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Man's Best Friend? How Dogs Have Been Used to Oppress African Americans

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MAN’S BEST FRIEND? HOW DOGS HAVE BEEN USED
TO OPPRESS AFRICAN AMERICANS

By: Shontel Stewart*

The use of dogs as tools of oppression against African Americans has its roots in slavery and persists today in everyday life and police interactions. Due to such harmful practices, African Americans are not only disproportionately terrorized by officers with dogs, but they are also subject to instances of misplaced sympathy, ill-suited laws, and social exclusion in their communities. Whether extreme and violent or subtle and pervasive, the use of dogs in oppressive acts is a critical layer of racial bias in the United States that has consistently built injustices that impede social and legal progress. By recognizing this pattern and committing to an intentional effort to end the devaluation of African Americans, the United States can begin to address the trailing pawprints of its racial inequities.

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INTRODUCTION

They say dogs are a man's best friend. Their furry paws, wagging tails, and endearing cuddles are irresistible. Everyday conversations and the media often highlight their role as a hero, a kindred listener, and a loyal protector. It's no wonder they assume the role of the ultimate companion so effortlessly. But like most beings, dogs occupy various roles. Since dogs became domesticated, authorities and the mean-spirited have used dogs as a tool of oppression against African Americans.

Dogs are not always a man's best friend. Their sharp teeth, ferocious growls, and merciless instincts are menacing. Dog owners often highlight their keen senses, ability to follow directions, and desire to please their owner. It's no wonder African Americans are often subjected to discriminatory practices led by the owner but carried out by the dog.

Throughout history, there has been a perpetual image of a person in a position of power brandishing a dog against African Americans.¹ The slaveowner viciously releasing his bloodhounds to hunt enslaved people turned into the officer charging his K-9 dog to attack unarmed Black men.² Racist police officers sicced their dogs on Black men during the Civil Rights era.³ Even today, the police use dogs against Black people in circumstances in which they do not treat White people similarly.⁴

When it comes to modern-day oppression of African Americans, dogs have their pawprints in more than just police interaction. In the United States, the symbol of success includes a white picket fence, two parents, children, and a dog. One study found that dogs have a role in the processes of social inclusion and exclusion in a gentrifying neighborhood—a common saying among Black people holds that you know your neighborhood is “turning” when the first dog park appears.⁵ When this

1. Ann L. Schiavone, *K-9 CATCH-22: The Impossible Dilemma of Using Police Dogs on Apprehension of Suspects*, 80 U. PITT. L. REV. 613, 647 (2019).

2. See generally Sydney Trent, Trump's Warning That 'Vicious Dogs' Would Attack Protesters Conjured Centuries of Racial Terror, WASH. POST. (June 1, 2020), <https://www.washingtonpost.com/history/2020/06/01/trump-vicious-dogs-protesters-civil-rights-slavery/> (explaining that the racist practice of attacking Black people with dogs extends back to slavery).

3. Kevin Blackstone, *Black Men and Dogs: Don't Believe Vick*, NPR (Sept. 25, 2007), <https://www.npr.org/templates/story/story.php?storyId=14698643> (“During the Civil Rights struggle black men often found themselves in the jaws of police dogs sicced on them by racist Southern white cops.”).

4. Paul Butler, *US justice is built to humiliate and oppress Black men. And it starts with the chokehold*, THE GUARDIAN (Aug. 11, 2017), <https://www.theguardian.com/us-news/2017/aug/11/chokehold-police-black-men-paul-butler-race-america>.

5. See Sylvie Tissot, *Of Dogs and Men: The Making of Spatial Boundaries in a Gentrifying Neighborhood*, 10 CITY AND COMMUNITY 265, 267 (2011).

happens, you know that you will be pushed out soon. Moreover, public outrage over the abuse of dogs is not always matched by the outrage over the abuse of Black men. The American Society for the Prevention of Cruelty to Animals is quick to ride to the rescue of cats or dogs left alone in cold or unsanitary kennels. But similar solicitude rarely arrives when a Black neighborhood experiences a disaster.⁶ These instances add up to one inference: far too many people value dogs over the lives of African Americans.

Whether extreme and violent or subtle and pervasive, the use of dogs in oppressive acts is another layer of racial bias in the United States. This Article will show the prioritization of dogs over Black lives in instances of misplaced sympathy and in the weaponization of dogs by police and the courts. This idea has its origins in slavery and manifests itself in a variety of oppressive acts targeting African Americans, including police abuse and gentrification.

Part I sets the backdrop by highlighting the way slaveowners and racist cops used dogs against people fleeing bondage and protesting segregation. Part II examines society's prioritization of dogs and how these instances of misplaced sympathy can distract attention from the injustices inflicted on African Americans, sometimes with canine help. Part III examines use of force incidents involving dogs and their disparate impact on African Americans. Part IV discusses how legal rituals involving dogs trace longstanding stereotypes. Finally, Part V considers the ways in which dogs have a role in social segregation.

This Note concludes that dogs have served as tools of systematic oppression against African Americans. Many of the roles that dogs play in everyday life and in police interactions implicate them in harmful practices that work to prevent justice. People can start to address this longstanding issue by recognizing this pattern of oppression and committing to an intentional effort to end the devaluation of African Americans.

I. NEGRO DOGS: SLAVERY & THE CIVIL RIGHTS ERA

The significance of dogs to the oppression of African Americans lies deep in the coils of slavery. In a slave memoir, Solomon Northup recalled a horrifying encounter that he had with dogs that were used by a group of slaveholders to hunt runaways:

I stood upon the fence until the dogs had reached the cotton press. In an instant more, their long, savage yells announced

6. See *infra* notes 18–33 and accompanying text (discussing Michael Brown and Ferguson).

they were on my track. Leaping down from my position, I ran towards the swamp. Fear gave me strength, and I exerted it to the utmost. Every few moments I could hear the yelpings of the dogs. They were gaining upon me. Every howl was nearer and nearer. Each moment I expected they would spring upon my back—expected to feel their long teeth sinking into my flesh. There were so many of them, I knew they would tear me to pieces, that they would worry me, at once, to death.⁷

Northup's fear echoes the historical relationship between Black people and dogs. The memoir depicts the viciousness of the dog and the racism of its owner going hand in hand; the sound of gnarls breaking through sharp teeth matched only by the shouts of his master; the master's hatred ingrained in pawprints getting closer and closer to his property. During slavery, African Americans who escaped from bondage were hunted by "negro dogs" that were trained and kept for the purpose of hunting down enslaved people.⁸ According to an article about the brutality of slavery, "[o]nce [the dogs] caught the slave, as they usually did, the air would be filled with the sound of dreadful yelping, terrified screams, and the smell of blood and filth."⁹

The training of these dogs merits a mention. A slave-owner who feared that the men and women he enslaved might run away would order one of his slaves to tie up a dog and beat it unmercifully, thus training the dog to hate Black people.¹⁰ The slave-owner would then force the enslaved person to run off right before he untied the beaten dog; encouraging it to pursue the enslaved person.¹¹ Such actions stimulated rage between dogs and Black people, seeding centuries worth of fury.

7. SOLOMON NORTHUP, *TWELVE YEARS A SLAVE* 137 (Dover Publ'ns 1970) (1853); see also *id.* at 237.

8. Frederick Douglass, *The Horrors of Slavery and England's Duty to Free the Bondsman: An Address Delivered in Taunton, England, on September 1, 1846*, SOMERSET COUNTY GAZETTE, Sep. 5, 1846, reprinted in 1 THE FREDERICK DOUGLASS PAPERS: SERIES ONE: SPEECHES, DEBATES, AND INTERVIEWS, 1841-46, at 371, 377 (John W. Blassingame ed., Yale University Press, 1979), available at <https://glc.yale.edu/horrors-slavery-and-englands-duty-free-bondsman> ("Enmity is instilled into the blood-hounds by these means:—A master causes a slave to tie up the dog and beat it unmercifully. He then sends the slave away and bids him climb a tree; after which he unties the dog, puts him upon the track of the man and encourages him to pursue it until he discovers the slave. Sometimes, in hunting the negroes, if the owners are not present to call off the dogs, the slaves are torn in pieces—(sensation); this has often occurred.").

9. Jenn Jeffers, *Remembering the Brutality of the Antebellum South*, THE RAVEN REPORT (Aug. 15, 2017), <https://theravenreport.com/2017/08/15/will-the-american-south-ever-remember-its-brutal-antebellum-history/>.

10. Douglass, *supra* note 8.

11. *Id.*

Markers synonymous with dogs—such as muzzles and collars—were also used on enslaved people to further degrade them and control their movements. The slave collar, also known as the punishment collar, was made of iron and used to discipline enslaved people considered at risk of rebelling.¹² Sometimes staying on an enslaved person's neck for days or even weeks at a time, the punishment collar “led to severe bouts of exhaustion, anxiety, and overall agony.”¹³ This form of torture dehumanized African Americans and juxtaposed the brutal treatment inflicted on enslaved people at the hands of the master with the master's commands to his dog.

Like most infectious beliefs ingrained in slavery, racism lived on through the actions of the man-dog duo. In the 1960s, Southern sheriffs often deployed fire hoses and police dogs to disperse African Americans protesting racial segregation.¹⁴ In one instance, Birmingham policemen used this tactic against student marchers.¹⁵ As a result, policemen significantly decreased the number of students that participated in the peaceful demonstration and caused three students to require hospital treatment for dog bites.¹⁶

Like most civil rights accounts, the use of dogs against African Americans did not stop there. This practice still manifests in many forms today. While a dog has various roles, some of those roles result in misplaced sympathy, discriminatory police practices, ill-suited dog laws, and social segregation.

II. THE PRIORITIZATION OF DOGS: MISPLACED SYMPATHY

On August 9, 2014, Michael Brown was fatally shot by a White police officer in Ferguson, Missouri.¹⁷ Brown was a Black teenager, unarmed, left bleeding to death in the middle of the street.¹⁸ Hours after police shot Brown, another officer led his dog to urinate on a makeshift

12. Jeffers, *supra* note 9.

13. *Id.*

14. See, e.g., Foster Hailey, *Dogs and Hoses Repulse Negroes at Birmingham*, N.Y. TIMES (May 4, 1963), <https://archive.nytimes.com/www.nytimes.com/library/national/race/050463race-ra.html>.

15. *Id.*

16. *Id.*

17. Larry Buchanan, Ford Fessenden, K.K. Rebecca Lai, Haeyoun Park, Alicia Parlapiano, Archie Tse, Tim Wallace, Derek Watkins & Karen Yourish, *What Happened in Ferguson?*, N.Y. TIMES (updated Aug. 10, 2015), <https://www.nytimes.com/interactive/2014/08/13/us/ferguson-missouri-town-under-siege-after-police-shooting.html>.

18. *Id.*; Julie Bosman & Joseph Goldstein, *Timeline for a Body: 4 Hours in the Middle of a Ferguson Street*, N.Y. TIMES (Aug. 23, 2014), <https://www.nytimes.com/2014/08/24/us/michael-brown-a-bodys-timeline-4-hours-on-a-ferguson-street.html>.

memorial at the scene.¹⁹ Practices of hatred, like that of the Ferguson police officer, are symbolic of how some White people choose to team up with dogs to place themselves in a position of power over Black people.²⁰ Thus the question rings, “why turn to dogs at a time when our inhumanity to man continues unabated?”²¹ Instances of misplaced sympathy imply that the “affective prioritization of [dogs] amounts to a valuation of dogs over black people.”²²

On August 26, 2005, Hurricane Katrina struck New Orleans and its surrounding areas, leaving devastating conditions for people and their dogs.²³ Some people believe that stranded “Katrina dogs” have received more sympathetic attention in the media coverage of Hurricane Katrina than African Americans similarly stranded in New Orleans.²⁴

For example, although the nation grappled with the human tragedy of Katrina, the plight of dogs received the most attention in the legislature. Despite being bitterly divided over war, immigration, and many other pressing issues, in 2006 the United States legislature passed the Pets Evacuation and Transportation Standards Act (PETS)—requiring pets to be evacuated with humans and for emergency shelters to accept pets—with near unanimous support.²⁵ In a tragedy where Black people accounted for 73 percent of those displaced by the storm in New Orleans and the number of Black children living in poverty jumped from 44 per-

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

20. *See id.*

21. Kelly Oliver, *Animal Ethics: Toward an Ethics of Responsiveness*, 40 RES. IN PHENOMENOLOGY 267, 270 (2010).

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

23. *Pets: Hurricane Katrina's Other Victims*, NAT'L GEOGRAPHIC (Sept. 5, 2009), <https://www.nationalgeographic.com/animals/2005/09/pets-hurricane-katrinass-other-victims/>.

24. *See, e.g.*, Kelly Oliver, *Ambivalence Toward Animals and the Moral Community*, 27 HYPATIA 494–95 (2012).

25. David Grimm, *How Hurricane Katrina Turned Pets Into People*, BUZZFEED NEWS (July 31, 2015), <https://www.buzzfeednews.com/article/davidgrimm/how-hurricane-katrina-turned-pets-into-people> (“It was one of the only major bills to have overwhelming bipartisan backing since the 2001 Patriot Act, signed in the wake of the Sept. 11 terrorist attacks.”). *But see* FED. EMERGENCY MGMT. AGENCY, FEMA OUTLINES A DECADE OF PROGRESS AFTER HURRICANE KATRINA, NO. HQ-15-041, (July 30, 2015), <https://www.fema.gov/news-release/2015/07/30/fema-outlines-decade-progress-after-hurricane-katrina>.

cent to more than 51 percent,²⁶ the media and Congress decided to devote a great deal of time to pets.

In the face of oppression, racism, and all the other forms of violence humans inflict on each other, some would view the treatment of animals as subagent;²⁷ indeed, Americans' attention to animals can seem like a way of demoting the injustices inflicted on Black people and distracting us from the history of oppression and hatred that continues amongst humanity.²⁸ Yet, Americans continue to express strong empathy towards dogs in the midst of national tragedy.

For example, in August 2019 the Alabama Department of Corrections (ADOC) honored Jake, a police dog referred to as a "K-9 narcotics detection officer" with a decorated service including a wreath of flowers, a 21-gun salute, and a commendation from Governor Kay Ivey.²⁹ Throughout the service, the crowd sighed appreciatively in remembrance of the fear Jake put in the hearts of many inmates.³⁰ Many of the people in the crowd worked in Alabama prisons, which have the highest homicide rate in the nation and ten times the national average.³¹ Sometimes families of inmates who die or experience abuse in police custody are given only a phone call from the warden, no apology, prayer, or money for funeral costs.³² One would think that a state system that perpetuates violence by overcrowding its prisons would at least take minimal measures to express concern for the families of inmates harmed while in their custody.³³

When people react to a national tragedy by expressing greater empathy for dogs than for Black people, their reaction suggests a callous disregard of Black lives. Misplaced sympathy diverts the public's attention from wrongs against humans in deadly exchanges including police dog interactions.

26. Abby Phillip, *White People in New Orleans Say They're Better Off After Katrina. Black People Don't*, WASH. POST (Aug. 24, 2015), <https://www.washingtonpost.com/news/post-nation/wp/2015/08/24/white-people-in-new-orleans-say-theyre-better-off-after-katrina-black-people-dont/>.

27. Oliver, *supra* note 21, at 271.

28. Bree Newsome Bass (@breenewsome), Twitter (May 26, 2020, 10:37 AM), <https://twitter.com/BreeNewsome/status/1265290872024956929>.

29. Beth Shelburne, Opinion, *ACLU asks: In Alabama Prisons, is a Dog's Life Worthier Than Human Lives?*, AL.COM (Aug. 5, 2019), <https://www.al.com/opinion/2019/08/aclu-asks-in-alabama-prisons-is-a-dogs-life-worthier-than-human-lives.html>.

30. *Id.*

31. *Id.*

32. *See id.*

33. *Id.*

III. EXCESSIVE FORCE—USE OF DOGS BY POLICE

A distinctive characteristic of dogs is their affinity for man.³⁴ Dogs' affinity for man conjures themes of companionship, loyalty and service.³⁵ It is these characteristics that have molded the human-dog relationship into one that takes many forms. One form is the police dog. Police departments have capitalized on the loyal and keen nature of dogs by making them a key tool of law enforcement.

Dogs can serve a variety of purposes for law enforcement officers “including search and rescue, drug sniffing, bomb detection, crowd control, and general patrol functions, such as suspect apprehension.”³⁶ Dogs can smell and hear better than humans.³⁷ Due to the anatomy of their eyes, dogs can see better in dim light than humans.³⁸ They also have a wider field of vision.³⁹ These characteristics can be assets if used properly—for example, when tracing lost children. But when used discriminatorily, these senses can spur injustice and empower people with racial bias.

A. *History of Dogs*

The history of dogs entails a process in which dogs evolved into the kind of being that would make them an invaluable tool for police. As many as 38,000 years ago, ancient wolves and men began to co-exist and cooperate amongst campfires.⁴⁰ Some scientists believe that wolves first approached humans.⁴¹ The aggressive wolves were likely chased away or killed, but the friendly wolves were domesticated and became distinct from their aggressive counterparts.⁴² These domesticated wolves developed the ability to read human gestures, which created an extraordinary

34. SAMUEL G. CHAPMAN, *POLICE DOGS IN NORTH AMERICA* 3 (1990).

35. *Id.*

36. Schiavone, *supra* note 1, at 622.

37. Constance B. Vanacore, *Dog*, *ENCYCLOPAEDIA BRITANNICA*, <https://www.britannica.com/animal/dog/Senses> (last updated May 2, 2020).

38. *Id.*

39. *Id.*

40. Schiavone, *supra* note 1, at 620.

41. Brian Hare & Vanessa Woods, Opinion, *We Didn't Domesticate the Dog. They Domesticated Us*, *NAT'L GEOGRAPHIC NEWS* (Mar. 3, 2013), <https://news.nationalgeographic.com/news/2013/3/130302-dog-domestic-evolution-science-wolf-wolves-human/>.

42. *Id.*

ability to communicate with ancient humans.⁴³ With this new ability, people began to depend on dogs to hunt because they wanted an advantage over those who didn't.⁴⁴ Dogs also defended humans from predators by warning them of approaching animals or "hostile strangers from neighboring tribes."⁴⁵ Early humans and dogs helped each other gain nourishment and companionship⁴⁶ as the human-dog relationship was interdependent and mutually beneficial.⁴⁷

As time passed, people began to utilize dogs to aid in war ventures. For example, dogs were used as watchdogs or sentries by the Ancient Egyptian, Greek, and Roman militias⁴⁸ and they were used as messengers, sentries, and medical assistants in both world wars.⁴⁹

Police training for dogs began in the United States in 1907.⁵⁰ By the late 1950s, the number of police dog programs increased, reaching nearly 2,000 in 1989.⁵¹ According to police officers, a K-9 dog's keen senses of hearing and smell enabled the dog "to locate a suspected violent felon and warn law enforcement officers of the suspect's presence, even before the suspect is visible."⁵² Although police dogs serve a variety of uses, they are most notoriously used for apprehending suspects and detecting drugs. In these roles, police dogs are used disproportionately to terrorize African Americans.

B. *Police Dogs are Disproportionately Used Against African Americans*

Modern police departments weaponize dogs as a tool of violent oppression against African Americans. About a year after the unlawful killing of Michael Brown, the United States Department of Justice released a report uncovering a pattern of racial bias in the Ferguson Police Department.⁵³ According to the report, a 14-year-old-boy was waiting for his

43. *Id.* ("Some dogs are so attuned to their owners that they can read a gesture as subtle as a change in eye direction.").

44. *Id.*

45. *Id.*

46. *Id.*

47. Schiavone, *supra* note 1, at 620.

48. *Id.*

49. *Id.* at 621.

50. *Id.*

51. Schiavone, *supra* note 1, at 622.

52. H. Range Hutson, et. al., *Law Enforcement K-9 Dog Bites: Injuries, Complications, and Trends*, 29 ANNALS OF EMERGENCY MED. 5 637, 638 (1997).

53. See CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

friends in an abandoned house when four officers released a dog on him.⁵⁴ The officers described the incident as a burglary, even though the boy was unarmed and “the only plausible offense was trespassing.”⁵⁵ Their excuse was that the boy would not show his hands despite their warning.⁵⁶ As a result, the dog ran after him biting his ankle and thigh before biting his arm once he fell to the floor, causing puncture wounds.⁵⁷ Later, the boy explained to the Department that he had heard no police warning, but he did recall the officers laughing about the attack afterward.⁵⁸

The Department found that even under the officers’ version of the incident, using a dog to bite a low-level, unarmed offender was unreasonable.⁵⁹ Despite having four officers on the scene and no exigent circumstances requiring the use of a dog bite to apprehend the boy,⁶⁰ officers nonetheless sought to terrorize a Black boy. The Department also described three similar incidents where an officer unreasonably used a dog against an unarmed Black person. According to the Department:

As these incidents demonstrate, FPD officers’ use of canines to bite people is frequently unreasonable. Officers command dogs to apprehend by biting even when multiple officers are present. . . . They appear to use canines not to counter a physical threat but to inflict punishment. . . . Overall, FPD officers’ use of canines reflects a culture in which officers choose not to use the skills and tactics that could resolve a situation without injuries, and instead deploy tools and methods that are almost guaranteed to produce an injury of some type. . . . FPD’s use of dog bites only against African-American subjects is evidence of discriminatory policing in violation of the Fourteenth Amendment and other federal laws.⁶¹

The Ferguson Police Department is not alone. A 2013 report similarly found that 100 percent of the victims of police bites in Los Angeles County in the first six months in 2013 were Black or Latinx.⁶² Evidently,

54. *Id.* at 31.

55. *Id.* at 32.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.* at 33.

62. Ruben Vives, *Bites from Sheriff’s K-9 Units Increase for Blacks, Latinos*, L.A. TIMES (Oct. 7, 2013), <https://www.latimes.com/local/la-me-sheriff-canine-20131008-story.html>.

little has changed since a coalition of civil rights groups and public interests lawyers filed a class-action lawsuit in 1991 against the Los Angeles Police Department (LAPD) for using police dogs to maul more than 900 people in three years—most of them Black and Latinx—who posed no threat to officers.⁶³ The report also showed that dog bites occurred most frequently in city neighborhoods that were predominantly Black.⁶⁴ The lawsuit eventually settled prior to trial.⁶⁵

More recently, the Center for Policing Equity published a hybrid report combining the analysis from multiple police departments across the country. The 2015 study found that the rate at which officers used force by canine against Black people was more than double that for White people.⁶⁶

While dogs have played many roles in the course of history, their systemic use to intimidate, attack, subject, and brutalize Black people shows that modern law enforcement does not use dogs solely for companionship, hunting, assistantship, or the like. Instead, today's officer uses dogs for their gripping presence, fierce biting capabilities, and weaponized effect.

That viciously trained dogs are used disproportionately against Black people shows that police departments have not come far from their historical role of using dogs to instill fear and submission in African Americans, just as early mankind used them to ward off strangers from another tribe who approached stealthily and were potentially up to no good.

63. Sheryl Stolberg, *Lawsuit Charges Improper Use of Police Dogs: Law Enforcement: Rights Group Says Hundreds of People Who Posed No Threat to Officers Have Been Maulled by LAPD Canines. Most of Those Attacked by Animals are Blacks or Latinos, Attorneys Assert*, L.A. TIMES (June 25, 1991), <https://www.latimes.com/archives/la-xpm-1991-06-25-me-1315-story.html> (“[the lawsuit sought] to alter a policy that allows police dogs to be used in detecting and apprehending suspects when there is ‘a reasonable suspicion of the suspects involvement in criminal activity.’ The plaintiffs maintain that this policy—which it calls “find and bite”—gives the LAPD free license to use the police dogs in situations that are not threatening to officers. Instead, the coalition wants to require that police dogs be subject to the department’s deadly force policy, which would prohibit their use unless officers believed a suspect posed a serious threat of death or physical injury to the officers or other citizens.”).

64. *Id.*

65. U.S. COMM’N ON CIVIL RIGHTS, RACIAL AND ETHNIC TENSIONS IN AMERICAN COMMUNITIES: THE LOS ANGELES REPORT, 40 n. 246 (1993).

66. Phillip Atiba Goff et al., SCIENCE OF JUSTICE: CITY REPORT, CTR. FOR POLICING EQUITY 42 (2016), <https://policingequity.org/images/pdfs-doc/EverytownPD.City.Report-FINAL.pdf>.

C. *Police Dog Training Leads to Increased Dog Attacks Against African Americans*

Because dogs are instinctive towards humans, the ways in which police dogs are trained play a large role in the harm they can cause. The lack of uniform dog policies and training practices has increased an officer's ability to use force against suspects and get away with it. They add another layer of complexity to use of force cases that strengthen injustice in an already problematic area of law.

Joseph Pettaway, a Black man, was attacked and bitten to death by a police K-9 dog in the midst of an alleged burglary.⁶⁷ Pettaway's brother filed a federal lawsuit against the city alleging civil rights violations due to unlawful and excessive force.⁶⁸ According to his brother, Mr. Pettaway was employed in a house repair project when the police responded to a burglary-in-progress call.⁶⁹ The lawsuit challenges the use of deadly force when Mr. Pettaway "at no time" tried to "actively resist or threaten [the officer], give any indication or basis for reasonable suspicion he was armed, or attempt to flee from [the officer]."⁷⁰ The dog entered the house.⁷¹ Although the officers heard the "scream . . . of Mr. Pettaway . . . during the attack," and therefore "knew that he was being violently injured by the dog," none of them entered the house, intervened, or took any actions that restrained the dog.⁷² The lawsuit also alleges that because there were no officers inside the house during the attack, it was not possible for Mr. Pettaway to surrender.⁷³

No alleged burglar should be mauled, and his flesh torn and ripped by a police dog, with no opportunity to surrender. Mr. Pettaway died in agony of a ruptured artery in his thigh.⁷⁴ Although the Montgomery police dog that killed Mr. Pettaway was trained by certified officers, the de-

67. Reshad Hudson, *Montgomery Man Dies After Being Mauled by Police K-9*, CBS 42 (Aug. 7, 2018), <https://www.cbs42.com/news/local/montgomery-man-dies-after-being-mauled-by-police-k-9/>.

68. Melissa Brown, *Family of Montgomery Man Killed by Police Dog Sues City*, MONTGOMERY ADVERTISER (Jan. 4, 2019), <https://www.montgomeryadvertiser.com/story/news/crime/2019/01/04/family-joseph-pettaway-who-killed-police-dog-sues-city-montgomery/2482693002/>.

69. *Id.*

70. *Id.*

71. *Id.* ("The Montgomery Advertiser in July 2019 asked MPD if the K-9's handler entered the home with the dog. MPD declined to answer, referring to an ongoing State Bureau of Investigation probe at the time.")

72. *Id.*

73. *Id.*

74. *Id.*

partment had “no policy in place and no precedent to follow” when the police dog killed Pettaway.⁷⁵

Many dog bites occur each year, but only a handful of deaths by K-9 dogs have happened in the United States.⁷⁶ Because of this, the Montgomery Police Department—like most police departments—handled this case similarly to other cases where police officers have shot and killed people. In like manner, courts analyze use of force cases that involve a dog the same way they analyze those that do not involve a dog.⁷⁷ No court has deemed dogs to be deadly force as a matter of law.⁷⁸ When someone injured by a dog brings an excessive force claim, courts generally apply the same test used in cases where the officer uses excessive force: *Graham* factors.⁷⁹ Courts apply a fact-intensive analysis of the incident and consider several factors including: “the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”⁸⁰ Looking at the totality of the circumstances, the court considers whether the use of force was “reasonable” under the cir-

75. Melissa Brown, *Joseph Pettaway Death: Rare in U.S. for Police Dogs to Kill*, MONTGOMERY ADVERTISER (July 31, 2018), <https://www.montgomeryadvertiser.com/story/news/crime/2018/07/31/how-many-times-has-k-9-police-dog-killed-suspect-country-montgomery-joseph-pettaway-death-one-few/849017002/> (stating that deaths from K-9 dogs are rare because “[m]ost of the victims tend to be adult males. Usually, it’s only one dog. Finally, human intervention is there. Cops can call for medical help right away. The major cause or likely cause of death from a police dog attack is bleeding to death. If you have competent medical personnel available, they can stop that massive bleeding.”).

76. *Id.* But see also, e.g., *Jones v. Fransen*, 857 F.3d 843, 848 (11th Cir. 2017) (causing significant harm); *Cooper v. Brown*, 844 F.3d 517, 521 (5th Cir. 2016); *Priester v. City of Riviera Beach*, 208 F.3d 919, 924 (11th Cir. 2000).

77. See, e.g., *Kerr v. City of West Palm Beach*, 875 F.2d 1546, 1550 (11th Cir. 1989) (“When force is used by the K-9 unit, it will be handled in the same manner as other uses of force by Officers.”).

78. See Schiavone, *supra* note 1, at 627 (“Only in rare circumstances has *Gamer* been invoked in any manner.”). See also *Robinette v. Barnes*, 854 F.2d 909, 911–12 (6th Cir. 1988) (considering whether police dogs should be deemed deadly force under a *Gamer* analysis).

79. See Schiavone, *supra* note 1, at 627; see also *Brewer v. City of Napa*, 210 F.3d 1093, 1098 (9th Cir. 2000) (“In this case, then, the relevant inquiry for the jury was whether Brewer might have posed an immediate threat to the safety of the officers or others under *Graham*”).

80. *Graham v. Connor*, 490 U.S. 386, 394–96 (1989); see also *Orr v. Copeland*, 844 F.3d 484, 492 (5th Cir. 2016) (“The objective-reasonableness inquiry is fact-intensive . . .”).

cumstances.⁸¹ Courts analyzing dog-bite cases defer to the police, refusing to second guess an officer's "split-second judgments."⁸²

Excessive force claims involving dogs are even harder for a plaintiff to win than excessive force claims involving only humans. Donald Cook, "a Los Angeles attorney with decades of experience bringing lawsuits over police dog bites," blames this on what he coins "The Rin Tin Tin Effect."⁸³ He explains, "juries think of police dogs as noble, and have trouble visualizing how violent they can be during an arrest."⁸⁴ Police videos examined by NPR show "officers using biting dogs against people who show minimal threat to officers, and a degree of violence that would be unacceptable if inflicted directly by the officers."⁸⁵

In *Robinette v. Barnes*, the Sixth Circuit held that "the use of a properly trained police dog to apprehend a felony suspect does not carry with it a 'substantial risk of causing death or serious bodily harm.'"⁸⁶ In this case, the dog found the suspect "in the bay of [a] car dealership."⁸⁷ The court summarized: "[W]hen the dog found the suspect, he was hidden underneath a car, his arms were not within the dog's reach and, unfortunately, his neck was."⁸⁸ Because "the dog had been trained to seize whatever part of anatomy was nearest if an arm was unavailable, the dog acted consistent with its training by seizing [the suspect's] exposed neck."⁸⁹ Thus, the Sixth Circuit concluded that the dog was used in an "appropriate manner to apprehend a felony suspect" and "the use of the dog [did] not constitute deadly force."⁹⁰ Moreover, courts have held that "[i]f the improper training was the result of simple negligence, no section 1983 action will lie. . . ."⁹¹ Thus, a claim for improper training would not support a 1983 civil rights claim unless the officer intentionally altered the training of the K-9 dog.

81. *Graham*, 490 U.S. at 396.

82. *Id.* at 397; see Schiavone, *supra* note 1, at 626.

83. Martin Kaste, *Videos Reveal A Close, Gory View of Police Dog Bites*, NPR (Nov. 20, 2017), <https://www.npr.org/2017/11/20/563973584/videos-reveal-a-close-gory-view-of-police-dog-bites>.

84. *Id.*

85. *Id.*

86. *Robinette v. Barnes*, 854 F.2d 909, 912 (6th Cir. 1988) (quoting the Model Penal Code's definition of "deadly force").

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.* at 913.

91. *Id.* at 912 n. 3 ("[a]lthough a section 1983 action might lie if [the dog's] training had been intentionally altered, the record is devoid of any evidence which would support such a finding in this case."); see also, e.g., *Jones v. Sherrill*, 827 F.2d 1102, 1106 (6th Cir.1987).

In a *Robinette*-like incident, an officer approaching a suspect and banging on his throat with his baton until the suspect died might cause public outrage.⁹² Yet, when an officer uses a dog to perform virtually the same act, the training practice of the dog and the public's general perception of dogs allows officers to avoid repercussions.⁹³

Within this area of law, an unaddressed issue is police departments' use of varying training tactics—each of which results in a different level of harm. Though research is difficult because of inconsistencies in K-9 training across jurisdictions, Charles Mesloh—former police K-9 handler—has researched the two most common methods of training for K-9 dogs.⁹⁴ According to Mesloh, there are two competing methods of training for K-9 dogs.⁹⁵ The “Bite and Hold” and the “Bark and Hold” outline what the officer should command the dog to do when they're pursuing a suspect that is standing still as the dog makes contact with them.⁹⁶ Under the bite and hold method of training, a K-9 dog apprehends a suspect by biting their arm or leg or, if an arm or leg is not available, any available area of the suspect's body.⁹⁷ It's expected that the suspect will attempt to release himself from the dog's grip.⁹⁸ When this happens, the dog is trained to maintain his hold until ordered by the officer to release the suspect.⁹⁹ If the suspect's attempt to evade the dog's grip are successful and the dog loses its hold, the dog is trained to reestablish it.¹⁰⁰

Although suspects often suffer serious injury from multiple bites during the course of a “bite and hold” apprehension,¹⁰¹ it is the most common system of seizing a subject.¹⁰² When using the “bite and hold,” the dog that is sent to chase the fleeing suspect is not always within the vicinity of its handler.¹⁰³ Thus, many argue that this training method results in excessive force because it does not give the suspect a “last chance to comply” before the dog arrives.¹⁰⁴ Despite courts' general deference to

92. Kaste, *supra* note 82. See also Alex Altman, *Why the Killing of George Floyd Sparked an American Uprising*, TIME (Jun. 4, 2020), <https://time.com/5847967/george-floyd-protests-trump/>.

93. *Id.*

94. Charlie Mesloh, *Barks or Bites? The Impact of Training on Police Canine Force Outcomes*, 7 POLICE PRAC. AND RES. 323 (2006).

95. *Id.* at 324.

96. *Id.* at 324–25.

97. *Kerr v. City of West Palm Beach*, 875 F.2d 1546, 1550.

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.*

102. Mesloh, *supra* note 93, at 324.

103. Schiavone, *supra* note 1, at 629.

104. Mesloh, *supra* note 93, at 325.

police, some courts have ruled in favor of plaintiffs in excessive force claims where the dogs were trained in the “bite and hold” method.¹⁰⁵

“Bark and hold” is a training method brought about as a result of litigation and evolving enforcement policies implemented by the Department of Justice.¹⁰⁶ Under this approach, dogs are trained to find the suspect and bark to hold the suspect in place, only biting if the suspect moves to attack or flee.¹⁰⁷ Though critics note potential drawbacks like exposing the dogs to greater risk of harm, this training method tends to result in fewer excessive force claims.¹⁰⁸

As with other cases resulting from police brutality, African Americans are more likely to face police violence when the police deploy dogs. According to statistics, police officers use more force against Black citizens, on average, than any other race.¹⁰⁹ With dogs as an added weapon

105. Schiavone, *supra* note 1, at 629.

106. Mesloh, *supra* note 93, at 325.

107. Schiavone, *supra* note 1, at 628.

108. *Id.*

109. German Lopez, *There are Huge Racial Disparities in How U.S. Police Use Force*, VOX (updated Nov. 14, 2015), <https://www.vox.com/identities/2016/8/13/17938186/police-shootings-killings-racism-racial-disparities> (“An analysis of the available FBI data by Dara Lind for Vox found that US police kill black people at disproportionate rates: Black people accounted for 31 percent of police killing victims in 2012, even though they made up just 13 percent of the US population.”); When employed against Black men, K-9 dogs are not used as “partners,” but as weapons. This picture depicts the San Diego Police using excessive force against a defenseless Black man. A man named Angel Nunez filmed the incident and uploaded it to his Facebook profile before it went viral across the web. India Today, *Watch: Police Dog Mauls Handcuffed Black Man in America, Sparks Controversy* (July 14, 2018), <https://www.indiatoday.in/fyi/story/america-san-diego-blackman-police-k9-dog-viral-video-1024295-2017-07-14>.



in their toolbox, many police departments, like the one in Ferguson, employ harmful tactics disproportionately towards Black people. Varying training practices and lack of analytical data leave much room for Black people to get mauled or even die from a dog attack. Even though dogs generally are superior in physical power to their handlers, Black people will have an even harder time convincing a jury that the hero K-9 hurt them.

D. Police Dogs are Inherently Inaccurate

Not only are dogs used as weapons of terror, but they are also used to detect drugs, explosives, and other contraband. Dogs were at the forefront of Ronald Reagan's "War on Drugs" as drug-sniffing agents, which unduly harmed racial minorities.¹¹⁰ Today, police dog sniff searches during routine traffic stops exhibit a high degree of racial disparity.¹¹¹ For example, a 2014 survey of Illinois found that "Black motorists were 55% more likely than white motorists to be subjected to a dog sniff. Yet white motorists were 14% more likely than black motorists to be found with contraband during officer searches performed in response to a dog alert."¹¹² Indeed, racial bias negates the supposed objective application of

110. P. Khalil Saucier, *Traces of the Slave Patrol: Notes on Breed-Specific Legislation*, 10 DREXEL L. REV. 673, 680 (2018).

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

112. *Id.*

a traffic stop and makes the standard to conduct a dog sniff search more loosely applied for Black motorists than for White motorists.¹¹³

Field records prove that trained sniff dogs can have widely varying rates of false alerts, in some cases topping fifty percent.¹¹⁴ Studies show that sometimes handlers may influence the results obtained by drug and explosive sniffing dogs.¹¹⁵ This is because dogs that are bred to have the ability to read our body language and have an overwhelming desire to please us.¹¹⁶ Even if handlers are careful, drug dogs will read their unintentional body language and alert accordingly.¹¹⁷ A handler who dislikes Black people is apt to communicate this attitude to his dog which will respond accordingly. A 2010 study found dogs falsely alerting more frequently to packages designed to trick handlers than packages designed to trick the dogs.¹¹⁸ It follows that many drug dogs are alerting based on their handlers' suspicions rather than alerting based on the presence of drugs.¹¹⁹

It's no wonder African Americans are disproportionately singled out by dog sniff searches. The criminal justice system is riddled with officers carrying a presumption of guilt towards African Americans.¹²⁰ Thus, "suspicion" is often a guise for an inherently unintentional yet pervasive belief that Black people are more likely to be criminals than others. Automatically associating Black people with negative stereotypes influences behavior, making people respond in biased ways even when they are not explicitly prejudiced. Therefore, an officer who is racist or an officer who

113. Anthony J. Ghiotto, *Traffic Stop Federalism: Protecting North Carolina Black Drivers from the United States Supreme Court*, 48 U. BALT. L. REV. 323, 364-69 (2019).

114. Radley Balko, Opinion, *The Supreme Court's 'Alternative Facts' About Drug-Sniffing Dogs*, WASH. POST, Feb. 4, 2019, <https://www.washingtonpost.com/opinions/2019/02/05/supreme-courts-alternative-facts-about-drug-sniffing-dogs/>.

115. See Mathew Slaughter, *Supreme Court's Treatment of Drug Detection Dogs Doesn't Pass the Sniff Test*, 19 NEW CRIM. L. REV. 279, 297-300 (2016).

116. *Id.* at 298-99.

117. Balko, *supra* note 113.

118. *Id.*, see also *supra* note 113; see also *Explosive and Drug-Sniffing Dogs' Performance is Affected by Their Handlers' Beliefs*, UC DAVIS HEALTH (Feb. 23, 2011), https://health.ucdavis.edu/welcome/features/2010-2011/02/20110223_drug_dogs.html ("There are cognitive factors affecting the interaction between a dog and a handler that can impact the dog's performance").

119. Balko, *supra* note 113 ("In *United States v. Bentley*, the defendant was searched after an alert by a drug dog that had alerted 93 out of every 100 times it sniffed. Why did it alert so often? Perhaps because the drug dog's handler admitted that he rewarded the dog with a treat only when it alerted. The dog was confirming its owner's hunches, and getting a treat each time it did. It also had a false positive error rate of 41 percent—4 out of every 10 drivers searched because of a dog's alert turned out to be innocent.").

120. See *Presumption of Guilt*, EQUAL JUSTICE INITIATIVE, <https://eji.org/issues/presumption-of-guilt/> (last visited June 8, 2020).

is explicitly or implicitly biased against African Americans will incite their drug dog to alert them of contraband. Whether contraband is present or not, this practice results in a disparate number of African Americans subject to invasive searches by dogs—which can lead to wrongful convictions, civil asset forfeiture, wounds, missed ferry and airline flights, and other oppressive outcomes.¹²¹

In sum, police dogs that are used to apprehend a suspect and to sniff drugs are weaponized to maul, injure, and terrorize African Americans at a disparate rate. Because dogs are inherently driven to please their handler, Black people are more likely to find themselves targeted when officers carry implicit or explicit racial biases. The merciless nature of these issues supports the notion that far too many people value dogs more than they care about the lives of Black people. Since the dawn of wolf and human interaction, dogs have inhabited ferocity and a strong loyalty to their handlers. These same characteristics lead dogs to carry out their handler's racially biased attacks.

IV. DOG LAW EXHIBITS BIAS

Dogs play an important role as the friends and companion of man. People keep 68 million dogs as pets in the United States.¹²² The great majority of house dogs are harmless, but sometimes dogs can exhibit abnormal behavior that can result in physical and mental harm to their target. When reviewing case law involving dogs, tort cases involving dog incidents amongst neighbors, house guests, and the like are rampant. A glance at these cases shows that dog owners are allotted a level of leeway that others do not get.

A. *Inherently Dangerous Per Se*

Under common law, a dog owner was only held liable for their dog biting someone if the owner had reason to know the dog might bite.¹²³ This rule was deemed the “one bite rule” and provided that if the owner of a domesticated animal knew or should have known about the animal's dangerous or violent tendencies, then the owner would be held strictly

121. See e.g., Radley Balko, *More on John Preston's Miracle Florida Police Dog*, REASON (July 10, 2009), <https://reason.com/2009/07/10/more-on-john-prestons-miracle/>.

122. Safia Gray Hussain, *Attacking the Dog Bite Epidemic: Why Breed-Specific Legislation Won't Solve the Dangerous-Dog Dilemma*, 74 FORDHAM L. REV. 2847, 2849 (2006).

123. *One-Bite Rule*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/one-bite_rule (last visited May 18, 2020).

liable for injuries caused by the animal.¹²⁴ This rule generally meant that a dog was allowed “one free bite” before it would get its owner into any legal trouble.¹²⁵ After that first bite, all the injured party had to show was that the dog owner knew they had bitten someone before.¹²⁶

Today, most states have rejected or modified the “one-bite” rule either by statute or by case law.¹²⁷ As the Restatement (Second) of Torts notes,

Statutes frequently abolish the necessity of scienter and impose strict liability for all harm caused to human beings and live-stock by dogs It is enough that the possessor of the animal knows that it has on other occasions exhibited such a tendency to attack human beings as should apprise him of its dangerous character.¹²⁸ For this reason, the “one-bite” rule does not apply to every dog bite case.¹²⁹

Although most dogs get one free bite or a chance to prove their propensity for dangerousness, a specific breed—pit bulls—have been targeted by breed-specific legislation and case law deeming them inherently dangerous per se.¹³⁰ Breed-specific legislation regulates ownership of particular breeds, providing that ownership of a target breed is prima facie evidence of ownership of a dangerous dog.¹³¹ In breed-specific legislation all dogs of the target breed are subject to regulation based solely on membership in that breed.¹³²

124. *Id.*

125. *Bright v. Maznik*, 162 Idaho 311, 396 (2017) (finding that the district court properly granted summary judgment where defendant had neither actual nor constructive notice of the dog’s dangerous or vicious propensity because he received no previous warnings); *Borns ex. rel Gannon v. Voss*, 70 P.3d 262, 270 (Wyo. 2003) (“‘One free bite’ has simply become shorthand for the proposition that strict liability does not arise until the animal’s owner has knowledge of a dangerous propensity in the animal.”).

126. *One-Bite Rule*, *supra* note 125.

127. *Id.*

128. RESTATEMENT (SECOND) OF TORTS: HARM DONE BY ABNORMALLY DANGEROUS DOMESTIC ANIMALS §§ 509(f), (g) (AM. LAW INST. 1977).

129. *Id.* at § 509(g).

130. *See, e.g., Tracey v. Solesky*, 50 A.3d 1075, 1086 (Md. 2012) (recognizing a sub-category of dogs, traditionally domestic animals, as “inherently dangerous”); *Toledo v. Tellings*, 114 Ohio St. 3d 278, 282-83, 2007-Ohio-3724, 871 N.E.2d 1152 (“[P]it bulls pose a serious danger to the safety to citizens. The state and the city have a legitimate interest in protecting the citizens from the degree of danger posed by this breed of domestic dog.”).

131. *Hussain*, *supra* note 121, at 2859.

132. *Id.*

It's hard to ignore the correlation between pit bulls and Black males in America. Bias against Black men causes many to treat them as per se dangerous. When this stereotype is occupied by policemen, Black men are subject to illegal searches and excessive use of force merely because of the color of their skin. The consequences of this bias-driven suspicion are more than harmful—they are deadly.

The legal system is ripe with rituals and practices involving dogs that promote longstanding stereotypes.¹³³ With these principles and habits in place, racial bias towards African Americans remains a placeholder for the subordinate treatment of Black people when compared to the treatment of dogs.

V. SOCIAL SEGREGATION—SACRED GROUNDS

Dogs fit seamlessly into the everyday lives of most Americans. Walking, petting, feeding, and grooming are all part of the many measures a devoted owner may take for dog care. Because of this, dogs are generally thought of as aids in facilitating neighborly relationships.¹³⁴ However, in practice, dog care activities have reinforced social exclusion—a process rooted in gentrification.¹³⁵ Although America's demographic integration of neighborhoods has improved over the years, many urban areas remain socially segregated.¹³⁶ While differing economic inter-

133. As a further illustration of the legal system's propensity for racial bias, Black men are often harshly punished for crimes involving dogs. Michael Vick was one of the most dynamic football players during his six seasons with the Atlanta Falcons before he was suspended from the NFL and served 19 months in federal prison after being found guilty of running a dogfighting ring. Despite publicly apologizing for the dogfighting and becoming an advocate for the humane treatment of animals, he is still being punished. More than a decade after his release from prison, people are still signing petitions calling for his removal from honorary award lists. Nik DeCosta-Klipa, *Hundreds of Thousands are Protesting the NFL's Decision to Honor Michael Vick. Ben Watson Says They're Wrong*, BOSTON.COM (Dec. 9, 2019), <https://www.boston.com/sports/nfl/2019/12/09/ben-watson-michael-vick-pro-bowl>.

134. Sarah Mayorga-Gallo, *Whose Best Friend? Dogs and Racial Boundary Maintenance in a Multiracial Neighborhood*, 33 SOC. F. 505, 505 (2018). [hereinafter *Whose Best Friend?*].

135. Tissot, *supra* note 5, at 265–66 (arguing that “gentrifiers actively use public spaces, such as dog runs, to create social boundaries, to exclude others as well as define insiders. Spatial boundaries allow them to distinguish themselves from the poor, ethnic minorities, and ‘deviant’ populations, although in complex, various, and sometimes ambivalent ways.”).

136. Sarah Mayorga-Gallo, *How Dogs Help Keep Multiracial Neighborhoods Socially Segregated*, U.S. NEWS & WORLD REP. (May 22, 2019), <https://www.usnews.com/news/cities/articles/2019-05-22/how-dogs-help-keep-multiracial-neighborhoods-socially-segregated>. [hereinafter *Neighborhoods Socially Segregated*].

ests and racial bias contribute heavily to social segregation, dogs reinforce this construct.

For example, Howard University, a historically Black institution, is recognized as a treasure to the African American community.¹³⁷ The campus, which sits in the center of Washington D.C., is enclosed by historical markers, academic buildings, and symbols of Black excellence. Recently, many White newcomers have been walking their dogs on Howard's campus.¹³⁸ Howard has never had a dog walking policy; respect for historic grounds had created an unspoken rule that no one walked on the grass.¹³⁹ Black students, disturbed by the activity, described dog walking on their campus yard as crossing "sacred grounds," "infiltrating" their safe haven, and causing them to remember "images of protests when people were attacked by dogs."¹⁴⁰

The dog walking conflict is a reaction to the city's rapid growth into a wealthier and Whiter one that tolerates gentrification—the process that creates a dog park out of sacred and historically Black grounds. Gentrification is a process of reclaiming a neighborhood for one's own kind,¹⁴¹ and dog parks and other dog accessory stores are consistent markers of a gentrifying neighborhood.¹⁴² It can be defined as "the reinvestment and renewal of previously debilitated urban neighborhoods that occurs as middle- and upper-middle-class residents move in."¹⁴³ It incites fear of displacement and a loss of community amongst long-time residents.¹⁴⁴ Thus, an increased number of White newcomers subconsciously staking out their new territory by walking their dogs conjures legitimate concerns for the well-being of Black people's own safe haven of culture and history. In doing so, the owners are mimicking the behavior of dogs, wolves, and other wild animals that urinate, so as to leave a trace that communicates to others of their kind that they are entering territory belonging to another.

137. See Tara Bahrapour, *Students Say Dog Walkers on Howard Campus Are Desecrating Hallowed Ground*, WASH. POST (Apr. 19, 2019), https://www.washingtonpost.com/local/social-issues/students-say-dog-walkers-on-howard-campus-are-desecrating-hallowed-ground/2019/04/19/2c136732-62ca-11e9-9ff2-abc984dc9eec_story.html.

138. See *id.*

139. *Id.*

140. *Id.*

141. See Tissot, *supra* note 5, at 265–66.

142. *Id.* at 265.

143. Jackelyn Hwang, *How "Gentrification" in American Cities Maintains Racial Inequality and Segregation*, SCHOLARS STRATEGY NETWORK (Aug. 05, 2014), <https://scholars.org/contribution/how-gentrification-american-cities-maintains-racial-inequality-and-segregation>.

144. Tissot, *supra* note 5, at 266.

A. *Studies Show that Dogs Help Maintain Racial Boundaries in Neighborhoods*

A 2018 study found that many White residents subconsciously use dogs to maintain interracial boundaries and feelings of safety, as well as to navigate racial-ethnic differences between themselves and their Black neighbors.¹⁴⁵ The study consisted of interviews highlighting the neighborhood norms and social relationships within a statistically integrated neighborhood: Creekridge Park in Durham County, North Carolina.¹⁴⁶ The study labels Creekridge Park a dog friendly neighborhood; of 63 respondents, 34 were dog owners at the time of the study.¹⁴⁷

The study found that dogs were more likely to connect White residents than integrate connections amongst Black and White residents.¹⁴⁸ For White residents, crossing paths with a neighbor on the sidewalk resulted in “baseball games, dinners, and even vacations together.”¹⁴⁹ At the same time, Black residents describe a much different atmosphere, stating that their neighbors were not as friendly as they “hoped and thought that they would be.”¹⁵⁰

This dynamic furthered the notion that dogs were used as an avenue for owners to maintain racial boundaries. For example, one of the dog owners in Creekridge Park disliked that her minority neighbors wouldn't let their dog into the house; they left their dog tied up in their fenced backyard.¹⁵¹ While this practice is very common amongst Black families—more common than it is amongst White families—the neighbor felt it necessary to monitor their backyard with binoculars and eventually call the police.¹⁵² In doing this, residents constructed “arbitrary lines between right and wrong, insider and outsider – even good pet owner and bad” to shape a neighborhood that matched their desired mold.¹⁵³

In the same vein, dog parks in Chicago act as a marker of disparity. For example, a city ordinance imposes a \$300 fine for off-leash dogs, which are only legally allowed in the city's dog-friendly areas.¹⁵⁴ Howev-

145. *Whose Best Friend?*, *supra* note 133, at 505.

146. *Id.*

147. *Id.* at 511.

148. *Id.* at 505.

149. *Neighborhoods Socially Segregated*, *supra* note 135.

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.*

154. Kriston Capps, *Are Dog Parks Exclusionary?* CITYLAB (Feb. 28, 2019), <https://www.citylab.com/equity/2019/02/chicago-dog-park-lincoln-yards-gentrification-racial-divide/581086/>.

er, there is an unequal distribution of dog parks in the city.¹⁵⁵ Most of Chicago's dog parks are located in majority White neighborhoods, despite those areas comprising a relatively small portion of the city.¹⁵⁶ Thus, police disproportionately issue off-leash violations in the city's predominantly Black South Side, which is mostly a "dog park desert."¹⁵⁷ Hence, dog parks represent a cherished public amenity that serves only some of the neighborhood, while generating problems for others.

When dogs are used as a tool to reinforce social segregation, the results are consistent with broader demographic trends that reveal an acceleration of gentrification. These racial boundaries are set as a harmful reaction to the fear of an integrated community. In efforts to shift societal housing inequities, dogs are plowed as a constant reminder of the subordinate level at which disparaging racial and socioeconomic class structures place African Americans. Indeed, these constructs are reinforced by the role companion dogs play within communities and show that racial inequality can even pervade something as sacred as one's own neighborhood relationships.

CONCLUSION

Negro dogs, misplaced sympathy, K-9 units, bias in dog law, and social segregation all demonstrate the weaponization of dogs against African Americans. When people weaponize dogs, they gain a powerful tool—*hellhounds*.¹⁵⁸ This weaponized tool has consistently built injustices that impede social and legal progress. These injustices infest interactions with police, courts, and neighborhood communities. How can African Americans escape the echoing barks and piercing bites of weaponized dogs? If society is committed to reshaping its present interracial discord, it must recognize that people have used dogs as an instrument in the oppression of African Americans; it must recognize that it's time for the *hellhounds* of societies song to play a different tune.

155. *Id.*

156. *Id.*

157. *Id.*

158. A "metaphorical example of the enduring threat posed by slave patrol violence was Martin Luther King's despair about the denial of black human equality. He said, '*Discrimination is a hellhound that gnaws at Negroes in every waking moment of their lives.*'" To him, the pain of unequal treatment was as hurtful as the vicious slave dog attacks. Connecting an established pattern of harmful practices involving dogs to history's violence against blacks shows society's persistent use of dogs to further oppression. Larry H. Spruill, *Slave Patrols, "Pack of Negro Dogs" and Policing Black Communities*, 53 *PHYLON* 42, 60 (2016) (emphasis in original).

The prioritization of dogs as a distraction for the inequities faced by African Americans proves that far too many people value dogs over Black lives. As a result, the racist use of canine forces and extensive patterns of dog-inflicted racial bias hinges on the devaluation of Black lives. Possible solutions include ending canine policing, retraining dogs for purely humanitarian purposes, or shifting the way dog parks are placed in gentrifying neighborhoods. Although the possible solutions to the overarching problem are not absolute, acknowledging the pawprints of oppression is a necessary first step to committing to an intentional effort to end the devaluation of African Americans.