice involvement by 31% and 28%, respectively,” with even more pronounced effects for more serious offenses); PROMUNDO & SONKE GENDER JUST., *BREAKING THE CYCLE OF INTERGENERATIONAL VIOLENCE: THE PROMISE OF PSYCHOSOCIAL INTERVENTIONS TO ADDRESS CHILDREN'S EXPOSURE TO VIOLENCE* (2018) (discussing various forms of intervention meant to curb future violence, including forms like CBT with more evidence of their success).

¹¹⁰ See Chang, *supra* note 81 (discussing Sistah Vegan as a “platform to explore the intersections of structural racism, sexism, classism, and capitalism”).

¹¹¹ *Keeping Pets for Life*, THE HUMANE SOC'Y OF THE U.S., <https://perma.cc/KE63-DGAZ> (accessed Oct. 18, 2021); THE HUMANE SOC'Y OF THE U.S., *COMMUNITY SUPPORT: THE FUTURE OF COMPANION ANIMAL WELFARE 1* (2017); see also Amanda Arrington & Michael Markarian, *Serving Pets in Poverty: A New Frontier for the Animal Welfare Movement*, 18 ANIMAL WELFARE CONTEXT HUM. DEV. 40 (2018).

Most importantly, Pets for Life takes an explicit racial and economic justice approach to its work.¹¹² The program has advocated for policies like the abolition of redemption fees—charges levied on owners seeking to get their pet back from shelters¹¹³—that act as a barrier to lower income animal owners from being reunited with their companions.¹¹⁴ The program’s annual reports have stressed that most pet owners want the best for their pets and that lack of access to care is the primary reason pets are unaltered.¹¹⁵ Directly providing that care would be a significant departure from what has long been the norm in the animal welfare sector.

For far too long, neglect cases were combined with intentionally inflicted harm to animals and dealt with via the same punitive measures.¹¹⁶ But neglect cases often arise when owners do not have the resources to best care for their animal companions. Providing those resources directly in a Pets for Life style program improves outcomes for people and for their companion animals. When owners cannot pay redemption fees, animals are regularly euthanized.¹¹⁷ In this way, keeping pets with their owners literally saves their lives. In other ways, keeping pets in homes with families that want to care for them but otherwise do not have the resources to do so is strongly preferred to removing and isolating the animal. In coalition with the HSUS and any other willing organizations, animal advocates should adopt this pet ownership model in their service provision, with funding assistance from the city and county government made available from PIC divestment. Doing so will mean more stable homes for pets, better veterinary care, and therefore fewer cases of pets going untreated or otherwise being neglected.

Dr. A. Breeze Harper has also stressed the importance of drawing the link between the PIC and the food industrial complex in a way that

¹¹² See *Pets for Life*, THE HUMANE SOC’Y OF THE U. S.: HUMANEPRO, <https://perma.cc/KE63-DGAZ> (accessed Nov. 18, 2021) (“Pets for Life is driven by social justice and guided by the philosophy that a deep connection with pets transcends socio-economic, racial and geographic boundaries . . . [Pets for Life] is an ally in fighting against economic and racial injustice.”).

¹¹³ Redemption fees can be steep and pile on quickly. See, e.g., PORTER CTY., IND. ORDINANCE 2017-17 (2017) (setting first offense redemption fees at either \$50 or \$75); *Animal Control*, CITY OF COLL. PARK, <https://perma.cc/9XVV-FJVA> (accessed Nov. 18, 2021) (setting redemption fee at \$25 with a \$10 per additional day fee).

¹¹⁴ COMMUNITY SUPPORT: THE FUTURE OF COMPANION ANIMAL WELFARE, *supra* note 110, at 9 (“A fine is not a deterrent if a person cannot afford to pay it. The idea that a person can prevent an accident from happening or repair a situation that results in a loose pet because there is the potential of a fine is not realistic.”).

¹¹⁵ *Id.* at 15.

¹¹⁶ See MARCEAU, *supra* note 21, at 49-51 (discussing animal abuse cases that resulted from neglect); see also Heather Piper & Debbie Cordingley, *The Power and Promulgation of the Claimed Links Between Human and Animal Abuse*, 1 POWER & EDUC. 345, 346 (2009) (finding that, using RSPCA data, most animal cruelty prosecutions in the U.K. were for “neglect rather than violence”).

¹¹⁷ See COMMUNITY SUPPORT: THE FUTURE OF COMPANION ANIMAL WELFARE, *supra* note 110, at 9.

can be paired intersectionally with anti-colonial work that both reduces harm to animals and keeps young people out of the school-to-prison pipeline.¹¹⁸ For example, hip hop artist and environmental activist DJ Cavem has hosted workshops where he connects young people to urban farming while teaching them about environmental racism and healthy vegan eating.¹¹⁹ More animal advocates should join in this intersectional community-based model of harm prevention.

Animal advocacy organizations could partner with local activists and BIPGM organizers to run programs in community centers or in public spaces after school. These programs could focus on nurturing practical skills, developing a positive relationship with healthy eating, and incorporating responsible pet ownership while also teaching children about the link between the enforcement of animal cruelty laws and racial injustice. For example, children could help walk or take care of dogs at local shelters. This will foster more positive associations with animals and help build community to keep peers accountable.

iv. Investing in Ways to Respond to Those Who Cause Harm

While preventative work can go a long way in reducing harm to animals, inevitably some harm will continue. As part of an anti-carceral reimagining of animal cruelty, governments should fund, directly and through partnerships, animal welfare first responders and transformative justice initiatives. These will constitute a rethinking of how the cities, counties, and states initially respond to acts of harm, as well as how these entities will ultimately hold those responsible for harm accountable.

In the fall of 2020, San Francisco announced it would start sending fire and medical professionals in place of police to respond to emergency calls relating to substance abuse and psychiatric crises.¹²⁰ Other cities have similarly followed suit.¹²¹ Ideally, this will be the start of a long-needed transition away from relying on armed agents at every encounter. From situations with domestic violence to mental health crises, police have historically been ineffective at calming tense situations and all too often police response results in otherwise avoidable

¹¹⁸ Chang, *supra* note 81.

¹¹⁹ See Jessica Ordóñez-Lancet, *DJ Cavem's Fight to Keep our Earth Fresh*, NAT'L WILDLIFE FED'N (Sept. 25, 2019), <https://perma.cc/9YRX-S3HW> (accessed Oct. 19, 2021) (describing DJ Cavem's efforts to engage his community in positive change for the environment).

¹²⁰ See Westervelt, *infra* note 121.

¹²¹ See, e.g., Hallie Miller & Emily Opilo, *Baltimore Pilot Program Aims to Divert Some 911 Calls for Behavioral Health from Police*, BALTIMORE SUN (May 7, 2021), <https://perma.cc/F3F8-6MTK> (accessed Dec. 3, 2021); Alex Thornton, *This US City Sends Mental Health Workers Instead of Police to Non-Criminal Emergency Calls*, WORLD ECON. F. (Jul. 15, 2020), <https://perma.cc/4B8J-C6PC> (accessed Dec. 3, 2021) (discussing Eugene, Oregon's program that sends mental health workers to non-criminal 911 calls); Rachel Weiner, *D.C. to Divert Some Mental Health Calls Away from Police*, WASH. POST (May 17, 2021), <https://perma.cc/9WV2-NTWT> (accessed Dec. 3, 2021).

death and tragedy.¹²² Similarly, the trigger-happiness of police first responders has led to an epidemic of police officers shooting and killing dogs.¹²³

The best way to prevent these shootings of both human and non-human victims by police is to remove the armed officer from being the first to respond. Scaling back the scope of policing as well as demilitarizing police will mean that even when responding to calls unrelated to animals, pets are less likely to end up harmed. Importantly, when responding to calls directly relating to animals—such as, a call reporting a stray or aggressive animal—the city should send animal welfare workers to respond. A model to borrow from here is Eugene, Oregon’s Crisis Assistance Helping Out On The Streets (CAHOOTS) Program, in which volunteer community members and emergency medical technicians respond to mental health calls instead of police.¹²⁴ Applying the CAHOOTS model to animals, community members trained in responding to anxious or aggressive animals could be given the resources to respond in place of police. This will lead to fewer police killing of

¹²² In a survey of women with experiences of intimate partner abuse, more than half said that “calling the police would make things worse,” and of those who had called police in the past, a quarter of respondents said they would not call again. The reasons for not wanting to call police varied, with 70% of respondents saying the police would not do anything beyond “a slap on the wrist” and 59% saying they thought police would not believe them. NAT’L DOMESTIC VIOLENCE HOTLINE, WHO WILL HELP ME? DOMESTIC VIOLENCE SURVIVORS SPEAK OUT ABOUT LAW ENFORCEMENT RESPONSES 2, 4 (2015). When it comes to mental health calls, police are ill equipped or trained to handle such encounters, and in many cases a friend or family member has called for police help to respond to a mental health episode only to have their loved one shot and killed by police. See Eric Westervelt, *Mental Health and Police Violence: How Crisis Intervention Teams are Failing*, NPR (Sep. 18, 2020), <https://perma.cc/E9FY-T8QD> (accessed Dec. 3, 2021) (discussing examples of police shooting individuals going through mental health episodes, including a 13-year-old autistic boy in Salt Lake City and a homeless man in Buffalo whose brother had called the police); *At Liberty Podcast: Why Are Police the Wrong Response to Mental Health Crises?*, ACLU (2021), <https://perma.cc/J3UV-HBVP> (accessed Dec. 3, 2021) (“Studies show that nearly 50% of police victims are living with a disability, predominantly a mental health disability. In many ways, 911 has become the only option for people looking for mental health crisis intervention. And police often arrive at the scene armed with deadly weapons and a lack of mental health training. The results are devastating.”).

¹²³ See, e.g., Theresa Braine, *Detroit Cop Fatally Shoots Dog in Head as It Attacks Police Canine*, N.Y. DAILY NEWS (Aug. 23, 2020), <https://perma.cc/2YCC-Z3JM> (accessed Oct. 18, 2021) (outlining situation in which police officer shot and killed a dog that was in a fenced-in private yard because it tried to attack his police dog through the fence); Pat Collins & Matthew Stabley, *Police Shoot, Kill Pit Bull in Northwest DC*, NBC 4 WASH. (Apr. 6, 2016), <https://perma.cc/7KK3-GZDB> (accessed Oct. 18, 2021) (describing scenario in which police were called after a dog allegedly bit someone and as soon as police arrived on the scene they shot and killed the dog); Matt Zaposky, *Police Fatally Shoot Dog at Adams Morgan Festival*, WASH. POST (Sept. 13, 2010), <https://perma.cc/P7WA-72QT> (accessed Oct. 18, 2021) (describing situation in which police responded to two dogs snapping at each other and officers responded by hurling a Shar-Pei mix over a bannister and then shooting it dead from 12 to 15 feet away).

¹²⁴ See Jackson Beck et al., *Case Study: CAHOOTS*, VERA INST. BEHAV. HEALTH CRISIS ALT. (Nov. 2020), <https://perma.cc/RF6J-6NH9> (accessed Dec. 3, 2021).

animals. For example, Parrot, a Shar-Pei mix, was shot and killed by D.C. police after he tussled with a poodle at a street festival.¹²⁵ If the first responder had been someone specially trained to deal with dogs, rather than a police officer lacking in specialized canine training and equipped with a firearm, Parrot would still be alive today. These CA-HOOTS-like first response units should approach each call with the mission of animal welfare and an effort to deescalate situations—more like a healthcare first responder than a police officer. This distinction is vital, as changes in name or training alone will not shift the paradigm from contemporary policing. Real-world reforms that only supplement current police training, like body cameras or bias training, have been shown they do not reduce the everyday violence that the PIC inflicts on BIPGM communities.¹²⁶ There is no reason to think that these supplemental reforms would be any different for the enforcement of animal cruelty laws.

In instances when harm was caused and individuals need to be held accountable, an anti-carceral approach would include a transformative or restorative justice model in place of incarceration.¹²⁷ Transformative justice focuses on remedying harm, instead of retribution, and responding to harm without furthering cycles of trauma or violence.¹²⁸ Similarly, restorative justice emphasizes repairing harm and using the process of reparation to transform the conditions that allowed for harm to occur.¹²⁹ Restorative justice is thus able to focus on the harm and what those harmed need while also incorporating the reintegration of all parties into their respective communities as a core principle.¹³⁰ While used virtually interchangeably here, restorative and transformative justice are different approaches; in particular,

¹²⁵ See Zapotosky, *supra* note 122.

¹²⁶ See *Do Body-Worn Cameras Influence Police-Community Interactions?*, THE LAB @ DC (2017), <https://perma.cc/K9R2-YBHA> (accessed Oct. 17, 2021) (describing a government sponsored randomized control trial in D.C. found that body-worn cameras “had no detectable effect on police use of force, citizen complaints, policing activity, or court outcomes”); see Robert E. Worden et al., *The Impacts of Implicit Bias Awareness Training in the NYPD*, THE JOHN E. FINN INST. & CTR. FOR POLICE RSCH. & POL’Y 9 (July 2020), <https://perma.cc/EBF4-J723> (accessed Oct. 18, 2021) (discussing study of NYPD implicit training program that found no meaningful change in officer behavior following the training); see Robin S. Engel et al., *Moving Beyond ‘Best Practice’: Experiences in Police Reform and a Call for Evidence to Reduce Officer-Involved Shootings*, 687 ANNALS AM. ACAD. POL. SOC. SCI. 146 (2020) (describing how researchers studied five common police reforms in a literature review and concluded that none were supported by empirical evidence of their effectiveness); see generally, ALEX VITALE, *THE END OF POLICING* 1–30 (2018) (reviewing the lack of evidence that ‘reforms’ to policing work are substantially effective).

¹²⁷ See Kaba, *supra* note 5 (“Towns could use restorative-justice models instead of throwing people in prisons.”).

¹²⁸ See Mia Mingus, *Transformative Justice: A Brief Description*, TRANSFORM HARM, <https://perma.cc/PQ7C-ETYM> (accessed Nov. 19, 2021).

¹²⁹ See *Lesson 1: What is Restorative Justice?*, CTR. FOR JUST. & RECONCILIATION, <https://perma.cc/8PGZ-43A7> (accessed Nov. 19, 2021).

¹³⁰ See *id.*

transformative justice tends to place greater emphasis on using specific conflicts to address much broader socio-economic injustices.¹³¹

Restorative and transformative justice approaches have started to be discussed in the animal context, with proposed surrogate victims in place of the harmed animals.¹³² This is a promising step, and if implemented by community groups (with support from national nonprofits) stakeholders can tailor forms of compassionate accountability to the needs of the specific parties. For example, surrogate victims may request that the perpetrator of the harm may be asked to move to a different neighborhood or stop interacting socially with certain individuals to prevent reoccurrence of the circumstances that led to harm. Perpetrators of harm may also be asked to volunteer their time in service of animals (or, conversely, distance themselves from animals) or otherwise make reparation for the harm they caused. Restorative and transformative justice are not panaceas and will not work in every circumstance but, paired with other methods of community accountability and substantial investment in harm prevention, restorative and transformative justice can lead to safer outcomes for animals.

IV. CONCLUSION

Over the last thirty years, the animal protection movement has embraced the use of punishment against those who harm animals as its primary tool. This partnership with the carceral state betrays the core values of compassion and liberation that the animal movement was founded upon. Carceral attempts to address animal cruelty do not address the root of the problem and do not prevent future animals from being harmed. In the process, these retributive policies have a profound human price and have pushed away future animal advocates.

In order to truly live up to the values of the movement and address the underlying causes of harm to animals, the movement should take lessons from the police and prison abolition movement. This includes divesting from police and prisons and investing in community harm prevention. Many programs that share a similar harm prevention ethos, from Pets for Life to Transformation, already exist and should be expanded. Through a combination of preventing harm and more compassionately dealing with those who cause harm, the animal protection movement can ally with other social justice organizations to create a world where humans and nonhuman animals can flourish.

¹³¹ See Anthony J. Nocella II, *An Overview of the History and Theory of Transformative Justice*, 6 PEACE & CONFLICT REV. 1, 4 (2011).

¹³² See Brittany Hill, *Animal Victims and Restorative Justice*, ANIMAL LEGAL DEF. FUND (Sept. 30, 2020), <https://perma.cc/P22H-DF34>; <https://perma.cc/6JPC-2YWB> (accessed Oct. 21, 2021) (describing how restorative justice translates to animal victims).