5-11-2016

No Pets Allowed: Discrimination, Homelessness, and Pet Ownership

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SEATTLE U
SCHOOL OF LAW

HOMELESS RIGHTS
ADVOCACY PROJECT

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Acknowledgements

The Homeless Rights Advocacy Practicum is a section of the Homeless Rights Advocacy Project (HRAP) at Seattle University School of Law's Korematsu Center. Ruby Aliment, a third-year law student Seattle University School of Law and member of HRAP, authored this policy brief under the supervision of Professor Sara Rankin of Seattle University School of Law and Kaya Lurie, HRAP Fellow and third-year law student. The author is indebted to the following individuals for their time and contributions toward the preparation of this brief:

- Danny Barrio, Deputy Director of the Department of Animal Care and Control (Los Angeles County)
- Tracy Bahrakis, Enforcement Supervisor (Seattle Animal Shelter)
- Mike Champagne, Peer Youth Advocate (Peace for the Streets by Kids of the Streets)
- James Fearn, General Counsel (Seattle Housing Authority)
- Genevieve Frederick, Executive Director (Pets of the Homeless)
- Emily Gelb, Safety Net Supervisor (Asheville Humane Society)
- Lisa Gustaveson, Program Manager (Seattle University School of Theology and Ministry)
- Megan Hustings, Interim Director (National Coalition for the Homeless)
- HRAP Fellows: Kaya Lurie, Joshua Howard, Justin Olson, and Scott MacDonald
- HRAP Practicum Colleagues: Jodilyn Gilleland, Alexander Glyman, Samir Junejo, Jessica So, Dana Petersen, and Ryan Mansell
- Leslie Irvine, Professor (University of Colorado, Boulder)
- Karen Jones, Community Advocate (Youth Care)
- Adam Karp, Attorney (Animal Law Offices of Adam Karp)
- Norah Levine, Photographer (Lifelines Project)
- Members of the Seattle Police Department's Crisis Response Unit and City Partners: Officer Chris Coles; Officer Andrea Herrera; Justin Dawson, Crisis Response Team MHP; Officer David Sullivan; Officer Nathan Shopay, Seattle Housing Authority; Brendan Brophy and Beth Gappert, Seattle City Attorney; and Sergeant Eric Pisconski
- Phoebe Nelson, former Executive Director, Women's Resource Center Washington
- Jenna Pringle, Marketing and Communications Manager (Seattle Humane)
- Suzanne Skinner, Distinguished Practitioner in Residence (HRAP, Seattle University School of Law)
- Mark Solomon (Seattle Police Department)
- Alex West, Staff Attorney (Northwest Justice Project)
- And, finally, Christina, Frogger, Slim, and Rellik, who are former and current participants at Peace for the Streets by Kids of the Streets (PSKS) in Seattle, Washington. These individuals graciously shared their stories with the author, and this brief would be incomplete without their contributions.

The author is also extremely grateful to Professor Sara Rankin for her tireless dedication to homeless rights advocacy and her enthusiastic guidance throughout this entire process.

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Executive Summary

This brief addresses the particular challenges faced by pet owners experiencing homelessness. Its findings are important to homeless rights advocates and animal welfare advocates alike because 10 to 25 percent of people experiencing homelessness own pets; meanwhile the majority of pets in shelters die before finding a forever home.[1] These facts suggest that interested parties and groups need to re-evaluate their approaches to pet ownership by homeless and low-income people. Through engagement with existing research on the subject, plus independent interviews with law enforcement officers, animal welfare advocates, attorneys, and current or former homeless pet owners, this brief makes the following findings:

First, pets transform public perceptions of people experiencing homelessness, causing increased attention towards visibly poor people.[2] This attention may be positive—such as increased donations of spare change or food—but often emerges as harassment based on prejudice against people experiencing homelessness.[3] Despite this harassment, pet ownership among people experiencing homelessness increases emotional well-being and engagement with available services, among other benefits, which together suggest that pet ownership may help alleviate the causes and impacts of long-term homelessness.[4]

Second, no-pet policies perpetuate homelessness by excluding and limiting access to necessary housing, shelter, and services.[5] Providers defend these policies using the same bias that justifies the harassment and stigmatization of homeless pet owners—however, no data supports

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[1] Michelle D. Land, *The Homeless and Their Pets: Mutual Dependence for Survival*, ANIMAL BLAWG (Oct. 19, 2015), https://animalblawg.wordpress.com/2015/10/19/the-homeless-and-their-pets-mutual-dependence-for-survival/; *Animal Shelter Euthanasia*, AMER. HUMANE ASSOC., http://www.americanhumane.org/animals/stop-animal-abuse/fact-sheets/animal-shelter-euthanasia.html?referrer=https://www.google.com/ (last accessed Nov. 15, 2015).

[2] Leslie Irvine et al., *Confrontations and Donations: Encounters between Homeless Pet Owners and the Public*, 53 THE SOC. Q. 25, 27 (2012).

[3] *Id. See also* Interview with Frogger, Participant, Peace for the Streets by Kids from the Streets, in Sea., Wash. (Oct. 16, 2015) ("When it comes to owning a dog, I've had a few times where I'm sitting outside trying to get money for my dog, and I tend to get more money when I have a dog than when I'm there by myself because a lot of people look at you by yourself, and they think you're using the money for drugs; but with a dog, they think there's a possibility the money will be used […] for the dog.").

[4] Jennifer Labrecque et al., *Homeless Women's Voices on Incorporating Companion Animals in Shelter Services*, 24 ANTHROZOOS 79, 79 (2015); *see also* Interview with Christina, Participant, Peace for the Streets by Kids from the Streets, in Sea., Wash. (Oct. 16, 2015) ("I realize that as a dog owner, she can actually make someone happy because all dogs have different personalities, and she's cute, playful, and spunky, and really funny."); Interview with Slim, Former Participant, Peace for the Streets by Kids from the Streets, in Sea., Wash. (Oct. 16, 2015) ("If you imagine someone travelling from New York to Seattle on a train with a Yorkie and that's the reason they woke up every night and every morning and the reason they chose to buy a bag of dog food over heroin, and you get off the train, and you try to get food and they say 'No you can't bring your dog here.'"); Michelle Lem, Effects of Pet Ownership on Street-Involved Youth in Ontario 1, 22 (May 2012) (unpublished M.S. in Popular Medicine, The University of Guelph), *available at* http://atrium.lib.uoguelph.ca/xmlui/bitstream/handle/10214/3600/Lem%20Thesis%20FINAL.pdf?sequence=6.

[5] Harmony Rhoades et al., *Pet Ownership Among Homeless Youth: Associations with Mental Health, Services Utilization and Housing Status*, 46 CHILD PSYCHIATRY HUM. DEV. 237, 237 (Apr. 12, 2014); *see also* Randall Singer et al., *Dilemmas associated with rehousing people experiencing homelessness who have companion animals*, 77 PSYCHOL. REP. 851 (1995).

this prejudice.[6]

Third, the overwhelming bias against homeless pet owners creates a disproportionate impact on this population with regards to the reporting and enforcement of animal control laws. Up to 90 percent of people experiencing homelessness report being harassed or witnessing harassment by the police for owning a pet.[7] This brief analyzes three common laws: licensing and registration requirements, anti-tethering laws, and standards of care laws. Across the board, these laws generate expensive fines for petty violations without evaluating the violator's ability to pay or comply.[8] Additionally, these laws employ vague language that allows subjective impressions of good pet ownership to determine when a violation has occurred.[9] As a result, subjective impressions of what a good pet owner looks like come to determine when a violation has occurred, causing a negative impact on visibly poor pet owners.[10]

In response to these findings, this report makes the following recommendations:

i. **Public and private facilities**, particularly those that provide life-sustaining goods and services, **should adopt pet-friendly policies** regardless of the pet's certification as a service animal or emotional support animal;
ii. **Animal shelters and animal welfare organizations should implement owner-support programs** that emphasize keeping pets with owners who already love them, as opposed to policies that push for pet surrender when pet owner do not have the financial means to provide for their pets;
iii. **Law enforcement training should be revised to complement officers' discretionary enforcement procedures**, particularly by combatting the role of bias in reporting and by enhancing the officers' ability to respond to pet owners experiencing homelessness;
iv. **Cities and counties should adopt low-cost or free pet registration programs** to further the protection of pets without penalizing low-income pet owners; and
v. **Lawmakers should make the implementation of fines for violations contingent on the violator's ability to pay** where no harm to the animal occurs.

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[6] Phone Interview with Anonymous Tenancy and Animal Advocate (Oct. 2, 2015) ("The sense from [New York's Department of Homeless Services] is 'We're taking care of you, that's enough, and you're not gonna be able to keep your animals.' There was a lot of backlash from program directors—a very condescending attitude toward the people they're supposed to be helping. Basically they're vehemently opposed to having pets in any way but have allowed them in some circumstances.").

[7] WESTERN REGIONAL ADVOCACY PROJECT (WRAP), WORKING TOGETHER TO STOP THE CRIMINALIZATION OF HOMELESSNESS (2015) (on file with author).

[8] *See, e.g.*, WASH. REV. CODE § 16.52.015(3)(b).

[9] N.Y. AGRIC. & MKTS. LAW § 353; N.Y. AGRIC. & MKTS. LAW § 356.

[10] WRAP, *supra* note 7; *see also* Irvine, *supra* note 2, at 31 ("I've had people say, 'I'm calling Animal Control and having your dog taken away from you,' and I'm like, 'Yeah, yeah. Whatever.' Because Animal Control's going to come and see a healthy, happy dog and be like 'You have a nice day.' … They're not going to take Doxer from me. For what?"); *see also* Christina, *supra* note 4 ("One time she was lying and dude didn't ask if he could pet her, and he reached down to pet her and she nearly bit him, and he said 'when I come back and if that dogs tries to bark at me or whatever, then I'll kick it'"); Interview with Rellik, Participant, Peace for the Streets by Kids from the Streets, in Sea., Wash. (Oct. 16, 2015) ("I have to sit sometimes because of my health issues, and cops are like, 'Oh you can't sit there.' They say they'll arrest me if I sit, and they say, 'We'll make sure that dog gets put down.'"); Frogger, *supra* note 3 ("There was one instance where the police asked about my dog. They were threatening to call animal control saying he's being abused and neglected.").


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Introduction

"There's a person under the [bridge] with a dog, and I don't think it's right for homeless people to have dogs."[12] Animal control and law enforcement officers receive frequent reports of alleged animal abuse just like this one.[13] However, callers often do not report actual animal abuse, but instead report a homeless person with a dog walking around, sitting, or living in

[11] NORAH LEVINE PHOTOGRAPHY, http://www.norahlevinephotography.com/Lifelines/f2v7mf12pso68mfg634x117fcr0d3a (reprinted with artist's permission); *see also* LIFELINES, http://www.lifelinesproject.org/about/. The mission of the Lifelines project is to depict the bond between people and their pets, and document a relationship that has existed for thousands of years across all walks of life. *Id.* The project's purpose is to share the images and unique lifestyle of the pets of the homeless with the community of Austin." *Id.*

[12] Interview with Tracy Bahrakis, Enforcement Supervisor of the Dep't of Fin. and Admin. Serv., City of Seattle's Seattle Animal Shelter, in Sea., Wash. (Oct. 6, 2015). Tracy handles all sorts of complaints, from "there's a person under Ballard Bridge with a dog and I don't think it's right for homeless people to have dogs" to complaints about physical animal abuse and neglect. *Id.* With the former complaints enforcement agents have to "explain that that's not against the law, that it's not a violation to own a pet while homeless. Plus, you know, when the pet is in good body condition, those sorts of complaints can become harassment." *Id.*

[13] *Id.* Phone interview with Danny Barrio, Deputy Director, Dep't of Animal Care and Control, Los Angeles County (Feb. 2, 2016) ("They'll call us to go out and just investigate… you know, please check out this dog, I don't think it might not have shelter…nothing we call active abuse.").

public view.[14] It is clear that many of these callers equate homeless pet ownership with criminal acts. Owning a pet while homeless is not a crime, but many people believe they have a right to report pet ownership by an entire population of people as though it is against the law.

This brief highlights how this prejudice burdens some of our nation's most vulnerable people without doing right by pets or people. Currently, service providers and housed members of the public encourage homeless pet owners to surrender their pets to animal shelters to increase access to services and housing, and to improve the pets' quality of life.[15] Yet, over half of the pets in the sheltering system die as a result of the shelter conditions or through mass euthanasia.[16]

This brief addresses the challenges faced by pet owners experiencing homelessness and visible poverty in context with the animal suffering occurring within the animal sheltering system.[18] First, it speaks to prejudice faced by homeless pet owners in light of the benefits and significance of animal companionship to people experiencing homelessness. First, it analyzes the unsubstantiated association between homeless pet ownership and animal welfare to illustrate the impact of bias. Second, it observes how pet restrictions operate to exclude people experiencing homelessness from housing, shelter, and services, which perpetuate homelessness. Third, it examines three categories of laws that disproportionately impact this population—licensing laws, prohibitions on tethering, and standards of care laws. Finally, in response, this brief proposes several recommendations to help alleviate symptoms of homelessness through the promotion of pet accommodations, which improve accessibility and acceptance of housing and services. This brief endeavors to fill a gap in existing literature and research by providing a broad-based overview of the personal and legal prejudices against homeless pet owners.[19]

> "It's a huge tragedy when you lose your home, and a lot of these clients don't have a support system, and often they have their immediate family, or maybe their partner, and their pet—and that's everything to them. And to have to give them up, and often the animals have to be put to sleep—it's just traumatic."[17]

[14] *Id.*; Interview with Seattle Police Dep't Crisis Intervention Team in Sea., Wash. (Nov. 5, 2015) [hereinafter SPD Team].
[15] *See* Rhoades *supra* note 5, at 239 (reporting 22% of people surveyed find strangers gave them a "hard time" for having a pet).
[16] *Animal Shelter Euthanasia*, *supra* note 1.
[17] Anonymous Tenancy and Animal Advocate, *supra* note 6.
[18] Throughout, when discussing bias, this brief refers to people experiencing homelessness and visibly poor people as people promote prejudice against both groups by presuming all visibly poor people are homeless. *See generally* Sara Rankin, *The Influence of Exile*, 76 MD. L. REV. (forthcoming 2016) (see discussion on use of language).
[19] Social scientists, medical researchers and providers, psychologists, journalists, and attorneys have explored homeless pet ownership to some degree. This brief relies on that work, in addition to independent interviews conducted with service providers, animal advocates, attorneys, law enforcement officers, and—most importantly—current or former homeless pet owners. The laws and ordinances analyzed represent national trends in animal welfare laws, but focus on cities with large populations of people experiencing homelessness.

I. The Significance of Pets Among People Experiencing Homelessness

In the United States, at least 600,000 people experience homelessness on any given night.[20] That statistic means nearly 3.5 million individuals will experience homelessness this year alone.[21] About 10 to 25 percent of these individuals own pets.[22] Though people experiencing homelessness own a range of pets, from the typical dog to the rarely seen snake, this brief focuses primarily on dogs because of the availability of data.[23]

This section shows how homeless pet owners experience a disproportionate amount of scrutiny and harassment for owning their pets even though pet ownership alleviates symptoms of long-term homelessness. First, it evaluates the right to own pets by housed individuals and people experiencing homelessness. Second, it summarizes the housed public's perceptions of and reactions to pet ownership by visibly poor and people experiencing homelessness. Third, it challenges those perceptions through a showing of how individuals experiencing homelessness treat their pets. Finally, it shows the benefits of pet ownership and how pet ownership creates an important and effective solution to long-term homelessness.

> "They put their pets in their houses and then go to work all day, and they barely see their dogs. And when they come home, they're too tired to spend any time with their dogs, so their dog's kind of like a floor item, just off to the side. Just some 'thing.' It's their pet. It's not their kid. It's not their son or daughter like these guys are. It's their pet."[24]

A. The Right to Own a Pet: The Stigmatization of Homeless Pet Ownership

Most individuals recognize a right to animal companionship, except among people experiencing homelessness.[25] Among the "numerous conditions and circumstances that can result in stigmatization, homelessness ranks near the top of the list."[26] After introducing a pet,

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[20] MEGHAN HENRY ET AL., THE 2015 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS: PART 1 POINT-IN-TIME ESTIMATES OF HOMELESSNESS, THE U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT 1 (Nov. 2015), *available at* https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf. *See also* Paul Boden, *Homeless Head Counts Help No One*, SF GATE (Feb. 5, 2013), http://www.sfgate.com/opinion/openforum/article/Homeless-head-counts-help-no-one-4254191.php ("Point-in-time counts are a minimum number, always. They undercount hidden homeless populations because homeless persons are doubling up with the housed or cannot be identified by sight as homeless.").

[21] *How Many People Experience Homelessness?*, NAT'L COAL. FOR THE HOMELESS (July 2009), http://www.nationalhomeless.org/factsheets/How_Many.html. This estimate is based on a finding that 400,000 people experienced homelessness on any given night in 2007, which indicates that this number would be much higher today. *Id.*

[22] Land, *supra* note 1; Scott Bixby, *This Nonprofit Is Working to Prove That People experiencing homelessness Deserve Healthy, Happy Pets*, POLICY MIC (Oct. 12, 2015), http://mic.com/articles/126413/this-nonprofit-is-working-to-prove-that-homeless-people-deserve-healthy-happy-pets.

[23] *See, e.g.*, Rhoades *supra* note 5, at 237 (reporting that 23% of youth reported having a pet, 53% of those people owned dogs, 22% owned cats, and the remainder owned other animals such as, hamsters, rats, chinchillas, fish, and iguanas); *see also* Frogger, *supra* note 3 (describing his pet snake).

[24] Irvine, *supra* note 2, at 34 (quoting "Ike," who at the time of the interview was passing through San Francisco).

[25] *Id.*

[26] *Id.* at 26.

people experiencing homelessness become the only social group subject to criticism for exercising what amounts to a norm of adulthood for every other social group.[27]

Many individuals presume that people experiencing homelessness should simply give up their dogs in order to improve both the pet and the person's situation.[29] This advice is predicated on the false belief that surrendering dogs to shelters is superior to having a dog live on the streets with its owner. However, shelter conditions alone cause "severe animal suffering and unnecessary death."[30] Furthermore, after surrendering a pet, pet owners only reunite with their dogs 15 percent of the time.[31] Otherwise, new owners adopt surrendered pets, while 60 to 64 percent of animals are left to die in the animal shelter system.[32]

> Over three million animals die in the animal sheltering system each year.[28] So, in fact, surrendering animals to shelters in not the humane option many consider it to be.

The probability that one's pet will die after surrender challenges the value of the advice to surrender or give up the pet. Shelters euthanize 3.5 to 3.7 million companion animals each year due to overcrowding, untreated medical conditions, or aggressive behaviors.[33] These pets are often killed in gas chambers, causing prolonged and painful deaths.[34] Animals placed in "no kill" shelters find themselves confined to cages for weeks, or even years, where they develop health issues from confinement and loneliness—the very outcome animal welfare laws seek to prevent.[35] So, in fact, surrendering pets to these systems is not the humane option many services providers and members of the public consider it to be.

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[27] LESLIE IRVINE, MY DOG ALWAYS EATS FIRST: PEOPLE EXPERIENCING HOMELESSNESS AND THEIR ANIMALS 49 (2013) ("Pet ownership is considered nearly a birthright in contemporary Western societies. In most people's everyday lives, the right to animal companionship and the ability to provide care go uncontested. The homeless are likely the only group criticized and stigmatized for having pets."); *See, e.g.*, Anna David, *4 Ways Owning A Pet Prepares You For A Relationship*, THE FRISKY (Oct. 1, 2012), http://www.thefrisky.com/2012-10-01/4-ways-owning-a-pet-prepares-you-for-a-relationship/ ("It's time to throw those ideas about crazy cat lady spinsters to the curb. The fact of the matter is that owning a pet—whether it's a dog, cat, bunny or goldfish (okay, maybe not a goldfish)—is actually the best training ground that exists for a relationship with another human."); MARGARET FEINBERG & LEIF OINES, HOW TO BE A GROWN-UP: 246 LAB-TEST STRATEGIES FOR CONQUERING THE WORLD 2005 ("You don't want to be known as someone who can't keep a plant alive, now do you? If you can't keep a plant alive, then how will you care for a pet or spouse down the line?").

[28] *Animal Shelter Euthanasia*, *supra* note 1.

[29] Leslie Smith, *People are Unfairly Forced to Leave Their Dogs At Shelters. Now There's Help*, THE DODO (Apr, 14, 2015), https://www.thedodo.com/owner-support-shelter-dogs-1091117107.html.

[30] SANDRA NEWBURY ET AL., GUIDELINES FOR STANDARDS OF CARE IN ANIMAL SHELTERS, ASSN. OF SHELTER VETERINARIANS (2010), http://www.sheltervet.org/assets/docs/shelter-standards-oct2011-wforward.pdf.

[31] *Animal Shelter Euthanasia*, *supra* note 1. Owners unite with their cats only two percent of the time. *Id.*

[32] *Id.*

[33] *Id.*; *see also* Anonymous Tenancy and Animal Advocate, *supra* note 6 ("The animal sheltering field is overwhelmed").

[34] NEWBURY, *supra* note 30, at 41 ("Placing multiple animals in a chamber may frighten and distress the animals and dilute the effective concentration of carbon monoxide that each animal receives, creating a haphazard euthanasia experience that can be prolonged, painful and ineffective"); *see also* Anonymous Tenancy and Animal Advocate, *supra* note 6 ("For example, gas chambers are still used to put animals to sleep, so when it comes to animals' regard, the laws really only touch on the most egregious cruelty").

[35] *See Companion Animal Overpopulation*, PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS (PETA) (2015), http://www.peta.org/issues/companion-animal-issues/overpopulation/.

Despite these facts, people defend stigmatizing homeless pet owners using common misperceptions about people experiencing homelessness.[36] Particularly, the misconceptions that people experiencing homelessness are "lazy, stupid, freeloading, or unworthy of assistance or sympathy" magnify the "seeming luxury of pet companionship."[37] Additionally, many people associate homeless pet ownership with abuse based on the incorrect assumption that people experiencing homelessness cannot take care of themselves, and therefore they cannot take care of pets either.[38] The belief that the experience of living in a state of homelessness should control an individual's ability—or right—to own a pet convinces passersby, who may own pets themselves or identify as animal advocates, to confront people experiencing homelessness for having pets.[39]

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B. Reactions: Harassment and Attention

Pet owners experiencing homelessness face constant attention for owning pets.[41] Without pets, they are usually ignored or avoided, except for negative attention such as taunting.[42] However, people experiencing homelessness who own pets "receive both praise and criticism for living on the streets with their animals."[43] Social science attributes this attention to the finding

[36] Bixby, *supra* note 22.
[37] *Id.*
[38] *See* Irvine, *supra* note 2, at 30; *see also*, Bixby, *supra* note 22.
[39] *See* Irvine, *supra* note 2, at 27–28.
[40] LEVINE, *supra* note 11.
[41] Christina, *supra* note 4; Rellik, *supra* note 10; Frogger, *supra* note 3; Slim, *supra* note 4.
[42] *See* Irvine, *supra* note 2, at 28.
[43] *Id.*

that owning a pet transforms people experiencing homelessness from people who are usually ignored into "open persons."[44] This transition means that strangers initiate conversations with people accompanied by dogs, but would otherwise ignore people experiencing homelessness.[45] This trend correlates with findings that people are more likely to help an animal than a homeless person.[46]

These interactions have two consequences. First, they can contribute to "gestures of goodwill, such as a contribution of pet food."[48] Second, interactions can also mean confrontation, such as "an attack on the homeless person's character in which he or she is deemed unable to care for the animal, and therefore undeserving of animal companionship."[49] Under the first consequence, owning a pet can give the public a reason to respect people experiencing homelessness. For example, Frogger, who lives in Seattle, said that owning his dog Boomer reduced the harassment he faced for being homeless because passersby "saw that I was actually doing something [by] raising a dog and taking care of it to the best of my ability."[50] Similarly, Christina finds her dog's "cuteness" encourages people to treat her better because they want to greet her dog.[51]

> Some anti-pet ownership runs so deep that individuals organize to steal pets from visibly poor people because of the belief that homeless pet ownership is abusive.[47]

However, most often this attention falls under the confrontation category and subjects people to persistent harassment.[52] In one study, 92 percent of respondents reported that they witnessed or experienced harassment for owning a pet while homeless.[53] This harassment includes verbal assault (for example, "you don't deserve to own a pet" or "if you can't provide for yourself, you should not own a dog"), offers to purchase the dog, calls to animal control, and physical violence.[54] At least one group, Animal Lovers Against Homeless Pet Ownership

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[44] *Id.*
[45] *Id.*; *see also* Bixby, *supra* note 22 (describing how when people experiencing homelessness have a pet, the pet sometimes "opens up that conversation [with other people], because people will stop for the animal. This might be the only person they talk to all day long.").
[46] *Pets win more prizes than homeless*, 1438 COMMUNITY CARE 8 (Apr. 5, 2002).
[47] *See* Jane M. Agni, *Portland Animal Rights Activists Adduct And Rehome Pets Belonging To The Homeless*, THE NAT'L REPORT (2014), http://nationalreport.net/portland-animal-rights-activists-abduct-rehome-pets-belonging-homeless/.
[48] Irvine, *supra* note 2, at 28; *see also* Frogger, *supra* note 3 ("When it comes to owning a dog, I've had a few times where I'm sitting outside trying to get money for my dog, and I tend to get more money when I have a dog, than when I'm there by myself because a lot of people look at you by yourself, and they think you're using the money for drugs; but with a dog, they think there's a possibility the money will be used for the drugs, but probably for the dog.").
[49] Irvine, *supra* note 2, at 28.
[50] Frogger, *supra* note 3.
[51] Christina, *supra* note 4 ("They treat me a bit nicer, just because she's cute.").
[52] Irvine, *supra* note 2, at 30; *see also* Frogger, *supra* note 3 ("Biggest challenges for me was people always saying 'he's being neglected or he's being abused' when you can tell by the shape of a dog whether or not they have eaten well or whatever."); Rellik, *supra* note 10 ("I'm just walking my dog, like one time, a guy just tried to kick me dog."); Slim, *supra* note 4 ("Cops aren't very good about not drawing their weapons on people, and dogs.").
[53] WRAP, *supra* note 7.
[54] Irvine, *supra* note 2, at 30; *see also* Christina, *supra* note 4 ("They say that she looks too skinny, that I'm not feeding her, that she's being abused, and she's been tied up for more than a couple minutes"); Rellik, *supra* note 10

(ALAHPO) in Portland, Oregon kidnaps animals from people experiencing homelessness and works to re-home them.[55] Last year, ALAPHO kidnapped 46 animals in the Portland area, often while their owners were sleeping.[56] The group's leader states that the efforts to rescue pets from "abusive situations" are necessary because people experiencing homelessness "have no concept of the responsibilities that pet ownership entails, and even if they are aware, they are in no way prepared to carry out these obligations."[57] Some people report similar treatment from police officers. For example, Chris, while living in San Francisco with his two dogs, reported that undercover police officers were "taking people's dogs that are on the street. They're just throwing 'em in the back of cop cars and then leaving with them."[58] Individuals and law enforcement divisions who harass visibly poor and homeless pet owners rely on the misperception that people experiencing homelessness cannot take care of themselves and therefore cause animal suffering by forcing pets to be homeless with them.[59]

C. Treatment of Pets

No data supports the idea that abuse or neglect is an intrinsic part of homeless pet ownership. Educated and informed social scientists, law enforcement, animal advocates, and pet owners experiencing homelessness assert that pet owners take better care of their pets than they do themselves.[60]

("I've had about seven people offer 700 bucks for my dog;" "There are times I'm waiting to cross the street and I'm called all sorts of names;" "I'm just walking my dog, like one time, a guy just tried to kick my dog); Frogger, *supra* note 3 ("They would say 'I'm gonna call animal control on you,' I'm gonna turn you in;" "I had one person actually try and they got shut down when animal control showed up…Animal control said, 'for a homeless man, that's a very well taken care of dog.'"); Slim, *supra* note 4 (describing instances of police officers drawing weapons on dogs); IRVINE, *supra* note 27, at 157 (finding that people experiencing homelessness need to worry about police shooting or confiscating their dogs).

[55] Agni, *supra* note 47. Agni quotes ALAPHO founder "Beth:"

> Far too often you see these emaciated drug-addicts, sprawled out on street corners, begging for spare change with a dog or cat tethered nearby. Oftentimes they use these animals to procreate funds which support their drug habits. They are merely an object to keep them warm while nodding out under a bridge. When the animal becomes too ill or infested with parasites from living in filth, without the proper diet, veterinary care or parasite control, the owners simply abandon them, creating yet another problem that someone else will have to eventually deal with. It's absolutely disgusting. I mean, if you can't even take care of yourself, how are you supposed to take care of an animal? The short answer is: You can't. *Id.*

[56] *Id.*

[57] *Id.*

[58] IRVINE, *supra* note 27, at 125.

[59] *Id.* (observing how police "have a thing against people that are on the streets"). *See generally* Bixby, *supra* note 22.

[60] Lem, *supra* note 4, at 22; *see also* Frogger, *supra* note 3 ("My pet comes before me, so that means my dog eats one night and I don't. So be it. I'd rather have my dog eat than me."); SPD Team, *supra* note 14; Phone Interview with Jenna Pringle, Mktg. Commc'n Manager, Seattle Humane (Oct. 9, 2015) ("The owners are probably sacrificing food for themselves and giving it to their pets, and that's part of why we have these programs, because we don't want people making those choices."); Bahrakis, *supra* note 12 ("It is really unusual for people experiencing homelessness to surrender their pets. A lot of times, these pets are the most stable thing in their lives, and they often take better care of them than they take of themselves."); Barrio, *supra* note 13 ("From personal experience when I was an animal control officer, is what we find with people experiencing homelessness is that they usually take very good care of their pets.").

Pets do not starve or miss meals merely because their owners survive on the streets.[61] In one study, homeless pet owners reported that they could easily obtain food for their pets.[62] In fact, pet owners experiencing homelessness have a stronger desire and perseverance to care for their pets than pet owners in other circumstances.[63] Another study found that homeless pet owners feed their pets before themselves.[64]

[65]

Additionally, pet owners experiencing homelessness provide their pets with constant companionship in a way that pet owners who leave their dogs at home while they work cannot.[66] Homeless pet owners coordinate with their friends to pass pets around while they work because they cannot simply leave the dog at home or tied up outside.[67] As a result of these actions, animal sheltering services find that pet ownership among people experiencing homelessness presents a unique value to pets because people experiencing homelessness can be with their pets for more

[58] Irvine, *supra* note 2, at 38; Frogger, *supra* note 3 ("My pet comes before me, so that means my dog eats one night and I don't. So be it. I'd rather have my dog eat than me.").
[62] Irvine, *supra* note 2, at 38.
[63] *Id.*
[64] Lem, *supra* note 4, at 22.
[65] LEVINE, *supra* note 11.
[66] Irvine, *supra* note 2, at 34.
[67] Christina, *supra* note 4 ("I let my friend watch her, and I pay him whenever I get paid, or if I have enough money to pay him that day.").

hours of the day.[68] This companionship particularly serves pack animals, like dogs, who require socialization.[69]

For example, Katz, who lives with his dogs in San Francisco, exemplifies all of these trends:

> They tell me that 'You can't take care of a dog on the street,' and I tell them that they're crazy, because I spend 24/7 with my dogs. My dogs don't leave my hip. They eat way more than I do. They eat before I do. They get plenty of water. Plenty of food. They get a lot of attention.…I go to parks with them. They get to run around and have fun. They get to see new things every day and they're exploring nature like they were meant [to]. They weren't born to live in a box. That's why, when you see a dog in a house, they're freaking out because they want to go outside, 'cause that's their natural habitat, you know, they don't even like it in the house, so I get 'em through the woods and all that. And I take 'em to dog parks. They exercise more than anybody.[70]

Katz's comments highlight how illogical it is to associate animal abuse with homelessness by challenging the most common perceptions individuals hold about homeless pet owners. His comments illustrate the value of companionship to pets, that pet owners experiencing homelessness can provide for their animals, and dogs are animals that enjoy being outside. Pets also offer an incredible benefit to their owners through these relationships, which may provide a solution to long-term homelessness for some individuals.

"I was totally at rock bottom. I just wanted to die. But I couldn't, because he needed me. But I couldn't give up because I had something else to take care of besides myself. So [my dog] kept me alive."[71]

D. Benefits of Pet Ownership and Pet Ownership as a Solution

People experiencing homelessness report feeling closer to their dogs than to any other family members or friends.[72] In fact, surveys consistently find very high levels of attachment to pets among individuals experiencing homelessness.[73] As a result, despite the undue harassment, animal companionship contributes to people experiencing homelessness's emotional well-being

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[68] Pringle, *supra* note 60 ("That is a different situation. They're with the pet, and we obviously don't want them exposed to the weather or dangerous elements, but they are with their person, so we do see the value of people experiencing homelessness with pets. We wouldn't encourage someone to adopt a pet if they're homeless and we don't adopt out pets to people who are homeless.").

[69] *Our Guide to Help Chained Dogs*, THE HUMANE SOCIETY OF THE UNITED STATES (HSUS) (Dec. 5, 2012), http://www.humanesociety.org/issues/chaining_tethering/tips/chaining_guide.html?credit=web_id96878129.

[70] Irvine, *supra* note 2, at 36.

[71] Leslie Irvine et al., *Animals as Lifechangers and Lifesavers: Pets in the Redemption Narratives of People experiencing homelessness*, 42 J. OF CONTEMP. ETHNOGRAPHY 3, 16 (2013) (quoting "Trish," who was living with her dog Pixie in an abandoned mobile home in Boulder, Colorado at the time of the interview).

[72] ALLIE PHILLIPS, Start-Up Manual, SHELTERING ANIMALS & FAMILIES TOGETHER (SAF-T) 1, 9 (2012), http://alliephillips.com/wp-content/uploads/2010/11/SAF-T-Start-Up-Manual-2012.pdf.

[73] Irvine, *supra* note 2, at 28.

and provides a sense of protection, and pets encourage their owners to obtain sobriety, leave abusive relationships, and avoid incarceration.[74]

First, pets improve their owners' emotional well-being by serving as non-judgmental social support.[75] In many instances, "people benefit more from a pet's companionship than from a friend's or spouse's [companionship]."[76] One study of pet owners experiencing homelessness found that 74 percent of men and 48 percent of women identified their pets as their only source of companionship and love.[77]

As a result, the sense of purpose, responsibility, ownership, and companionship provides pets owners with reduced stress and depression, and can prevent suicide.[79] First, as compared to people without pets, pet ownership can "significantly help alleviate stress," lower heart rates, and lower blood pressure.[80] Second, pet companionship diminishes feelings of loneliness and depression.[81] Finally, roughly 30 percent of pet owners report that their pets provide a purpose to their lives, which reduces suicidal ideation and provides owners with a "reason [to] keep going."[82] These benefits are particularly important for people experiencing homelessness because of the amount of harassment and isolation they experience by the public.[83]

> "When I got out of jail, I told myself that I would never drink again or smoke again, [...] and every time I want to go get a drink, [my dog Monty] just looks at me, almost shaking that head, saying, 'You know what you just went through the last 35 years!"[78]

Next, pets provide a significant source of protection for their owners. [84] This benefit is particularly pertinent to women, who make up over one-third of America's homeless

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[74] Labrecque *supra* note 4, at 79; *see also* Christina, *supra* note 4 ("I realize that as a dog owner, she can actually make someone happy because all dogs have different personalities, and she's cute, playful, and spunky, and really funny."); Slim, *supra* note 4 (describing reasons pets improve people's lives while they are experiencing homelessness).

[75] *See* PHILLIPS, *supra* note 72, at 10; *see also* Karen M. Allen et al., *Cardiovascular reactivity in the presence of pets, friends, and spouses: The truth about cats and dogs*, 64 PSYCHOSOMATIC MED. 727, 727 (2002).

[76] *Id.*

[77] Lem, *supra* note 4, at 13.

[78] Irvine, *supra* note 71, at 14 (quoting "Tommy" who at the time of the interview lived with his dog Monty in a van in Sacramento, California).

[79] *See* PHILLIPS, *supra* note 72, at 10; Allen, *supra* note 75, at 727; Emma Woolley, *Why do people experiencing homelessness have pets?* THE HOMELESS HUB (Nov. 7, 2014), http://www.homelesshub.ca/blog/why-do-homeless-people-have-pets.

[80] Allen, *supra* note 75, at 727.

[81] Lynn Rew, *Relationships of Sexual Abuse, Connectedness, and Loneliness to Perceived Wellbeing in Homeless Youth*, 7 J. FOR SPECIALISTS IN PEDIATRIC NURSING 51, 51–63 (2002).

[82] Woolley, *supra* note 79.

[83] *See* Bixby, *supra* note 22.

[84] *Id.*; *see also* Christina, *supra* note 4; Slim, *supra* note 4 ("I didn't know he was capable of doing that [being a service dog] he was just gonna be my big scary dog to keep me safe.").

population.[85] Though studies on sexual violence against women experiencing homelessness are rare, one study on homeless women in downtown Los Angeles found that half of the respondents had been sexually assaulted.[86] The presence of dogs help some women feel protected from the risk of violence.[87] Even beyond protection from violence, pets help protect their owners from theft.[88] For example, Christina says she adopted her dog, in part, because others often stole her belongings while she slept.[89] "I'm a heavy sleeper," she said, "so if I have a dog, then she can protect our stuff."[90]


[91]

As a result of these benefits, pets play an important role in preventing long-term homelessness by encouraging their owners to maintain sobriety, leave abusive relationships, and

[85] CURRENT STATISTICS ON THE PREVALENCE AND CHARACTERISTICS OF PEOPLE EXPERIENCING HOMELESSNESS IN THE UNITED STATES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICE ADMINISTRATION (SAMSHA) 1, 2 (July 2011), *available at* http://homeless.samhsa.gov/ResourceFiles/hrc_factsheet.pdf.
[86] Bixby, *supra* note 22 (referencing a study completed in 2013).
[87] *See, e.g.*, Slim, *supra* note 4 ("When I got him I was a homeless youth and at night the streets are pretty scary—I have a 4 year old son—wanted someone to alert me if someone was coming close, or to keep people from approaching me, and then a friend—because I definitely needed something else to wake up to.").
[88] Christina, *supra* note 4.
[89] *Id.*
[90] *Id.*; *see, e.g.*, Irvine, *supra* note 71, at 12-3 ("Tommy" says his dog Monty, a Rottweiler/terrier mix, is "good when people come up to our camp or something. He'll bark and let me know that somebody's there.").
[91] LEVINE, *supra* note 11.

avoid incarceration or other circumstances that may lead to separation from the pet.[92] Social science attributes the transformative role pets can play in people's lives to the unconditional love and sense of responsibility they give to their owners.[93] Overall, the positive impacts pets provide their people, the love pets receive through that companionship, and the dire circumstances animals face in the animal sheltering world suggest that pet ownership among people experiencing homelessness serves both pets and people. Adding to the importance of this relationship, evidence shows that pet owners purposely seek out pet-friendly services.[94] Further, service providers that provide pet accommodations report increased engagement by homeless youth.[95] The next section looks at what happens when these vital service providers adopt no-pet policies despite these trends.

II. No-Pet Policies as Barriers to Housing, Shelter, and Services

Businesses and services may adopt no-pet policies for a host of different reasons: to comply with health code mandates, to ease concerns about property damage, to prevent allergic reactions, or to simplify day-to-day operations by excluding animals. However, these policies and restrictions perpetuate homelessness by excluding people from housing, shelter, and services when they cannot bring their pets.[96] This section looks first at the attitudes associated with no-pet policies and their impact. Second, it situates those attitudes within the current housing crisis and illustrates how these attitudes affect people's ability to accept available housing. Finally, it analyzes the ability of service providers to offer pet accommodations.

> "What happens when you go into DSHS or something—there should be a designated spot where I can keep my dog [when] I need to get into a place—and if my dog isn't a service animal, then what am I supposed to do?"[97]

First, public and private facilities, businesses, and service providers frequently justify the adoption of pet limitations and restrictions using the same prejudice that labels people experiencing homelessness as unworthy of pets.[98] Many providers believe that people experiencing homelessness cannot take care of themselves, so they should not be allowed to have pets, and asking service providers to take on those pets asks too much of them.[99] Surveys of homeless shelters find that providers are "very unsympathetic to the idea that pets should stay with their people."[100]

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[92] *See* Lem, *supra* note 4, at 22 (describing that pet-owning participants feed their pets before themselves, pets provide emotional support, love and safety, act as a motivator for owners to "stay out of trouble," and take nicer care of themselves); *see also* Irvine, *supra* note 71, at 10.
[93] Irvine, *supra* note 71, at 6–7.
[94] Lem, *supra* note 4, at 22.
[95] *Id.*
[96] *See, e.g.*, Tobias Coughlin-Bogue, *The Jungle is often the only option for homeless families, pet owners*, REAL CHANGE NEWS (Mar. 2, 2016), http://www.realchangenews.org/2016/03/02/jungle-often-only-option-homeless-families-pet-owners (showing how the lack of shelters that allow service animals, or companion animals, pushes people to unofficial encampments).
[97] Christina, *supra* note 4.
[98] *See, e.g.*, Anonymous Tenancy and Animal Advocate, *supra* note 6.
[99] *Id.*
[100] *Id.*

As a result, these organizations and service providers adopt strict "no-pet" policies and advise people experiencing homelessness to give up their pets to obtain services.[101] These encouragements—sometimes in the form of mandates—degrade the human-pet connection shared between pets and their owners and the value that companionship provides to people struggling with addiction, depression, and abuse. These attitudes and the maintenance of these no-pet policies—whether justified explicitly by bias against the people experiencing homelessness or otherwise—perpetuate homelessness by excluding people from vital housing and social services.

For example, when Christina went to the Department of Social and Health Services (DSHS) to renew her food stamps benefits, she tied her dog Kali up outside.[102] An employee came outside and told Christina she could not tether her dog because "that's animal cruelty, that's animal abuse."[103] When Christina refused to untie Kali—as she had no alternative because Kali could not come inside—the employee called animal control.[104] Animal control arrived, checked for Kali's license, and issued Christina a ticket related to her pet's license, which she did not have any available funds to pay.[105] Homeless pet owners report similar treatment by public transportation drivers, who refuse to allow to pets on board, and other employees, like mall security guards and grocery store managers—even when the pets have service animal training.[106] Overall, these pet restrictive policies affect individual compliance with "certain recommendations, such as showing up for further appointments due to lack of pet-friendly services and/or no point of care for their pet while they are there."[107]

Second, although housing concerns encourage many individuals to give up their pets, among people experiencing homelessness, high pet attachment dissuades many pet owners from surrendering their pets.[108] Therefore, pet restrictions cause people experiencing homelessness to refuse available housing and shelter because acceptance would mean giving up a family member.[109] Ignoring the importance of pet ownership increases the risk for long-term homelessness because pet owners must wait for pet-friendly housing and services.[110]

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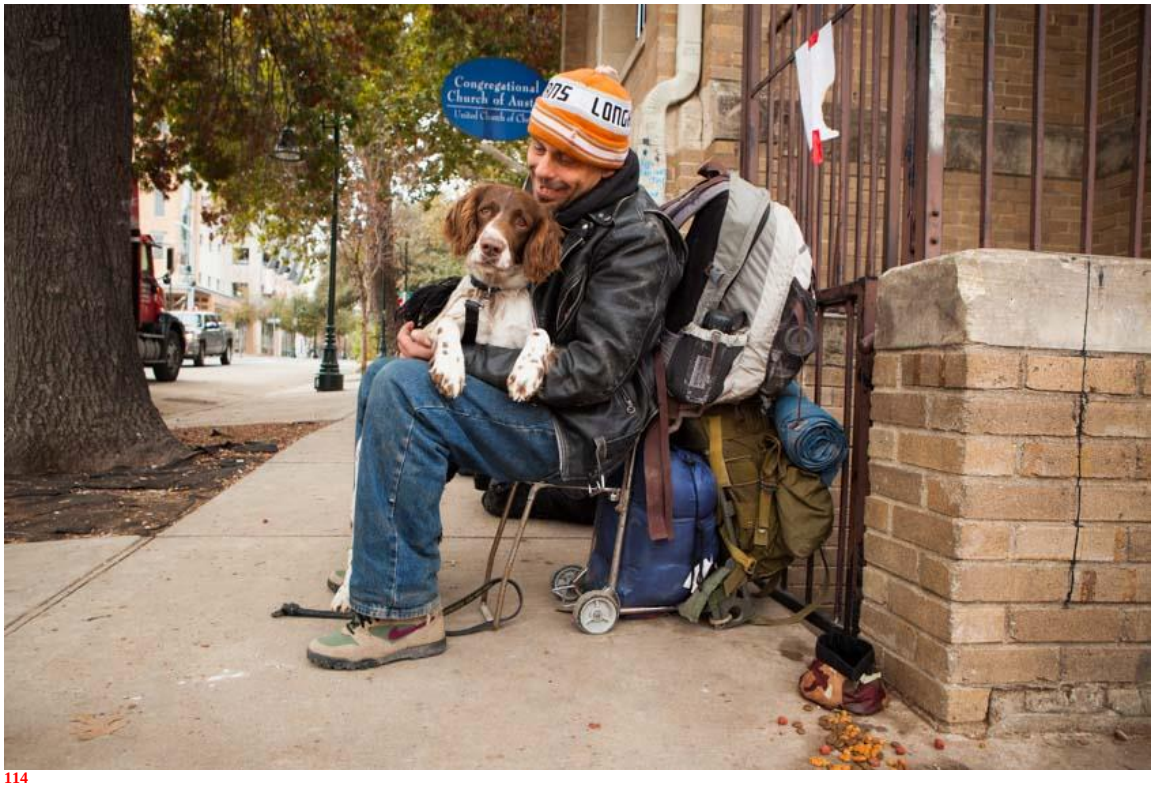
[101] *Id.*
[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] Slim, *supra* note 4 ("There was no access to shelters, it didn't matter that he was fully serviced, they just discriminated. Like the Orion Center, they said I had to use the back door or not come in."); Rellik, *supra* note 4 ("[The grocery store manager] tells people experiencing homelessness, 'you've got 30 minutes to hang out and eat,' puts padlocks on the plug-ins so we can't charge our stuff," and illegally requests service animal certification.).
[107] Lem, *supra* note 4, at 91.
[108] *See* NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, WRONGS TO RIGHTS: THE CASE FOR HOMELESS BILL OF RIGHTS LEGISLATION 8 (Apr. 15, 2014); Kelly Huegel, *No Place Like Home*, ANIMAL SHELTERING (May/June 2014), http://www.animalsheltering.org/resources/magazine/may-jun-2014/no-place-like-home.html; Lem, *supra* note 4, at 14.
[109] Rhoades, *supra* note 5, at 237; *see also* Singer, *supra* note 5 at 851.
[110] *Id.; see* NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* note 108; Huegel, *supra* note 108; Lem, *supra* note 4, at 14.

Currently, up to 80 percent of people report having trouble finding pet-friendly rental units.[111] In fact, only nine percent of housing allows companion animals without any significant restrictions.[112] With respect to shelters and services, more than 80 percent of people experiencing homelessness report being denied accommodations because of their pets.[113] These statistics illustrate how the term "available housing" is a misnomer when housing providers do not offer reasonable pet accommodations.



[114]

These restrictions extend to public housing as well. Public housing laws entitle residents to own pets "subject to the reasonable requirements of the public housing agency."[115] These requirements include making the pet owner microchip and spay or neuter the pet;[116] pay pet deposits and costs related to the institution of animal accommodations; and limitations on the number of pets, plus restrictions on breed, size, or weight.[117] These requirements place additional financial burdens on individuals who already cannot afford to rent non-subsidized housing by forcing owners who cannot adhere to the "reasonable" requirements to choose between housing

[111] Huegel, *supra* note 108.
[112] *Id.*
[113] *Pets not welcome at homeless shelters*, 1416 COMMUNITY CARE (Apr. 4, 2002).
[114] LEVINE, *supra* note 11.
[115] Pet Ownership in Public Housing, 42 U.S.C. §1437z-3.
[116] *See, e.g.*, Karen Lange, *Home is Where the Dog Is*, ANIMAL SHELTERING (Sept/Oct 2013), http://www.animalsheltering.org/resources/magazine/sep_oct_2013/asm-sep-oct-2013/home-is-where-the-dog-is.html; *see also* 42 U.S.C. §1437z-3.
[117] Lange, *supra* note 116.

and their pets. As a result of these sorts of pet restrictions, attempts to rehouse pet owners experiencing homelessness are consistently unsuccessful.[118]

Third, all landlords, public housing agencies, shelter directors, and service providers are subject to the Fair Housing Act (FHA) or the Americans with Disabilities Act (ADA), which means they have the capacity—and the responsibility—to make reasonable accommodations for service or emotional support animals without restrictions on breed, size, or weight.[119] Neither the FHA nor the ADA prescribes any specialized training or other mandates in order to recognize a pet as a service or emotional support animal.[120] Service animals must be trained to work or perform tasks, such as pulling a wheelchair or alerting a person before she has a seizure, but no regulation sets out an exhaustive list of what sorts of work and tasks these animals may provide in order to achieve protected status.[121]

Application of FHA and ADA to Companion Animals

	Applies to	Prescriptions for Certification or Mandates for Protected Status	Requires Accommodations for
Fair Housing Act (FHA)	Landlords, public housing agencies, shelter directors	None	Emotional Support Animals
Americans with Disabilities Act (ADA)	All public and private facilities	None	Emotional Support Animals and Service Animals

For emotional support animals, the FHA requires an individual show that she suffers from a mental or physical impairment that substantially impacts major life activities—which courts have interpreted to include sleeping, eating, concentrating, and interacting with others—and that the pet assists with those activities in to achieve protected status. [122]

[118] Singer, *supra* note 5, at 851.
[119] *See* Kristin M. Bourland, *Advocating Change Within the ADA: The Struggle to Recognize Emotional-Support Animals As Service Animals*, 48 U. LOUISVILLE L. REV. 197, 199 (2009); *Difiore v. City Rescue Mission of New Castle*, 995 F. Supp. 2d 413 (W.D. Pa. 2013) (finding that emergency homeless shelter refused blind tenant because of her service dog, but was unable to show undue financial and administrative burden of accommodating tenant); Huegel, *supra* note 105.
[120] *See* Americans with Disabilities Act of 1990, 42 U.S.C. § 12101; *see also* Christopher C. Ligatti, *No Training Required: The Availability of Emotional Support Animals As A Component of Equal Access for the Psychiatrically Disabled Under the Fair Housing Act*, 35 T. MARSHALL L. REV. 139, 154 (2010) (ADA language "individually trained," but otherwise no additional framework or requirements; FHA and implementing regulations silent on service animals' requirements).
[121] Rebecca Wisch, *FAQs on Emotional Support Animals*, MICHIGAN STATE UNIV. ANIMAL LEGAL & HISTORICAL CTR. (2015), https://www.animallaw.info/article/faqs-emotional-support-animals#s.
[122] Ligatti, *supra* note 120, at 150.

With respect to access to services and housing, service animals play an important role based on the ADA's recognition service animals as a reasonable accommodation.[123] Importantly, providers cannot ask a person to display documentation or proof of the animal's certification, training, or license as a service animal.[124] The employee may only ask (1) whether the animal is required because of a disability, and (2) what work or task the animal has been trained to perform.[125] As a result, the law expects these facilities to take people at their word when they assert a pet's service animal status.[126] Emotional support animals do not have broad protection in all sites of public accommodations.[127] But the Fair Housing Act (FHA) and its implementing regulations do recognize the value of emotional support animals in housing.[128] Yet, without awareness of these protections, many people do not assert these access rights.[129]

More importantly, not all people experiencing homelessness have disabilities. However, the ADA and FHA require all housing facilities, recreational facilities, and service establishments to make accommodations for service or emotional support animals.[131] That responsibility means these facilities have the capacity to make these accommodations for all pets, not just those animals providing a service to their owners.

Further, these legal requirements make no-pet policies impossible to enforce. First, providers have to allow animals under the ADA and FHA.[132] The presence of service and emotional support animals therefore invalidates the aims served by no-pet policies instituted based on allergy concerns, health codes, and any generalized fear of pets by other patrons. Second, these laws prohibit providers from demanding proof of an animal's protected status.[133] As a result, anyone can bring well-behaved pets inside under the pretense of their protected status, and providers cannot prevent these actions without fear of liability for discrimination. Overall, no-pet policies are completely useless and do not serve any of their intended aims.

> When healthcare facilities, public transportation, shelters, and other housing services do not permit pets, people with pets cannot see a doctor, participate in job-finding services, ride a subway to seek support, or stay in temporary housing.[130]

Consequently, when housing and service providers adopt no-pet policies, such providers exclude people who cannot afford to seek out pet-friendly options. These trends exist among

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[123] 42 U.S.C. § 12101.
[124] Jacquie Brennan**,** *Service Animals and Emotional Support Animals*, ADA NAT'L NETWORK (2014), https://adata.org/publication/service-animals-booklet.
[125] *Id.*
[126] *See* Bahrakis, *supra* note 12; Barrio, *supra* note 13.
[127] 42 U.S.C. § 12101.
[128] Ligatti, *supra* note 120, at 150.
[129] *See, e.g.*, Christina, *supra* note 4 ("It's a bit hard like she has to be actually certified as a service dog to go places").
[130] Land, *supra* note 1. Land finds that people refuse housing if they must be separated from their animals. *Id.*
[131] Americans with Disabilities Act of 1990, 42 U.S.C. § 12101; Fair Housing Act, 42 U.S.C. § 3601.
[132] 42 U.S.C. § 12101; 42 U.S.C. § 3601.
[133] *Id.*

social services, employment services, and even public transportation.[134] In comparison, services that adopt pet accommodations report increased engagement by people experiencing homelessness.[135] Therefore, excluding access to these services perpetuates homelessness by failing to provide people with meaningful alternatives when the service providers have the capacity to make reasonable accommodations for people with animals.

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These policies force people to exist in public view where the same bias informs the enforcement of animal control laws to the detriment of people experiencing homelessness and their pets. The next section analyzes some examples of common animal control laws and policies that contribute to these exclusionary trends.

III. The Disproportionate Impact and Enforcement of Animal Control Laws

Across the United States, the regulation of pet ownership is stacked against people experiencing homelessness. When a person owns a dog in a city or county, she must comply with the expensive local pet registration and licensing procedures. When shelters and sanctioned

[134] Land, *supra* note 1; *see also* Lem, *supra* note 4, at 88; Rellik, *supra* note 10 (noting exclusion from malls, grocery stores, the urban rest stop because of pet); Slim, *supra* note 4 ("[Diesel] keeps me out of a lot of shelters food programs, work interviews, and showers, prevented me from getting anything I wanted to get, unless I wanted to chain him up.").
[135] Lem, *supra* note 4, at 22.
[136] LEVINE, *supra* note 11.

encampments exclude pet owners, they force people with pets to remain unsheltered. When grocery stores adopt no-pet policies, they require pet owners to tie their pets up outside while they purchase food and water to meet basic needs. Across all three examples, individuals who fail to comply risk the imposition of hefty fines, incarceration, the loss of their pets, or additional barriers to accessing shelter and services.

This section looks generally at the impact of animal control laws and law enforcement practices on people experiencing homelessness. First, it describes common investigative and enforcement procedures to illustrate how bias against visibly poor people produces a system built off of selective enforcement, or profiling techniques. Second, it lists the consequences of these enforcement procedures, including the potential violation of individual constitutional and civil rights and the use of monetary fines. Finally, this section uses three common animal control laws, governing licensing, the ability to tie up one's pet, and the consequences of leaving a pet unsheltered, as case studies to deeply examine and analyze how these laws operate to the detriment of people experiencing homelessness.

A. Investigative Procedures: The Practice of Profiling

The investigation and enforcement of animal control laws predominately begin after a passerby calls 911.[138] Callers regularly allege abuse or neglect merely based on a pet owner's appearance as visibly poor or homeless.[139] These patterns of selective reporting amount to profiling by increasing a specific population's engagement with law enforcement based on appearance.[140] This increased exposure to law enforcement invades people experiencing homelessness's privacy and heightens the likelihood of a consequence—such as harassment, a ticket, or a search for other non-related violations. Altogether, reporting practices place an undue burden on people with great economic and social vulnerability.

> "The cops know that they can use our dogs as an upper-hand bargaining chip."[137]

Alternatively, law enforcement officers and animal control officers may unilaterally investigate a violation based on probable cause.[141] As applied to people experiencing

[137] IRVINE, *supra* note 27, at 125 (quoting "Kevin," who formerly owned a pit bull while traveling through San Francisco).
[138] SPD Team, *supra* note 14; *see also What To Do if you Spot Animal Abuse*, PETA, http://www.peta.org/issues/companion-animal-issues/companion-animals-factsheets/spot-animal-abuse/ (last accessed Nov. 16, 2015) (encouraging citizens to report instances of "unnecessary suffering," gather evidence, monitor the enforcement officials procedures to ensure thoroughness, and pursue the case when "unable to get satisfactory from law-enforcement officials" by going to their supervisors, local government officials, or call the media).
[139] *See* Bahrakis, *supra* note 12; SPD, *supra* note 14.
[140] *See* Christina Fauchon, *Counterpoint: The Case Against Profiling*, 79 INT'L SOC. SCI. REV. 157, 157 (2004). Fauchon describes the specifics of racial profiling as the practice of "stopping and searching people passing through public areas solely because of their color, race, or ethnicity." *Id.* This definition can be expanded to understand selective reporting practices based on an individual's appearance as visibly poor or homeless.
[141] *See, e.g.*, WASH. REV. CODE § 16.52.015(3)(a); DEL. CODE ANN. tit. 7 § 1703(b) (requiring an officer with probable cause to believe a violation of Section 1704 occurred may enter upon the premises to investigate so long as the premises are not a dwelling house); 510 ILL. COMP. STAT. 70/7.1 (allowing an investigator to enter a motor

homelessness, law enforcement officers frequently use the presence of dogs as probable cause to confront people experiencing homelessness about their compliance with the law.[142] Officers may approach a pet owner for potential non-compliance with animal welfare laws, but may also use pets as an excuse to challenge individuals for loitering, panhandling, or other laws regulating homelessness.[143] Kevin, who lived in San Francisco with his dog, described how police manipulate the presence of dogs to harass visibly poor people:

> Here, in San Francisco, the way that police see people like me, street kids, traveling kids, or whatever…that's a tool that they use against you. If they tell me to wake up and move, it's a minor inconvenience. But if they're telling me that they're going to take my dog away, now you got my attention. So that makes it tough in this town, because the cops know that they can use our dogs as an upper-hand bargaining chip.[144]

Under common reporting and enforcement techniques, this scrutiny takes time and resources away from the investigation of actual and egregious instances of animal abuse.[145]

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vehicle by any reasonable means if there is probable cause to believe an animal is in life or health threatening situation); *see also* Land, *supra* note 1 (retelling how interviewees find that "the NYPD is eyeing homeless youth and their animals with increased vigor").

[142] *See, e.g.*, Frogger, *supra* note 3("There was one instance where the police asked about my dog. They were threatening to call animal control saying he's being abused and neglected.").

[143] Frogger, *supra* note 3; Rellik, *supra* note 10.

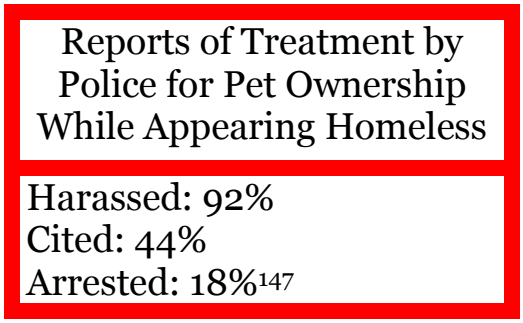
[144] IRVINE, *supra* note 27, at 125 (quoting "Kevin," who formerly owned a pitbull while traveling through San Francisco).

[145] SPD Team, *supra* note 14.

[146] LEVINE, *supra* note 11.

B. Enforcement Policies: The Confiscation of Pets and Use of Monetary Fines

Through either citizen-prompted investigations or independent law enforcement investigations, officers may issue a citation or remove the animal to a local animal shelter.[148] Removing a pet may violate pet owners' Fourth and Fourteenth Amendment rights to be free from unreasonable search and seizures because the law recognizes pets as property.[149] Further, "the violation of a City ordinance does not vitiate the Fourth Amendment's reasonableness requirement. Were it otherwise, the government could seize and destroy any illegally parked car or unlawfully unattended dog without implicating the Fourth Amendment."[150] This protection should obligate law enforcement to obtain a court order or warrant before any search or removal of a pet, as required before entering and seizing property from a dwelling.[151]



Along with potential civil rights violations, the removal of a pet to an animal shelter requires a pet owner to adhere to the local shelter's redemption processes.[152] Redemption processes may require proof of ownership—though veterinary records or photos—a valid driver's license, and payment of state-mandated fines to cover costs of spay/neuter surgeries.[153] These costly requirements fall on top of impound fees, which range from $45 to $100, meaning the combined cost of redemption could total over hundreds of dollars.[154]

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[147] *Id.*
[148] *See, e.g.*, WASH. REV. CODE § 16.52.015(3)(b); CAL. PENAL CODE § 597.1(a)-(b).
[149] *See, e.g.*, *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1029 (9th Cir. 2012) ("Even if we were to assume, as the City maintains, that Appellees violated [the law] by momentarily leaving their unabandoned property on Skid Row sidewalks, the seizure and destruction of Appellees' property remains subject to the Fourth Amendment's reasonableness requirement."); *see also* Christina Garcia, *Animal Custody Cases*, AMER. BAR ASSOC. (July/Aug. 2009), http://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/animalcustodycases.html.
[150] *Lavan*, 693 F.3d at 1029; *see also*, *Justin v. City of Los Angeles*, No. CV0012352LGBAIJX, 2000 WL 1808426, at *13 (C.D. Cal. Dec. 5, 2000) (enjoining city from enforcing policies that allow city workers and law enforcement (1) to demand identification upon threat of arrest without probable cause, (2) to conduct searches of homeless person's property without cause or consent, (3) to confiscate personal property that is not abandoned, and (4) to destroy personal property without proper notice). More research should be done to determine whether being visibly poor operates as probable cause that animal abuse has occurred and whether that practice passes the Fourth Amendment's reasonableness test. Namely, is it reasonable to presume visibly poor people have broken animal control laws when pets accompany them, or is that unlawful discrimination?
[151] *See generally* ASPCA, STATE ANTI-CRUELTY INVESTIGATORY/ARREST POWERS (2006), *available at* http://www.aspcapro.org/sites/pro/files/state_anti_cruelty_investigatory_arrest_powers_chart.doc.
[152] *See Pet Redemption Process*, ORANGE COUNTY ANIMAL CARE, https://media.ocgov.com/gov/occr/animal/lost/process.asp (last accessed Nov. 16, 2015); *Redemption Process and Fees*, DENVER ANIMAL SHELTER, https://www.denvergov.org/content/denvergov/en/denver-animal-shelter/lost-pets/redemption-process-and-fees.html (last accessed Nov. 16, 2015); *see also* Bahrakis, *supra* note 12.
[153] *Id.*
[154] *Id.*

With respect to violations, animal control laws frequently employ financial penalties, jail, or both to penalize violators.[155] Imposing fines against individuals with no reasonable alternative but to avoid compliance—based on an inability to pay—actually increases municipal and state costs because the repeated failure to pay regularly results in arrest and imprisonment.[156] In research on legal financial obligations (LFOs), or the "fees, fines, costs, and restitution imposed by the court on top of a criminal sentence,"[157] findings show that "incarcerating indigent defendants unable to pay their LFOs often ends up costing much more than states and counties can ever hope to recover."[158] This finding means that incarceration often costs more than any of the revenue cities, counties, and states generate through these fines.[159] These risks are not hypothetical. A national survey found that 44 percent of respondents reported that police cited them, or they witnessed police cite another homeless person, for perceived violations related to pet ownership.[160] Another 18 percent were arrested.[161]

Adding to the potential costs, enforcing these laws against individuals without evaluating their ability to pay contributes to homelessness by creating barriers to housing, employment, and social services like food stamps.[162] Unpaid fines can lead to a misdemeanor conviction and jail time, which goes on one's criminal record.[163] A misdemeanor impacts the accessibility of employment, housing, and social services.[164] For example, in some parts of the United States, incarceration for 30 days or more causes an automatic suspension of Social Security benefits during incarceration.[165] Alternatively, paying the fine diverts already-limited funds, and therefore prohibits people experiencing homelessness from obtaining basic necessities, and ultimately extends the period of time that individuals are homeless, instead of solving the problem.[166]

C**.** Case Studies

This subsection delves into the operation, justification, and impacts of three common animal control laws: the nationwide requirement to license one's pet; anti-tethering laws

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[155] *See, e.g.*, WASH. REV. CODE § 16.52.015(3)(b).
[156] Alexandra Natapoff, *Misdemeanors*, 85 S. CAL. L. REV. 101, 103 (2012) (describing the massive, underfunded, informal, and careless misdemeanor system and how it propels defendants through in bulk with scant attention to individualized cases and often without counsel).
[157] COLUMBIA LEGAL SERVICES AND THE AMERICAN CIVIL LIBERTIES UNION, MODERN-DAY DEBTOR'S PRISONS: HOW COURT-IMPOSED DEBTS PUNISHED POOR PEOPLE IN WASHINGTON 1, 3 (Jan. 2014), *available at* http://columbialegal.org/sites/default/files/ModernDayDebtorsPrison.pdf.
[158] THE AMERICAN CIVIL LIBERTIES UNION, IN FOR A PENNY: THE RISE OF AMERICA'S NEW DEBTORS' PRISONS 1, 9 (Oct. 2010), *available at* https://www.aclu.org/files/assets/InForAPenny_web.pdf. For example, in Ohio, a woman was held in jail for over a month for an unpaid legal debt of $250. *Id.*
[159] *See, e.g.*, Martha Teichner, *The cost of a nation of incarceration*, CBS (Apr. 23, 2012), http://www.cbsnews.com/news/the-cost-of-a-nation-of-incarceration/ (cost of incarcerating an individual for one year costs taxpayers $30,000 – $50,000); *see also* Farida Ali, *Limiting the Poor's Right to Public Space: Criminalizing Homelessness in California*, 21 GEO. J. ON POVERTY L. & POL'Y 197, 231 (2014) ("[S]tudies show that it costs more to incarcerate an individual than to provide him or her with food, housing, and social services.").
[160] WRAP, *supra* note 7.
[161] *Id.*
[162] *See* Natapoff, *supra* note 156, at 113–14; *see also* Ali, *supra* note 159, at 230.
[163] *Id.*
[164] *Id.*
[165] *Id.*
[166] *Id.*

governing owners' ability to tie their pets to inert objects; and standard of care laws regulating the freedom to keep companion pets outdoors. The researcher selected these laws based on their universality across jurisdictions and their importance to people experiencing homelessness.

1. Licensing and Registration

Licensing and registration laws generally mandate pet owners pay a fee—ranging from $5 to $100—to legally own their pets in a given city, county, or state.[167] To grant a license, city and county officials often require pets to be vaccinated and spayed or neutered, in addition to the cost of the license, among other requirements.[168] This subsection focuses on the codes of Seattle, Washington; Los Angeles, California; and Asheville, North Carolina to illustrate these trends, specifically through the common costs of compliance and the costs of non-compliance in context with the stated policy goals. These trends exemplify the laws' potential for discriminatory and arbitrary enforcement, plus they diminish the laws' purposes to protect and serve animals in operation.

Comparison of Licensing Laws[169]

	Seattle, WA	**Los Angeles, CA**	**Asheville, NC**
Applicable Municipal Code	SMC 9.25.080	LAMC 53	Code Sec. 3
Price	Unaltered: $47 Altered: $27	Unaltered: $91.50 Altered: $20	$10
Discounts	50% discount for senior citizens and people with disabilities	$10 license available for low income senior citizens and people with disabilities	N/A
Adherence required	Within 30 days	Within 45 days	Within 30 Days
Regularity; age of pet	Annually; 8 weeks	Annually; 4 months	Annually; 6 months
Require proof of rabies vaccination	Yes	Yes	Yes
Visibility of tag on collar or harness	Required	Required, unless dog remains indoors or in enclosed yard	Required
Service Animals	Exempt	Exempt	Exempt
Spay/Neuter Required	No	Yes	Yes
Penalties	Civil penalties	Civil penalties	Civil penalties
Cost of Fines	$125	1st offense: …$35 2nd offense: …$50 3rd offense: …$100	1st offense: …$50 2nd offense: …$100 3rd offense: …$150
Waiver of Fine	Valid if current license is obtained	Valid if current license is obtained	Valid if current license is obtained within 15 days of citation

[167] Seattle Municipal Code (SMC) 9.25; Los Angeles Municipal Code (LAMC) § 53; Asheville Municipal Code (AMC) § 3.
[168] *Id.*
[169] *See* SMC 9.25; LAMC § 53; AMC § 3.

a) The Cost of Compliance and the Availability of Discounts

Significantly, animal control agents cite pet owners for the failure to license pets more than most other animal control laws,[170] making the application of these laws to people experiencing homelessness particularly important. Like a traffic violation, the request for one's license usually commences an investigation into a report of animal abuse or misconduct.[171] Furthermore, surveys show that a substantial percentage of homelessness people live in the same area for less than six months at a time,[172] which makes adherence to these city or county-based regulations difficult, expensive, or impossible.[173] The following subsections break down these findings.

Cities adopt various pricing models, discounts, and waivers of penalties that prioritize compliance over revenue generation. In Los Angeles, for example, people with disabilities and elderly individuals of "very low-income" may apply for a reduced rate on licensing fees and taxes.[174] Through this program, Los Angeles also provides qualifying pet owners with veterinary vouchers to subsidize costs.[175] Most cities incentivize pet owners to spay and neuter their pets by charging less to license an altered dog, but do not always offer discounted veterinary services.[176] Universally, cities license service animals for free.[177] And finally, many cities waive citation costs when pet owners elect to comply with licensing requirements.[178] Taken together, these modifications suggest cities value compliance over revenue when it comes to pet registration.

However, despite these modifications, cities rarely offer meaningful discounts to people experiencing homelessness, which complicates the ability to comply. For instance, in order to qualify for Los Angeles' discounted license, pet owners must be over the age of 62 or disabled, plus they need to provide a valid photo ID and proof of income.[179] Proof of income may be established through income tax forms or Social Security benefit statements or award letters.[180] Programs offering low-cost veterinary services also require documented proof of income.[181]

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[170] Bahrakis, *supra* note 12; Barrio, *supra* note 13 (noting that the failure to vaccinate and failure to license most cited).
[171] Barrio, *supra* note 13 (describing that investigations begin by checking for the following: "[the pet's] license, rabies vaccine, microchip, spay/neuter certification, and then you move from there"). *See also*, Barakaris *supra* note 12 (stating that investigations begin with checks for licenses).
[172] *See* Pamela N. Clarke et al., *Health and Life Problems of Homeless Men and Women in the Southeast*, J. OF COMMUNITY HEALTH NURSING 101, 106 (1995); *see also* Slim, *supra* note 4 (describing "snow birds," people experiencing homelessness who move to new areas based on the climate and weather).
[173] *See, e.g.*, Slim, *supra* note 4 ("I didn't know you couldn't sit on the sidewalk.").
[174] LAMC § 53.15(f).
[175] *Id.*
[176] *See, e.g.*, SMC 9.26.020(A)(2), LAMC § 53.15.3 ("[C]ouncil also finds that an increase in the license fee for unaltered dogs will encourage the owners to spay/neuter their dog(s), in order to qualify for the much lower altered dog license fee"); *see also* LAMC § 53.15(h) (instituting late fees on taxes: $20 for altered dog, $100 for unaltered).
[177] *See* SMC 9.25; LAMC § 53; AMC § 3.
[178] SMC 9.25.100(D); LAMC § 53.15.2(b)(8); AMC§ 3-5(a)(1).
[179] LAMC § 54.15(f).
[180] *See* CITY OF LOS ANGELES, *$10 Discount Dog License*, L.A. ANIMAL SERVICES, http://www.laanimalservices.com/pdf/forms/very-low-income-app-eng.pdf (last accessed Nov. 13, 2015).
[181] *See, e.g.*, *Prices*, THE SPAY NEUTER PROJECT OF LOS ANGELES (SNPLA) (2015), http://snpla.org/prices/ (stating that individuals must provide proof of household income less than $40,000 per year to qualify).

Obtaining these documents requires an extra step from people who may not have access to transportation or the Internet. Therefore, these discounts exclude huge swaths of individuals.


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Similarly, in order to qualify for a free service animal license, one's pet must be "individually trained to do work or perform tasks for the benefit of an individual with a disability."[183] The ADA, governing accommodations like service animals, does not provide any requirements for the necessary training, nor does it require certification for a service animal.[184] As a result, animal control websites on licensing do not clearly articulate a definition, but do note that the false representation of a pet as a "service animal" is a misdemeanor punishable by imprisonment, a fine, or both.[185] Though cities make discounts and free licenses available, the accessibility and navigability of these processes place serious burdens on people without legal

[182] LEVINE, *supra* note 11.
[183] 28 C.F.R. § 36.104.
[184] *Id.*; *see also* Bourland, *supra* note 119, at 201; U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIVISION, DISABILITY RIGHTS SECTION, ADA BUSINESS BRIEF: SERVICE ANIMALS (2002), *available at* http://www.ada.gov/svcanimb.htm.
[185] *See* SERVICE DOG IDENTIFICATION TAG APPLICATION AND AFFIDAVIT, DEP'T OF ANIMAL SERVICES, CITY OF LOS ANGELES (June 26, 2014), *available at* http://www.laanimalservices.com/pdf/forms/SERVICE_DOG_IDENTIFICATION_TAG_APPLICATION.pdf. Website includes reference to the Code where definition may be found, but the Code's language is not written for lay people. *Id. See also Licensing Fees*, SEATTLE ANIMAL SHELTER, CITY OF SEATTLE (2015), http://www.seattle.gov/animal-shelter/license/licensing-fees. Must call shelter for policies on service animals, as written policies are not available online. *Id. See also* CAL. PENAL CODE § 365.7.

backgrounds, assistance of legal counsel, advocates, or health care providers, access to the Internet, or access to a telephone.

In summary, cities consistently adopt discounts on fees and taxes, vouchers for spay/neuter costs, and grace periods before assessing citations. As a result, they demonstrate their commitment to licensing pets over generating revenue. However, throughout the country, these laws fail to make meaningful accommodations for low-income or homeless pet owners.

b) The Cost of Non-Compliance and the Policies Behind Licensing

Without reasonable alternatives to achieve compliance, many pet owners must risk the potential penalties for violating the law. Though these penalties serve some purposes, when assessed against individuals without means to afford them, they fail to support animal welfare and they punish low-income pet owners.

First, the failure to license one's pet costs an owner $35 to $125 for the first violation.[186] Frequently, lawmakers adopt escalating fines, where the cost of violations increases with subsequent violations.[187] This practice irrefutably penalizes low-income and homeless pet owners when cities and counties neglect to offer meaningful exceptions for those without means. As a result of the inaccessibility of discounts, the issuance of the first and any subsequent citation for the failure to have a license redirects money that would otherwise go towards meeting basic needs.[188]

Second, across justifications, the revenue collected from licensing fees and associated fines enable law enforcement officers to fund their efforts to return pets to their people.[189] Money generated from licensing fees additionally supports a variety of animal services, such as funding for shelters, cruelty investigations, and emergency animal rescues during natural disasters.[190] However, requiring these costs from individuals who cannot pay, eliminates this revenue, and often costs the city or county more by incarcerating individuals who fail to pay their fines.[191]

[186] *See* LAMC 53.12.2; SMC 9.25.080(A).
[187] *Id*.
[188] *See, e.g.*, Slim, *supra* note 4.
[189] *See, e.g.*, *Licensing Makes Reunions Possible*, PIKES PEAK REGION HUMANE SOCIETY (2015), https://www.hsppr.org/law/licensing-makes-reunions-possible.
[190] Staci Giordullo, *Cat and Dog License Policies Draw Mixed Reviews*, ANGIES LIST (July 6, 2010), http://www.angieslist.com/articles/cat-and-dog-license-policies-draw-mixed-reviews.htm.
[191] LAMC § 53.15(e); § 53.15.3(b).

[192]

Finally, many cities recognize a number of violations related to the failure to license, such as the failure to exhibit a license or the use of a fake, an altered, or another's license.[193] These laws do not require enforcement agents to consider the ability to pay when issuing citations and assessing fines.[194] In Seattle, for example, these violations carry fines ranging from $54 to $109.[195] Though the Seattle Animal Shelter asserts that its enforcement agents do not assess multiple licensing fines at once—because it prefers to encourage compliance—the fact is that law enforcement agents may apply these laws at any given time, based on their subjective impressions and mood.[196] Though subjectivity plays a role in all enforcement contexts, the inability for many people experiencing homelessness to seek shelter because of no-pet policies heightens the negative impact of this discretion in the policing of homeless pet ownership. Overall, the non-enforcement of discriminatory policies cannot justify their existence.

In conclusion, financial penalties in addition to or in lieu of a misdemeanor conviction detract from the goal of animal welfare in the following ways: (1) they penalize pet owners with no reasonable alternatives but to avoid compliance because of associated costs, causing a loss of revenue for the city or county; (2) these financial penalties redirect money away from funds

[192] LEVINE, *supra* note 11.
[193] *See* LAMC 53.22; LAMC § 53.24; SMC 9.25.080(B); SMC 9.25.080(C); SMC 9.25.080(F).
[194] *Id.*
[195] SMC 9.25.080(B); SMC 9.25.080(E).
[196] Bahrakis, *supra* note 12; Barrio, *supra* note 4 (outlining how officers in LA County work from a totality of the circumstances standard in evaluating when to cite a pet owner, but the officers are encouraged to practice compassion).

needed for survival; (3) the penalties often label violations as misdemeanors and therefore cost the city or county money; and (4) the penalties subject offenders to multiple penalties for the same violations without assessing the ability to pay. The continued implementation of these enforcement procedures will continue to hurt pets and their people when owners have no reasonable alternatives but to avoid compliance.

> Some people say, "'you don't feed your dog' or 'you don't take care of your dog right.' You know what? All they do is leave their dog in their apartment for twelve hours a day. That's not fair."[197]

2. Anti-Tethering

The second body of laws, anti-tethering laws, prohibits owners from fastening, chaining, or tying a dog to any stationary object.[198] Many pet owners drop their dogs off at home before running errands or tie their dogs to signposts while grabbing groceries or coffee. But, people who do not have an available space to keep their pet while tending to their basic needs—such as using the restroom, buying food, or seeking social services—risk being reported for tethering their pets, which increases the risk of financial and criminal penalties.[199] This section looks at the operation of these laws and the policies behind them.

a) Operation and Impact

Most counties and cities adopt anti-tethering laws.[200] In fact, across the United States, there are more than 100 ordinances in over 30 states addressing the tethering or chaining of pets.[201] California, Connecticut, and Texas, for example, limit the chaining of dogs and other animals by duration. [202] Law enforcement officers have the discretion to penalize owners the first time they violate the chapter, or may opt to give a warning.[203] In addition to discretion in enforcement, the laws also give law enforcement discretion in finding that a pet has been tied up for too long.[204]

Generally, these laws fail to provide a consistent definition of how long is too long to tether one's pet.[205] Often they define a violation as an amount of time that is "longer than is necessary for the person to complete a temporary task that requires the dog to be restrained for a reasonable period," but otherwise provide no guidance.[206] California and Texas provide some direction by stating that a reasonable period should not exceed three consecutive hours in a 24-

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[197] Irvine, *supra* note 2, at 34 (quoting "Toni," who at the time of the interview, lived in San Francisco with her pitbull).
[198] LOS ANGELES ANIMAL SERVICES, *Chained Dog/Tethering Laws*, http://www.laanimalservices.com/laws-policies/chained-dog-laws/ (last accessed Oct. 12, 2015).
[199] *See* SMC 9.25; LAMC § 53; AMC § 3.
[200] *Id.*
[201] *Our Guide to Help Chained Dogs*, *supra* note 69.
[202] LOS ANGELES ANIMAL SERVICES, *supra* note 198; *see also* CAL. HEALTH & SAFETY CODE § 122335; CONN. GEN. STAT. § 22-350a.
[203] CAL. HEALTH & SAFETY CODE § 122335. In California, animal control may issue a warning the first time someone violates this chapter. *Id.*
[204] *Id.*
[205] *See* SMC 9.25; LAMC § 53; AMC § 3.
[206] Wisch, *supra* note 121.

hour period.[207] Despite this minor definition, in all three states, the subjective impression of law enforcement officers—or the reporting citizen—governs what constitutes an inappropriate amount of time.[208]

As a consequence of this enforcement mechanism, these laws inherently place a disproportionate impact on visibly poor pet owners who are often targeted for violations yet cannot afford to pay the fines. In most jurisdictions, violations of these laws can result in an infraction or misdemeanor punishable by a fine for up to $1,000 or six months in jail.[209] Connecticut, for example, increases the penalty each time the owner violates the chapter, so the first offense costs the owner $100, but the third offense may cost owners $500.[210] Individuals who cannot afford to pay these fines face jail time, and those who manage to pay are then forced to give up food, water, or medical care for both themselves and their pets in order to afford the fine.[211]

b) Policy Justifications and Their Inapplicability to Homelessness

Generally, lawmakers and animal welfare advocates justify these laws using two policies. First, they assert that dogs need regular social interaction to avoid the development of dangerous behaviors.[213] Experts find that dogs left alone experience "boredom, loneliness and isolation, which eventually leads to territorial and aggressive behaviors."[214] This justification, and tethering laws in general, fails to address common situations where pet owners keep their pets locked inside their homes or inside of kennels for the length of a workday or longer. Overall, this justification appears only to address individuals who leave their pets in public view.

> "We have to explain that it's not a violation to own a pet while homeless. Plus, you know, when the pet is in good body condition, those sorts of complaints can become harassment."[212]

The second justification focuses on protecting animals' health and well being.[215] Leaving pets tethered and unattended may cause a dog to become "entangled in ropes and chains or surrounding objects" or subject to exposure to "harsh weather conditions without access to shelter, and being unable to reach a supply of food and water."[216] Again, this justification applies

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[207] *Id.*
[208] *See* SMC 9.25; LAMC § 53; AMC § 3.
[209] *See, e.g.*, D.C. CODE § 22.1001 (stating violators may face imprisonment up to 180 days or fine up to $250); HAW. REV. STAT. § 711 – 1109 (violating statute results in forfeiture of animal and reimbursement for costs incurred for caring for pet); MD. CRIM. LAW § 10-623 (subjecting violators to imprisonment of no longer than 90 days or fine not exceeding $1,000 or both).
[210] CONN. GEN. STAT. § 22-350a.
[211] *See, e.g.*, Slim, *supra* note 4 ("Reclaiming dogs for $75, well there's goes my food for the next few weeks."); *see also* Pringle, *supra* note 60.
[212] Bahrakis, *supra* note 12.
[213] *Our Guide to Help Chained Dogs*, *supra* note 69.
[214] *Id.*
[215] CITY OF RALEIGH, *Dog Tethering Ordinance and the Leash Law* (June 9, 2015), https://www.raleighnc.gov/projects/content/Police/Articles/Dogtethering.html.
[216] *Id.*

to pet owners who abandon their pets in social isolation, not owners who live outside alongside their pets. While neither of these justifications apply to situations where pet owners run errands and leave their pets outside temporarily, people frequently use anti-tethering laws to report visibly poor pet owners.[217]

Overall, the threat of these laws prevents pet owners from accessing medical services, social services, and shelters because of the risks that they will be fined, be arrested, or lose their pet.[218] The plain reality is that when people do not have any reasonable alternative to existing in public space, they must bring their pets with them, including opportunities to attend a job interview, obtain a shelter space, or renew social service benefits.

3. Standards of Care Laws

Among all the animal control laws with the potential for arbitrary enforcement against people experiencing homelessness, standards of care laws stand as the true catch-all and can be used to justify nearly any report of owning a pet while homeless.[219] Adequate care standards "make it illegal to keep a dog outside without proper shelter."[221] These laws almost always carry criminal penalties, as a violation is deemed animal abuse or neglect.[222] This section analyzes New York State's standards of care laws because of animal law advocates' determination that the New York laws represent the nation's average approach to animal protection.[223] In other words, New York's laws encompass many provisions shared by other jurisdictions.[224] Through an analysis of New York's approach, this section illuminates how vague language works with biased reporting to increase scrutiny of homeless pet ownership without targeting actual instances of criminal animal abuse.

"People on the street come up to me and say that she looks too skinny, that I'm not feeding her, that she's being abused."[220]

[217] Christina, *supra* note 4 ("There's a law that your dog can't be tied up outside, so it's like animal control will be called on you"); Bahrakis, *supra* note 12; SPD Team, *supra* note 14.
[218] Christina, *supra* note 4 (describing exclusion from DHSH when seeking to renew food stamps because of dog); *see also* Rellik, *supra* note 10.
[219] *See, e.g.*, N.Y. AGRIC. & MKTS. LAW § 353-b(5).
[220] Christina, *supra* note 4.
[221] *What You Can Do to Help Chained Dogs: Unchain a dog in your community today*, THE HUMANE SOCIETY OF THE UNITED STATES (HSUS) (Mar. 4, 2015), http://www.humanesociety.org/issues/chaining_tethering/tips/help_chained_dogs.html?credit=web_id96878129.
[222] NEWBURY, *supra* note 30, at 9.
[223] STEPHEN K. OTTO, 2008 STATE ANIMAL PROTECTION LAWS RANKING: COMPARING THE OVERALL STRENGTH & COMPREHENSIVENESS ANIMAL LEGAL DEFENSE FUND (ALDF) (2008), *available at* http://aldf.org/downloads/ALDF2009StateRankingsReport.pdf; *see also* STEPHEN K. OTTO, 2009 STATE ANIMAL PROTECTION LAWS RANKING: COMPARING THE OVERALL STRENGTH & COMPREHENSIVENESS ANIMAL LEGAL DEFENSE FUND (ALDF) (2009), *available at* http://aldf.org/downloads/ALDF2009StateRankingsReport.pdf.
[224] *See* TENN. CODE ANN. § 39-14-202; *see also* MINN. STAT. § 343.21.

a) Vagueness in the Black Letter Law

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New York State has several provisions governing adequate care standards with ambiguous language.[226] These provisions mandate that pet owners "provide [dogs] with shelter appropriate to its breed, physical condition and the climate" or risk financial penalties ranging from $50 to $250.[227] People who fail to provide any animal with "necessary sustenance" or a "sufficient supply of good and wholesome" air, food, water, and shelter are guilty of class A misdemeanors, which can result in imprisonment, a fine of $1,000, or both.[228] Words like "appropriate," "necessary," and "sufficient," as they modify breed or sustenance, do not provide law enforcement officers, passersby, or pet owners with much notice or explanation for what reportable and illegal conduct looks like.

In an effort to specify some guidance, lawmakers adopted minimum standards to determine "shelter."[229] These standards state that dogs "left outdoors" must have a structurally sound shelter with a waterproof roof and appropriate insulation that provides the animal with adequate freedom of movement and the effective removal of animal waste.[230] The statute does not address pet owners who are left outdoors with their pets. This language applies to all dogs outdoors, which means "dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure."[231] Without more explanation, the plain language of these provisions criminalizes every instance of owning a pet

[225] LEVINE, *supra* note 11.
[226] N.Y. AGRIC. & MKTS. LAW § 353; N.Y. AGRIC. & MKTS. LAW § 356.
[227] N.Y. AGRIC. & MKTS. LAW § 353-b(2)(a).
[228] N.Y. AGRIC. & MKTS. LAW § 353; N.Y. AGRIC. & MKTS. LAW § 356.
[229] N.Y. AGRIC. & MKTS. LAW § 353-b(3)
[230] *Id.*
[231] N.Y. AGRIC. & MKTS. LAW § 353-b(1)(c).

while homeless, as being without shelter effectively defines homelessness and a violation of these provisions.

b) Enforcement and Reporting: The Power of Bias

Lawmakers and animal control officers likely did not create these laws with the intent to criminalize homeless pet ownership. Rather, the vague language creates the space for bias and subjective impressions of good pet ownership to reign. In fact, many animal control agents working under similar laws avoid assuming socioeconomic status determines abuse as an unwritten policy.[233] Many teams identify violations "based on the totality of the circumstances."[234] These circumstances may mean that "as long as [pet owners] are keeping their animal out of a rain storm or are otherwise providing for their pet to stay warm and fed…then that means providing them with shelter."[235] Though animal control officers routinely have the training and experience to recognize abuse, passersby and non-specialized law enforcement agents do not.

Only 19% of police officers receive formal training on animal cruelty and only 41% were familiar with the applicable laws.[232]

As a result, homeless pet owners frequently report that passersby or police officers accost them for perceived violations.[236] The reliance on these reports and eye-witness accounts is likely widespread, as "only 19 percent of police officers in the United States received formal training on animal cruelty [and] only 41 percent were familiar with the applicable laws."[237] The data on how much of the public receives any training is unavailable, but likely lower because of the sheer fact that the law does not hold everyday citizens responsible for reporting crime.[238]

Further, some pet owners experiencing homelessness report that their dogs seek to protect them when confronted or approached by police officers investigating reports of animal abuse or other violations.[239] At times, this protective behavior leads the police officer to shoot and kill the pet without employing effective de-escalation procedures.[240] In many instances, officers do not

[232] NEWBURY, *supra* note 30, at 32.
[233] Bahrakis, *supra* note 12; *see also* WASH. REV. CODE § 16.52.207(2)(a) ("Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure"); *see also* Phone Interview with Emily Gelb, Safety Net Supervisor, Asheville Municipal Code Humane Society (Oct. 9, 2015).
[234] *Id*.; Barrio, *supra* note 13 (stating use of "totality of the circumstances" standard).
[235] Gelb, *supra* note 233.
[236] WRAP, *supra* note 7; *see also* Irvine, *supra* note 2, at 31; *see also* Christina, *supra* note 4 ("One time she was lying and dude didn't ask if he could pet her, and he reached down to pet her and she nearly bit him, and he said 'when I come back and if that dogs tries to bark at me or whatever, then I'll kick it.'"); Rellik, *supra* note 10 ("I have to sit sometimes because of my health issues, and cops are like, 'Oh you can't sit there.' They say they'll arrest me if I sit, and they say, 'We'll make sure that dog gets put down.'"); Frogger, *supra* note 3 ("There was one instance where the police asked about my dog. They were threatening to call animal control saying he's being abused and neglected.").
[237] NEWBURY, *supra* note 30, at 32.
[238] *See generally Failure to Report a Crime*, FIND LAW (2015), http://criminal.findlaw.com/criminal-charges/failure-to-report-a-crime.html.
[239] Rellik, *supra* note 10; Frogger, *supra* note 3; Phone Interview with Leslie Irvine (Feb. 5, 2016).
[240] Irvine, *supra* note 239.

have the tools or training to implement the necessary de-escalation procedures, as the average young officer receives only eight hours of de-escalation training, in contrast to 107 hours of firearms and defensive tactical training.[241] It is unclear how much of the eight hours allotted to de-escalation covers situations involving animals, if at all.

In sum, across all three bodies of laws, the strong affinity most individuals have for animals—coupled with the bias against people experiencing homelessness—leads to an environment where people experiencing homelessness's ability to own pets is constantly, and often unfairly, scrutinized. This scrutiny can be deadly.[242] The subjective standards used to judge compliance with anti-tethering and standards of care laws encourage individuals to place their own impressions of what constitutes good pet ownership on to people living in visible poverty. Add that pattern to the ease of reporting animal abuse, plus the fact that all investigations begin with a request for a pet license, and these conditions place visibly poor people under constant surveillance and threat of police intervention, abuse, financial penalties, and even imprisonment. While these laws may seek to benefit pets, they disproportionately impact homeless pet owners without any evidence that their pets are vulnerable to abuse. This approach is not good for people or their pets.

CONCLUSIONS & RECOMMENDATIONS

Pet companionship provides powerful benefits to people experiencing homelessness, but vague language and poor policies fail to take these benefits into account, which perpetuates homelessness. Therefore, across disciplines—from lawmakers to animal welfare advocates—a paradigm shift must occur: pets must be seen as solutions and additional means to serve clients, as opposed to being extra problems. Therefore, policymakers, lawmakers, and advocates should consider the following five proposals as starting points for advancing the treatment of visibly poor people and all animals.

> "You've got to take care of the whole person, and that sometimes includes the dog"[243]

[241] Timothy Williams, *Long Taught to Use Force, Police Warily Learn to De-Escalate*, N.Y. TIMES (June 27, 2015), http://www.nytimes.com/2015/06/28/us/long-taught-to-use-force-police-warily-learn-to-de-escalate.html?_r=0; *see also* Gary P. Maddox, *Officer Safety Corner: Dogs and the Police Response: A Guide for Safe, Successful, and Humane Encounters*, 80 THE POLICE CHIEF (Aug. 2013), *available at* http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3000&issue_id=82013 (noting increased reports of officer responses and reactions to the presence of dogs, but that yet very little training exists on how to diffuse potentially dangerous situations involving dogs).

[242] *See, e.g.*, Irvine, *supra* note 239 ("People experiencing homelessness that I talked to generally had no issues with animal control officers, but it was usually police officers who would come upon a camp or a group of people, and dogs would become protective and officers would overreact and escalate the situation, and in several situations the dogs would end up being killed."); Rellik, *supra* note 10 (recounting how police shot and killed his dog several years ago).

[243] James Hettinger, *In Sacramento, a Capital Ideal*, ANIMAL SHELTERING (July/Aug. 2015), http://www.animalsheltering.org/resources/magazine/jul-aug-2015/in-sacramento-a-capital-idea.html?referrer=https://www.google.com/ (quoting Gina Knepp, Animal Care Services Manager in Sacremento, CA).

i. The Adoption of Pet-Friendly Policies and Resources Regardless of the Pet's Certification

Providers' responsibilities under the ADA and FHA make the adoption and enforcement of no-pet policies futile. Any purpose no-pet policies intend to serve, such as protecting individuals with allergies or conforming to local health codes, cannot be met as long as these providers must allow service or emotional support animals. Therefore, these policies should be abandoned, and city health codes should be revised to allow leashed and well-behaved companion animals to accompany their owners into facilities providing life-sustaining resources, including, but not limited to, grocery stores, restaurants, social services locations, and housing and sheltering facilities.

Homeless shelters and social services providers should particularly prioritize this move because the adoption of pet accommodations will help their clients attend job interviews, school, or employment opportunities. [244] Service providers and shelter organizers who make these accommodations report high success rates in helping clients transition off the street.[245] Adequate accommodations in these settings include housing pets on-site or providing referrals to animal welfare organizations that can provide temporary housing and day boarding to meet client needs. Furthermore, the cost of making pet accommodations is relatively low.[246] Shelters who house clients in individual or family rooms report that allowing pets has not created any additional costs, while shelters that created indoor or outdoor kennels spent a few hundred to a few thousand dollars on improvements.[247]

Landlords and public housing agencies should abandon pet restrictions, particularly those with financial costs. First, public housing agencies should remove any restrictions on pets that place financial burdens on pet owners—such as pet deposits—since applicants already are not in a position to afford non-subsidized housing. Next, lawmakers should amend landlord-tenant laws to prevent landlords from charging exorbitant pet deposit fees, pet rent, or other unreasonable costs. These policies may function similarly to rent control or rent stabilization ordinances by preventing landlords from using pets as another avenue to increase revenue and exclude low-income or medium-income pet owners from renting. If restrictions on property use prove too unpopular in a given city or county's political climate, local government bodies should incentivize landlords to amend their pet policies to be more inclusive through tax benefits.

Adopting pet-friendly policies has proven successful in domestic violence sheltering and will likely have the same impact on people experiencing homelessness by giving people the opportunity to come inside with their pets.[248] Among domestic violence survivors, 18 to 48 percent delay their decision to leave their abusers, or have returned to them, out of fear for their pet's welfare.[249] In response, many domestic violence shelters adopted pet-friendly admission

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[244] *See* Lem, *supra* note 4, at 63.
[245] *Id.* at 88–89.
[246] PHILLIPS, *supra* note 72, at 32.
[247] *Id.*
[248] *See* THE PUB. POLICY OFFICE OF THE NAT'L COAL. AGAINST DOMESTIC VIOLENCE, PETS AND DOMESTIC VIOLENCE 1, 2, *available at* http://www.hope-eci.org/_documents/petsanddv.pdf (last accessed Nov. 12, 2015); *see also* PHILLIPS, *supra* note 72, at 9; Interview with Anonymous Tenancy and Animal Advocate, *supra* note 6.
[249] PHILLIPS, *supra* note 72, at 7.

policies, or provide referrals to temporary pet-boarding services.[250] People experiencing homelessness also refuse available services because of no-pet policies, so advocates for domestic violence survivors and people experiencing homelessness should coordinate in increasing the existence of pet-friendly resources.[251]

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Overall, abandoning no-pet policies serves people and pets. It prevents individuals from being subject to penalties for tethering a pet while going inside facilities to meet basic needs. Also, abandoning these policies prevents individuals from choosing between housing and their pets, which improves animal welfare by reducing the number of animals in animal shelters. Animal rights and welfare groups should join in this effort because though people experiencing homelessness rarely give up pets to obtain housing, individuals in other socioeconomic groups do, and those decisions contribute to overpopulation in the animal sheltering system.[253] Therefore, animal welfare groups and advocates should encourage landlords and providers to adopt pet-friendly policies by lobbying for the revision of local health codes, landlord-tenant statutes, and rent control proposals.

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[250] THE PUB. POLICY OFFICE OF THE NAT'L COAL. AGAINST DOMESTIC VIOLENCE, *supra note* 248; *see also* PHILLIPS, *supra* note 72, at 9.
[251] *See* NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *supra* 108, at 8; Huegel, *supra* note 108; Lem, *supra* note 4, at 14.
[252] LEVINE, *supra* note 11.
[253] *See, e.g.*, Mark Fahey, *No dogs allowed: San Francisco's pet housing crisis*, CNN MONEY (Feb. 20, 2015), http://money.cnn.com/2015/02/20/real_estate/pets-san-francisco/ (finding that pet surrender rates correlate with pet restrictions in housing).

ii. Implement Owner-Support Programs in Animal Shelters and Animal Welfare Organizations

Animal shelters, animal welfare organizations, and humane societies should adopt "owner-support programs," which prioritize proactive policies over reactive ones.[254] Currently, most animal sheltering organizations operate reactively by responding to the need to re-house surrendered or stray pets.[255] Instead, owner-support programs proactively assist pet owners who struggle to meet their needs and the needs of their pets because of economic insecurity.[256] Owner-support programs aim to keep pets in homes where they are already loved to improve the pets' lives and reduce the number of pets in shelters.[257] These programs have the dual benefit of preventing owners from losing their pets because of financial instability, while also assisting shelters challenged by overpopulation, where many surrendered pets face suffering or untimely euthanasia.

These programs offer a range of services including (1) the arrangement of discounted veterinary care and transportation to veterinarians; (2) the organization of donations such as food, leashes, poop bags, and kennels; (3) the distribution of free or low-cost food; and (4) the coordination of temporary animal boarding sites and services.[258] Overall, these programs serve multiple interest groups, particularly people experiencing homelessness and animal advocates, by assisting pet owners meet their pets' needs and preventing pets from abandonment, abuse, and euthanasia.[259]

To assist with these goals, animal welfare organizations and departments should develop materials to increase support of owner-centered programs. Animal welfare organizations and departments already invest money in outreach and education.[260] These programs cover responsible pet ownership, the role of control officers, and available resources, such as low-cost veterinary clinics.[261] These programs should be adjusted to promote the fact that owning a pet while homeless is not illegal or abusive, and that often times the relationship creates mutual benefits for both the pet and the person. The distribution of these materials and educational resources should ultimately promote the public's acceptance and participation with owner-support programs.

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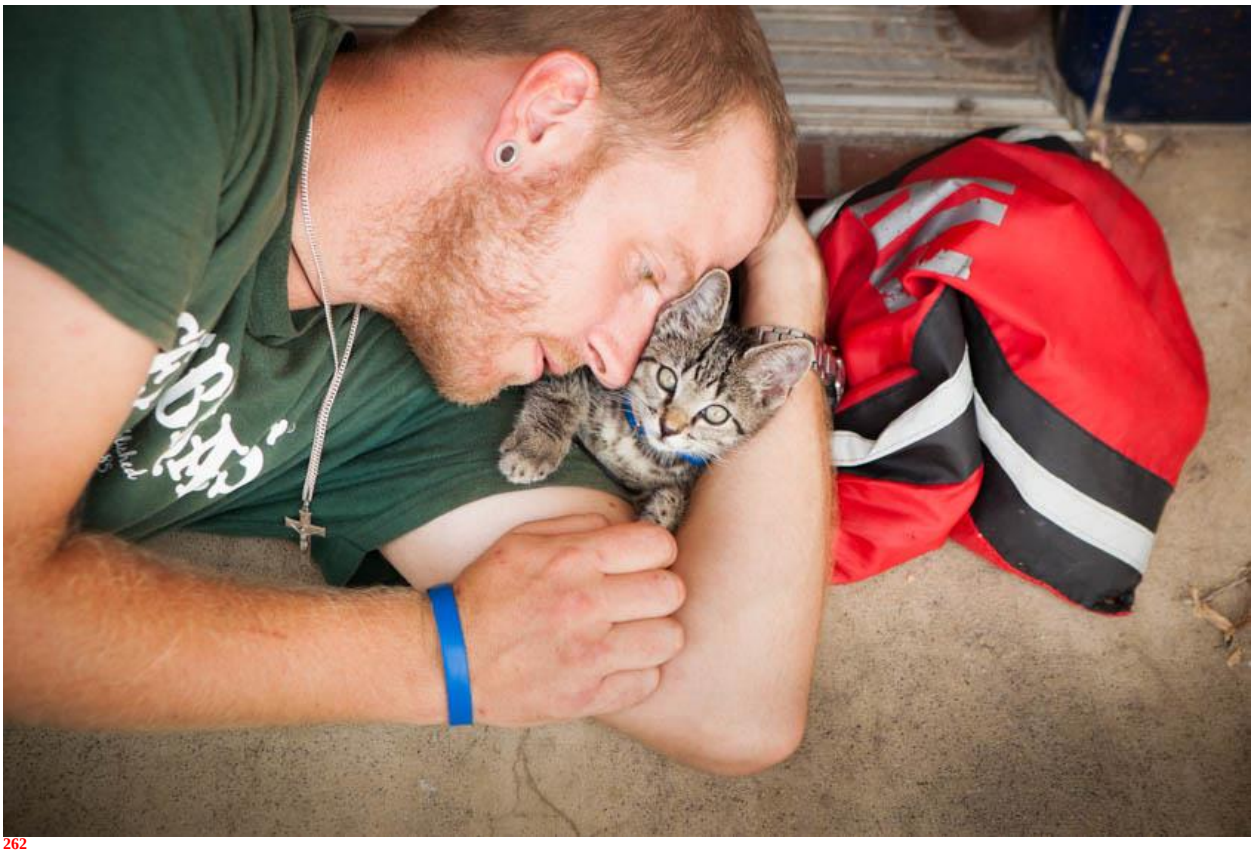
[254] *See generally* PETS OF THE HOMELESS, http://www.petsofthehomeless.org/ (last accessed Nov. 22, 2015). Please report services that provide free or low-cost resources to pet owners experiencing financial and housing crises to Pets of the Homeless.
[255] Gelb, *supra* note 233.
[256] *Id*.
[257] *Id*.
[258] *Id*.
[259] Bixby, *supra* note 22.
[260] *See, e.g.*, *Education and Outreach*, DENVER ANIMAL SHELTER, https://www.denvergov.org/content/denvergov/en/denver-animal-shelter/shelter-programs/education-outreach.html (last accessed Nov. 3, 2015); *Educational Programs & Outreach*, THE HUMANE SOCIETY OF GREATER KANSAS CITY, http://hsgkc.org/edu.html (last accessed Nov. 3, 2015).
[261] *Id*.



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In coordination with these efforts, homeless service providers and advocates should develop resources on rights of access to shelters, housing, and service providers. These resources should communicate the rights of pet owners, particularly with regards to access rights of service and emotional support animals, breed-specific legislation, and the consequences of pet removal by local animal control or law enforcement in the event of reported animal neglect or owner arrest.[263] These resources should empower pet owners with the knowledge of existing rights related to access, the rights against unreasonable search and seizures, and should also be distributed to providers and housing authorities whose employees exclude pets based on bias.

iii. Institute Proper Law Enforcement Training to Complement Discretionary Enforcement Procedures

Law enforcement officers need training to both recognize how bias against people experiencing homelessness shows up in enforcement and to help them educate members of the public on the legality of homeless pet ownership. This training should operate to ensure that animal control laws work to protect animal welfare and the general public, as opposed to the private interests of groups who find homeless pet ownership inherently objectionable. Currently, as mentioned above, many law enforcement officers are not familiar with animal welfare laws, which may lead to arbitrary and ineffective enforcement, particularly when enforcing laws with vague language. Additional and specialized training will prevent wasting resources on the

[262] LEVINE, *supra* note 11.
[263] *See* Lem, *supra* note 4, at 63.

investigation of reports of homeless pet ownership and should encourage officers to promote available resources for compliance over the institution of financial penalties.

In particular, these trainings should educate law enforcement officers about what animal abuse looks like and the policies behind anti-tethering and standards of care laws. Through this training, these officers should learn that anti-tethering violations apply to instances where pets are left in social isolation where the tether may cause the pet to strangle itself or otherwise cause psychological damage to the animal. For standards of care laws, enforcement officers should know these laws were not written to capture instances where pets and owners are left outside together. As a result, law enforcement officers will be able to respond more appropriately to reports of animal abuse based on subjective impressions of good pet ownership.

Additionally, these trainings should emphasize the constitutional rights of homeless pet owners and the protected property interests in their pets by improving training on the recognition of probable cause. Law enforcement officers should be trained to look beyond whether the homeless individual has a legal right to be in his or her location—or whether the pet can legally be unattended—and to focus instead on the actual customs and practices in the community.[264] Therefore, in cities where pet owners commonly tie their pets up outside of coffee shops, grocery stores, and restaurants, law enforcement should avoid presuming that visibly poor pet owners engaged in abuse or neglect for doing the same. To that end, law enforcement officers should be educated to know that being visibly poor when accompanied by a pet does not function as probable cause, and therefore officers cannot search visibly poor pet owners merely based on perceived economic stability.

Next, when laws provide law enforcement with discretion in finding a violation (e.g., length of time in tethering violations, opportunities to comply with licensing regulations before issuing citations), officers should be required to issue written warnings before assessing fines for violations where no animal abuse has occurred. Warnings should include referrals to resources that will empower the pet owner to comply, instead of threatening arrest or a call to animal control. These warnings serve cities and counties that prioritize pet registration over revenue generation, and the policies behind many animal control laws, by helping pet owners comply with the law instead of fining them for non-compliance and divesting them of funds necessary to meet basic needs.

Finally, de-escalation techniques and trainings should be amended to include information on how to approach individuals with dogs. Though no statistical evidence shows how frequently police officers shoot and kill dogs who respond protectively after officers approach homeless pet owners, enough qualitative data exists to show this problem's existence and inexcusability.[265] These trainings should emphasize how to defuse situations involving protective dogs when the pet owner is not encouraging the dog's response by educating officers on canine communication (e.g., what certain body postures indicate the dog's fear or desire for confrontation and

[264] Elizabeth Schutz, *The Fourth Amendment Rights of the Homeless*, 60 FORDHAM L. REV. 1003, 1029–30 (1992).
[265] *See generally* Irvine, *supra* note 239 ("People experiencing homelessness that I talked to generally had no issues with animal control officers, but it was usually police officers who would come upon a camp or a group of people, and dogs would become protective and officers would overreact and escalate the situation, and in several situations the dogs would end up being killed."); Rellik, *supra* note 10 (police shot and killed his dog several years ago).

dominance).[266] After learning these cues, officers should have the tools available to analyze proper responses to an animal's behavior that avoid drawing their weapons. These techniques include avoiding eye contact with the dog, asking the pet owner to tether or otherwise restrain the dog, or dispatching animal control when defusing the pet's behavior is beyond the officer's experience or skills.[267] Importantly, officers must know that drawing their weapons and killing domestic animals is not an appropriate response during routine engagement with citizens.

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iv. Create low-cost or free pet registration programs and redemption processes in cities and counties

Animal control departments responsible for licensing and pet redemption should adopt discounts for all low-income pet owners to avoid placing a disproportionate burden on poor pet owners. These programs should borrow proof of income procedures from SNAP/Food Stamp programs whereby people experiencing homelessness cannot be denied food stamps based on their inability to provide proof of income or identity.[269] When pet owners are unable to provide recognized proof of income, they should be allowed to list a reference, which the SNAP programs names a "collateral contact," who can confirm the pet owner's identity and income.[270]

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[266] Maddox, *supra* note 241.
[267] *Id.*
[268] LEVINE, *supra* note 11.
[269] 7 CFR 273.2(f)(1)(C)(vii).
[270] 7 CFR 273.2(f)(1)(C)(vii).

These contacts should include shelter organizers, employers, service providers, health care providers and administrators, social workers, and veterinarians.

v. Lawmakers Should Make the Assessment of Fines Contingent on the Violator's Ability to Pay

Finally, policy makers should adjust the cost of licensing and related animal control fines to avoid penalizing visibly poor people. When individuals cannot afford the cost of their initial fine, interest builds, and many may face incarceration.[271] Further, these fines disproportionately force low-income individuals to make payments from "funds necessary to meet their basic needs."[272] Therefore, assessing fines for petty criminal and civil violations against individuals with no reasonable alternative but to avoid compliance produces a negative benefit to the state, the county, the city, and residents.

To address these patterns, policy makers must consider establishing criteria for determining when a person can afford to pay the citation fee, by balancing the extent of the violation against the cost of the fine. For example, the imposition of a fine for an anti-tethering violation likely prevents the pet owner from meeting other basic needs and the needs of their pet, which will not increase compliance in the future. Therefore, when a pet owner violates these ordinances and states that he or she is unable to afford the cost of the fine, the burden should shift to the city or county to prove that the pet owner can pay the fine, otherwise the local government must waive the cost of the fine. Importantly, these waivers should only be available in instances where the violation did not cause injury to the animal.

vi. Closing Thoughts

For many, companion animals personify unconditional love, and the loss of those animals causes extraordinary heartbreak. For people experiencing homelessness, who frequently have little else to lose, giving up their pets to obtain shelter or services is a non-option. Accordingly, policy makers, legislators, advocates, and individuals invested in homeless rights, animal welfare, or even just cost-effective municipal management must adopt policies that do not presume people will surrender their pets, or penalize them for refusing to do so.

> "It's easy for people to say, 'Why don't they just get rid of their pets?' "Well they'd rather be spit on, rained on, than give up their dogs."[273]

Further, at least 90 percent of homeless pet owners report being harassed for owning pets, but no qualitative evidence shows or suggests that these pets are subject to an increased risk of abuse or mistreatment when owned by people experiencing homelessness.[274] Our laws and

[271] Ali, *supra* note 159, at 231 ("[S]tudies show that it costs more to incarcerate an individual than to provide him or her with food, housing, and social services."); Natapoff, *supra* note 156, at 103; COLUMBIA LEGAL SERVICES AND THE AMERICAN CIVIL LIBERTIES UNION, *supra* note 157, at 3, 7.
[272] *Id.*
[273] Slim, *supra* note 4.
[274] WRAP, *supra* note 7.

policies should not encourage or tolerate prejudice as a method for evaluating when a violation of the law occurs. The consideration and adoption of the above recommendations serves the interests of those engaged and invested in social justice work related to human dignity and homeless rights, animal rights activists and those efforts to increase the well being of companion animals, and people concerned with the cost-effective use of municipal and county resources.

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