

6-30-2017

Death Row Dogs, Hard Time Prisoners, and Creative Rehabilitation Strategies: Prisoner-Dog Training Programs

Paul J. Larkin, Jr.

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Cover Page Footnote

Senior Legal Research Fellow, The Heritage Foundation; M.P.P., George Washington University, 2012; J.D., Stanford Law School, 1980; B.A., Washington & Lee University, 1977. The author would like to thank Rachel Barkow, Emily Dunton, Timothy Ryan Farley, Thomas Graves, Ann Hertzog, Lee W. Larkin, Gregory E. Maggs, John G. Malcolm, Edward L. Mensh, Thomas Ranieri, Imelda Samaniego, and John-Michael Seibler for excellent comments on an earlier draft of this Article. The author would also like to thank Thomas Ranieri and Timothy Ryan Farley for outstanding research assistance. Any mistakes are mine.

DEATH ROW DOGS, HARD TIME PRISONERS, AND CREATIVE REHABILITATION STRATEGIES: PRISONER-DOG TRAINING PROGRAMS

Paul J. Larkin, Jr.⁺

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To err is human.
To forgive, canine.
—Unknown

Who would have thought that man’s best friend could also be a prisoner’s best hope for a second chance?

Decades ago, publications by Konrad Lorenz, a recipient of the Nobel Prize in Physiology or Medicine, and Boris Levinson, a child psychologist, separately described the nature and therapeutic benefits of what is known as the “human-animal bond,” the close relationship that a person can form with a companion animal, particularly a dog.¹ Animal Assisted Therapy Programs (“AAT” or

⁺ Senior Legal Research Fellow, The Heritage Foundation; M.P.P., George Washington University, 2012; J.D., Stanford Law School, 1980; B.A., Washington & Lee University, 1977. The author would like to thank Rachel Barkow, Emily Dunton, Timothy Ryan Farley, Thomas Graves, Ann Hertzog, Lee W. Larkin, Gregory E. Maggs, John G. Malcolm, Edward L. Mensh, Thomas Ranieri, Imelda Samaniego, and John-Michael Seibler for excellent comments on an earlier draft of this Article. The author would also like to thank Thomas Ranieri and Timothy Ryan Farley for outstanding research assistance. Any mistakes are mine.

1. See KONRAD LORENZ, *MAN MEETS DOG* (Marjorie Kerr Wilson trans., 2002) (1954) (“The whole charm of the dog lies in the depth of the friendship and the strength of the spiritual ties with which he has bound himself to man.”); BORIS LEVINSON, *PET-ORIENTED CHILD PSYCHOTHERAPY* xiii–xiv (1969) [hereinafter LEVINSON, *PET-ORIENTED CHILD PSYCHOLOGY*]; Boris M. Levinson, *The Dog as Co-therapist*, 48 *MENTAL HYGIENE* 23, 32, 33, 59, 60, 61 (1964) [hereinafter Levinson, *The Dog as Co-therapist*]; Boris M. Levinson, *Pets: A Special Technique in Child Psychotherapy*, 46 *MENTAL HYGIENE* 243, 243, 248 (1962) [hereinafter Levinson, *Special Technique in Child Psychology*]; see also, e.g., JAMES A. SERPELL, *IN THE COMPANY OF ANIMALS:*

“AATs”) grew from those insights to help individuals overcome traumatic events in their lives, such as an assault, or afflictions, such as autism, which isolates them from the world. Today, mental health professionals have found that they can often aid someone in distress by using a dog as an intermediary.²

Dogs have also proved valuable intermediaries in an entirely different setting. Numerous state correctional institutions have adopted what this Article calls Prisoner-Dog Training Programs (PDPs) as an innovative, rehabilitative strategy.³ Correctional officials have found that PDPs have reduced the number of infractions and incidences of violence within their walls, as well as the rate of recidivism for participating inmates who leave the walls behind.⁴ Prisoners who never experienced an emotional bond with someone on the outside acquire one with a dog on the inside, and, in the process, develop the empathy that is necessary for individuals to abide by societal norms. Rather than sit idly by while “doing time,” inmates who participate in PDPs also acquire a vocational skill that they can use to find post-release employment. Dogs facing euthanasia receive a second chance at life. People who are disabled (as well as some who are not) obtain a trained, obedient companion. The prison environment sees a reduction in the otherwise unavoidable suffocating tension generated by the close confinement of a large number of offenders. The result has been a success for everyone concerned. And the public benefits from every inmate who finds a new life outside prison and never returns.⁵

A STUDY OF HUMAN-ANIMAL RELATIONSHIPS xvii–xviii (Canto ed., 1986) [hereinafter SERPELL, IN THE COMPANY OF ANIMALS (Canto ed.)].

2. See, e.g., HANDBOOK OF ANIMAL-ASSISTED THERAPY 61, 322–25 (Aubrey H. Fine ed., 4th ed. 2015) [hereinafter HANDBOOK OF ANIMAL-ASSISTED THERAPY]; MARTY BECKER, THE HEALING POWER OF PETS 134, 135, 141–44 (2002); ODEAN CUSACK, PETS AND MENTAL HEALTH 1–5 (1988).

3. An Appendix to this article contains links to websites for PDPs or links to stories about state PDPs. The federal government also operates a program. See *infra* notes 56, 92, and accompanying text. PDP programs also exist in Australia, Canada, England, Italy, Scotland, South Africa, and New Zealand. JANET LAI, CORRECTIONAL SERVICES OF CANADA, OFFICE OF THE DEPUTY COMMISSIONER FOR WOMEN, LITERATURE REVIEW: PET FACILITATED THERAPY IN CORRECTIONAL INSTITUTIONS 5–6 (Apr. 1998); Dana M. Britton & Andrea Button, *Prison Pups: Assessing the Effects of Dog Training Programs in Correctional Facilities*, 9 J. OF FAM. SOCIAL WORK 79, 80 (2005).

4. Earl O. Strimple, *A History of Prison Inmate-Animal Interaction Programs*, 47 AM. BEHAV. SCIENTIST 70, 72, 75 (2003) [hereinafter Strimple, *Inmate-Animal Interaction*].

5. See Kyra Kirkwood, *Prison Pups: In Places Not Known for Kind Atmospheres and Life-Affirming Ways, Love and Compassion Bloom*, DOG’S LIFE, Summer 2009, at 17 (“The programs, be they for youth offenders or adult convicts, are all geared toward a win-win-win situation: The dogs are saved, the inmates have a purpose and the adopted owners get a well-trained dog. It’s a chance for the inmates to return something positive to the community, despite what they may have done in the past. This prisoner/pup partnership may seem like an unlikely situation, but in the end, it couldn’t be a more perfect pairing — forgotten elements of society helping each other to create a better world.”).

PDPs have noteworthy rehabilitative potential and are a “win-win-win” outcome for everyone involved. Dogs facing euthanasia receive a second chance at life; inmates facing lengthy confinement receive emotional support in a setting where there is precious little of it, while also acquiring a sense of purpose, responsibility, and discipline; and the community benefits because people can adopt an obedient, well-trained dog. Media attention to these programs has helped generate interest in their effectiveness.⁶ There also have been a small number of reports in correctional or psychological journals⁷ and a handful of “human interest” stories in the media or publications focusing on animals (particularly dogs)⁸ attesting to their merit. Veterinary medical practitioners

6. See Christiane Deaton, *Humanizing Prisons with Animals: A Closer Look at “Cell Dogs” and Horse Programs in Correctional Institutions*, 56 J. CORR. EDUC. 46, 47 (2005) (“Animal-assisted programs in correctional institutions have gained increased media attention, especially after the cable channel Animal Planet aired several episodes of its ‘Cell Dogs’ documentary. It features a number of programs in correctional facilities across the country where inmates train dogs either for service to the disabled, or to be adoptable by the public.”); Linda M. Hines, *Historical Perspectives on the Human-Animal Bond*, 47 AM. BEHAV. SCI. 7, 8, 12, 13 (2003).

7. See, e.g., LAI, *supra* note 3, at 4; ALEXANDRIA WENNER, MASSACHUSETTS DEP’T OF CORRECTION, PRISON ANIMAL PROGRAMS: A BRIEF REVIEW OF THE LITERATURE 1–2 (Dec. 2012), <http://www.mass.gov/eopss/docs/doc/research-reports/prisonanimalprograms/literaturereview/final.pdf>; Angela Krom Fournier et al., *Human-Animal Interaction in a Prison Setting: Impact on Criminal Behavior, Treatment Progress, and Social Skills*, 16 BEHAV. & SOC. ISSUES 89, 90–92 (2007); Gennifer Furst, *Prison-Based Animal Programs: A National Survey*, 86 PRISON J. 407, 407, 411–12 (2006); Nan Graham, *Pup & Circumstance*, SALT, July 2014, at 41, 43; Todd Harkrader et al., *Pound Puppies: The Rehabilitative Uses of Dogs in Correctional Facilities*, 66 CORRECTIONS TODAY, Apr. 2004, at 74–75, 77, 79; Marcia Haynes, *Pet Therapy: Program Lifts Spirits, Reduces Violence in Institution’s Mental Health Unit*, CORRECTIONS TODAY, Aug. 1991, at 120, 122; James M. Moneymaker & Earl O. Strimple, *Animals and Inmates: A Sharing Companionship Behind Bars*, 16 J. OFFENDER REHAB. 133, 133–34, 139–40 (1991) [hereinafter Moneymaker & Strimple, *Sharing Companionship*]; Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 70, 76, 77; Wendy G. Turner, *The Experiences of Offenders in a Prison Canine Program*, 71 FED. PROBATION 38, 39, 40, 45, 46 (2007); JACQUELINE VAN WORMER ET AL., DIGGING DEEPER: EXPLORING THE VALUE OF PRISON-BASED DOG HANDLER PROGRAMS (DRAFT), WASH. ST. U., DEP’T OF CRIM. J. & CRIMINOLOGY, <http://www.doc.wa.gov/aboutdoc/measuresstatistics/docs/WADOC-Dog-Program-Manuscript-.pdf>.

8. See, e.g., Meghan Bard, *Prison Puppy Program a Win*, THE SENTINEL & ENTERPRISE (May 15, 2006, 11:36 AM), http://www.sentinelandenterprise.com/ci_3824974; Joseph Berger, *Prison Puppies*, N.Y. TIMES (June 1, 2008), http://www.nytimes.com/2008/06/01/nyregion/nyregionspecial2/01Rpuppies.html?_r=0; Tami Harbolt & Tamara H. Ward, *Teaming Incarcerated Youth with Shelter Dogs For a Second Chance*, 9 SOC’Y & ANIMALS 177, 177–79, 181 (2001); Kirkwood, *supra* note 5, at 17–19; Graham, *supra* note 7, at 41, 43; JENIFER D. DREW ET AL., LASELL COLL., THE POWER OF PRISON PUPS: THE IMPACT OF THE NEADS PROGRAM ON INMATE DOG TRAINERS, MCI/FRAMINGHAM, AND THE COMMUNITY 3 (June 2013) [hereinafter DREW, THE POWER OF PRISON PUPS]; CENTER FOR OUTCOME ANALYSIS, NEW LEASH ON LIFE USA: LONGITUDINAL STUDY OF OUTCOMES AND COSTS, THE FIRST GROUP: QUALITATIVE ANALYSIS 1, 5, 7–8, 11 (Jan. 2012); Nikki S. Currie, *A Case Study of Incarcerated Males Participating in a Canine Training Program* 16–19 (2008) (unpublished Ph.D. dissertation, Kansas State University).

have also noted the importance of the human-animal bond.⁹ Yet, there has been little discussion of PDPs in legal journals.¹⁰

This Article seeks to help fill that void. Part I traces the history of society's reliance on rehabilitation as the guidepost for criminal punishment, the demise of rehabilitation as a legitimate and effective penological theory, and the reappearance of rehabilitation, albeit in a modified form. Part II turns to PDP programs. It discusses their provenance, development, and effectiveness. Part III identifies the need for further study and examination of the effectiveness of those programs, whether correctional agencies should expand their use, and how that can be done. The Article concludes by encouraging Congress and the U.S. Department of Justice to support greater use of PDPs in federal and state correctional systems.

I. THE APPEARANCE, DISAPPEARANCE, AND REAPPEARANCE OF REHABILITATION

Beginning in the Progressive Era, and extending until late in the twentieth century, the primary (if not, to some, the sole) purpose of criminal punishment was the rehabilitation of an errant offender.¹¹ Rehabilitation stemmed from the religious belief that, although society must correct someone who has strayed from accepted communal norms, anyone can be brought back into the fold with

9. See, e.g., BECKER, *supra* note 2, at 135–36; Hines, *supra* note 6, at 9–10.

10. For a notable exception, see Rebecca J. Huss, *Canines (and Cats!) in Correctional Institutions: Legal and Ethical Issues Relating to Companion Animal Programs*, 14 NEV. L.J. 25, 28–30 (2013). There are different types of human-animal prison training programs. Some programs care for horses or allow cats in prisons. See Deaton, *supra* note 6, at 50–52, 55–59 (discussing programs involving horses); Huss, *supra*, at 28 (discussing programs involving cats); Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 73, 76–77 (discussing programs involving both). This Article will focus on PDPs because dogs are the primary animals used in such programs. See, e.g., Furst, *supra* note 7, at 420. Moreover, different PDPs have different goals. Some, like the Puppies Behind Bars program in New York, New Jersey, and Connecticut, focus on the particular needs of veterans returning home from battle. Berger, *supra* note 8. Finally, “working dogs” help people in numerous other ways. Some are trained for work in the military. Others sniff out bombs, drugs, chemical agents, and the like. Dogs are also used to assist children as they grapple with the criminal justice system, for example, when they testify. See, e.g., REBECCA FRANKEL, WAR DOGS 6 (2014); CAT WARREN, WHAT THE DOG KNOWS: SCENT, SCIENCE, AND THE AMAZING WAYS DOGS PERCEIVE THE WORLD xiv (2013); HANDBOOK OF ANIMAL-ASSISTED THERAPY, *supra* note 2, at 295–302; Ethan Hauser, *Puppies Go to Prison to Become Dogs That Save Lives*, N.Y. TIMES (July 27, 2015), http://www.nytimes.com/2015/07/28/science/dogs-trained-in-prison-to-protect-lives.html?_r=0. Those subjects are beyond the scope of this Article.

11. See, e.g., *Williams v. New York*, 337 U.S. 241, 248–49 (1949) (“Retribution is no longer the dominant objective of the criminal law. Reformation and rehabilitation of offenders have become important goals of criminal jurisprudence.”); TRANSACTIONS OF THE NATIONAL CONGRESS ON PENITENTIARY AND REFORMATORY DISCIPLINE 18 (1871) (“[T]he protection of society against criminal spoliation through the reformation of the transgressor . . . is the primary aim of public punishment.”).

the proper treatment.¹² New medical, sociological, and psychological theories, along with their contemporary developments in legal techniques such as probation and parole, could be used to treat and reform prisoners—in a word, to “cure” them—rather than punish them.¹³ “[R]ehabilitation, not retribution, incapacitation, or deterrence, became the paramount goal of the criminal process,” with everyone—legislatures, judges, and parole officials—playing a separate but complementary role.¹⁴

In the twenty-first century, rehabilitation no longer serves as the *raison d’être* of the criminal justice system. Beginning fifty years ago, rehabilitation came under withering attack on several grounds: it coddled prisoners; it enabled prison officials to arbitrarily select inmates for release; and, what is possibly the worst criticism that someone can levy against any program in America, it didn’t work. Society abandoned the so-called rehabilitative ideal, legislatures adopted increasingly punitive punishments; prisons shifted their approach from reforming inmates to warehousing them; and prison officials shelved whatever rehabilitation programs they had used for decades. Retribution, incapacitation, and deterrence took the place of rehabilitation.¹⁵

Yet, it would be a mistake to believe that society has buried the rehabilitative ideal. Congress prohibited district courts from considering rehabilitation when deciding whether (and for how long) to imprison a convicted offender,¹⁶ but

12. There was a decidedly religious bend to rehabilitative theory. See FRANCIS T. CULLEN & CHERYL LERO JONSON, *CORRECTIONAL THEORY: CONTEXT AND CONSEQUENCES* 28–29 (2012) (“[F]rom the inception of the penitentiary, prisons and rehabilitation were seen as inextricably mixed. Again, an important reason for this link was *the religious nature of the penitentiary*. For reformers, Christianity fostered the dual views that offenders both can and should be saved from a life in crime. To relinquish this optimism would be tantamount to condemning offenders to damnation on earth and in the afterlife. . . . The dangerous classes—the poor, the immigrant, the uneducated—were not to be warehoused or portrayed as beyond redemption. Rather, they were all God’s children, and the mandate was to save them from a life in crime.”).

13. See, e.g., MARIE GOTTSCHALK, *THE PRISON AND THE GALLOWS: THE POLITICS OF MASS INCARCERATION IN AMERICA* 37–39 (2006); DAVID GARLAND, *THE CULTURE OF CONTROL: CRIME AND SOCIAL ORDER IN CONTEMPORARY SOCIETY* 34–40, 55–60, 92 (2001); DAVID J. ROTHMAN, *CONSCIENCE AND CONVENIENCE: THE ASYLUM AND ITS ALTERNATIVES IN PROGRESSIVE AMERICA* 558 (1980); Mark C. Dean-Myrda & Francis T. Cullen, *The Panacea Pendulum: An Account of Community as a Response to Crime*, in *PROBATION, PAROLE, AND COMMUNITY CORRECTIONS: A READER* 9 (Lawrence F. Travis ed., 1985); Edgardo Rotman, *The Failure of Reform: United States, 1865–1965*, in *THE OXFORD HISTORY OF THE PRISON: THE PRACTICE OF PUNISHMENT IN WESTERN SOCIETY* 169–71, 175–78 (Norval Morris & David J. Rothman eds., 1995).

14. See, e.g., Paul J. Larkin, Jr., *Parole: Corpse or Phoenix?*, 50 *AM. CRIM. L. REV.* 303, 309–10 (2013) [hereinafter Larkin, *Parole*].

15. See, e.g., Paul J. Larkin, Jr., *Clemency, Parole, Good-Time Credits, and Crowded Prisons: Reconsidering Early Release*, 11 *GEO. J. L. & PUB. POL’Y* 1, 8–10 (2013) [hereinafter Larkin, *Early Release*].

16. See, e.g., 18 U.S.C. § 3582(a) (2012) (referencing 18 U.S.C. § 3553(a) (2012)) (providing that a district court may not consider the possibility of rehabilitation when deciding whether to

Congress authorized those courts to require rehabilitative programs as a condition of probation or supervised release.¹⁷ Congress has empowered the Federal Bureau of Prisons (BOP) to determine what educational, vocational, or substance abuse treatment programs are best for each incarcerated inmate.¹⁸ Congress has also directed the BOP to help released offenders reintegrate into the community.¹⁹ The bottom line is that even if rehabilitation is no longer seen as the *sine qua non* legitimate rationale for punishment, it remains a worthwhile goal that can be combined with other justifications.²⁰ To paraphrase F. Scott

imprison an offender or for how long to incarcerate him); 28 U.S.C. § 994(k) (2012) (providing that the U.S. Sentencing Commission may not consider rehabilitation when promulgating guidelines); *Tapia v. United States*, 564 U.S. 319, 324–25 (2011); *Mistretta v. United States*, 488 U.S. 361, 367 (1989).

17. *See, e.g.*, 18 U.S.C. § 3563(a)(4) (2012) (providing that the domestic violence offender rehabilitation program is a mandatory condition of probation); *id.* § 3563(b)(9) (providing that medical, psychiatric, or substance abuse treatment is a discretionary condition of probation); *id.* § 3583(d) (providing that the domestic violence offender rehabilitation program is a mandatory condition of supervised release); *Tapia*, 564 U.S. at 330.

18. *See, e.g.*, 18 U.S.C. § 3621(e) (2012) (substance abuse treatment); *id.* § 3621(f) (sex offender treatment); *Tapia*, 564 U.S. at 329–31.

19. 42 U.S.C. § 17501(a); *see* S. REP. NO. 111-229, at 72-73 (2010) (“The Second Chance Act (Public Law 110-199) imposed new requirements on BOP to facilitate the successful reentry of offenders back into their communities and reduce the rate of recidivism. Among those requirements are the establishment of recidivism reduction goals and increased collaboration with State, tribal, local, community, and faith-based organizations to improve the reentry of prisoners.”); H.R. REP. NO. 111-149, at 71 (2009) (“The Second Chance Act clarified that BOP has the authority to place offenders in community corrections, including residential reentry centers (RRCs), for up to twelve months to facilitate their successful reentry and reduce recidivism. In addition, the Act directed BOP to provide incentives, such as increased time in community corrections, to encourage prisoners to fully participate in skills development programs. The Second Chance Act also makes clear that community corrections may include a period of home confinement for up to the shorter of ten percent of an offender’s term of imprisonment or six months.”); S. REP. NO. 110-397, at 72–73 (2008) (appropriations recommendation for Second Chance Act); H.R. REP. NO. 110-919, at 110 (2008); H.R. REP. NO. 110-140, at 1 (2007) (committee report accompanying House version of the act); *see also id.* at 3 (discussing the Serious and Violent Offender Re-entry Initiative (SVORI), a collaborative effort to improve prisoner reintegration into the community by underwriting creation of large, multi-site state and local prisoner reentry initiatives); PAMELA K. LATTIMORE ET AL., PRISONER REENTRY SERVICES: WHAT WORKED FOR SVORI EVALUATION PARTICIPANTS? (2012) (discussing the SVORI). The Council on State Governments and the National Governors Association have shown an interest in helping prisoners successfully re-enter the community. *See* Jeremy Travis & Christy Visher, *Viewing Crime and Public Safety Through the Reentry Lens*, in PRISONER REENTRY AND CRIME IN AMERICA 1–2 (Jeremy Travis & Christy Visher eds., 2005).

20. Larkin, *Early Release*, *supra* note 15, at 31–34.

Fitzgerald, there may be no second acts for Americans,²¹ but there may be some opportunity for a “do-over.”²²

The problem is finding an effective rehabilitative program. In the 1960s and 1970s, commentators on the right and the left had deemed such programs an abject failure.²³ Precious few inmates were being or could be rehabilitated, they said. In fact, it was unrealistic to believe that rehabilitation was possible in an environment chock full of society’s most flagrant, violent, and repeat offenders. Prison is the worst possible environment to attempt lasting moral or social reforms.²⁴ “Trying to predict someone’s success in society by observing him in a prison is like trying to predict his success as an aviator by watching him in a submarine.”²⁵

As daunting as the prospect may be, the federal and state governments have a strong interest in finding successful rehabilitative programs. There is evidence that some in-prison services—such as basic adult education programs,

21. Robert McCrum, *Great Scott! Fitzgerald is Enjoying a Third Act*, THE GUARDIAN (Feb. 4, 2012 19, 7:05 PM), <http://www.guardian.co.uk/books/2012/feb/05/scott-fitzgerald-gatsby-mccrum>.

22. Larkin, *Early Release*, *supra* note 15, at 32; *see* CULLEN & JONSON, *supra* note 12, at 29 (“[T]he belief that a core function of prisons should be rehabilitation is woven deeply into the nation’s cultural fabric. This belief in reforming offenders may become frayed at times, but it is durable enough to avoid becoming fully unravelled.”).

23. *See, e.g.*, DOUGLAS LIPTON ET AL., THE EFFECTIVENESS OF CORRECTIONAL TREATMENT: A SURVEY OF TREATMENT EVALUATION STUDIES 559–60 (1975); Robert Martinson, *What Works?—Questions and Answers About Prison Reform*, 35 PUBLIC INTEREST 22, 23, 25 (1974) (concluding that there was no reliable evidence that rehabilitation had worked or could work); THE REHABILITATION OF CRIMINAL OFFENDERS: PROBLEMS AND PROSPECTS 31 (Lee Sechrest et al. eds., 1979) (agreeing with Martinson); JAMES Q. WILSON, THINKING ABOUT CRIME 189–90, 247 n.18–20 (1975) (citing studies concluding that rehabilitative efforts had been unsuccessful); *id.* at 193 (arguing the purpose of the correctional system should be “to isolate and to punish, not to reform,” because we do “not know how to do much else”); Larkin, *Parole*, *supra* note 14, at 313–15; *see generally* *Mistretta v. United States*, 488 U.S. 361, 363, 366–67 (1989); S. REP. NO. 98-225, at 38–40 (1983); CULLEN & JONSON, *supra* note 12, at 33. Martinson backpedaled somewhat a few years later, *see* Robert Martinson, *New Findings, New Views: A Note of Caution Regarding Sentencing Reform*, 7 HOFSTRA L. REV. 243, 253–54 (1979), but his initial views continued to hold sway over public opinion, *see* CULLEN & JONSON, *supra* note 12, at 33. America was not the only nation to doubt the effectiveness of rehabilitation. Great Britain, Canada, and Australia did so too. *See* GOTTSCHALK, *supra* note 13, at 39.

24. THE CHALLENGE OF CRIME IN A FREE SOCIETY, A REPORT BY THE PRESIDENT’S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE 159 (1967), <https://www.ncjrs.gov/pdffiles1/nij/42.pdf> (“Life in many institutions is at best barren and futile, at worst unspeakably brutal and degrading. To be sure, the offenders in such institutions are incapacitated from committing further crimes while serving their sentences, but the conditions in which they live are the poorest possible preparation for their successful reentry into society, and often merely reinforce in them a pattern of manipulation or destructiveness.”); *see also* S. REP. NO. 98-225, at 38 (1983).

25. Larkin, *Parole*, *supra* note 14, at 314–15 (attributing that line to Professor Albert Alschuler).

vocational and technical training, GED classes, cognitive-behavioral drug or alcohol treatment, life skills training (e.g., managing a checking account)—may reduce recidivism,²⁶ and they cost less than the expense of incarceration.²⁷ But those programs do not stand alone. Among the ones that hold promise are PDPs, prisoner-dog training programs, which use inmates to train dogs who are slated to become service dogs or a member of someone’s family.

II. THE DEVELOPMENT OF PRISONER-DOG PROGRAMS

A. *The Relationship Between Humans and Dogs*

The origin of the relationship between humans and dogs is lost to history.²⁸ There is a consensus that dogs descended from wolves,²⁹ but considerable disagreement as to where and when the transition from wild to domesticated animals began.³⁰ Different researchers have placed that transition in Europe, the

26. See Francis T. Cullen, *Rehabilitation and Treatment Programs*, in *CRIME: PUBLIC POLICIES FOR CRIME CONTROL* 253, 259–276, 287 (James Q. Wilson & Joan Petersilia eds., 2002); MICHAEL JACOBSON, *DOWNSIZING PRISONS* 180 (2005) (listing “academic skills training, vocational skills training, cognitive skills programs, and drug treatment and sex-offender intervention programs”); Joan Petersilia, *Community Corrections*, in *CRIME: PUBLIC POLICIES FOR CRIME CONTROL* 483, 500–02 (drug treatment programs); *id.* at 502–04 (work programs such as Texas’s Re-Integration Program (RIO), New York City’s Center for Employment Opportunities, and Chicago’s Safer Foundation); Richard Rosenfeld et al., *The Contribution of Ex-Prisoners to Crime Rates*, in Travis & Visher, *supra* note 19, at 80, 92.

27. See H.R. REP. NO. 112–169, at 40 (2011) (“[C]ase studies of innovative, evidence-based practices provide a strong indication” that the unchanged, high reincarceration rates for released offenders in the past twenty years “can be reversed”); H.R. REP. NO. 110–140, at 5 (2007); JOAN PETERSILIA, *WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY* 4 (2003); Larkin, *Early Release*, *supra* note 15, at 33 n.193.

28. No torch illuminates those shadows. As two of England’s most famous legal historians once noted, before the seventh century “the trail stops, the dim twilight becomes darkness” because “we pass from an age in which men seldom write their laws, to one in which they cannot write at all. Beyond lies the realm of guesswork.” FREDERIC W. MAITLAND & FRANCIS C. MONTAGUE, *A SKETCH OF ENGLISH LEGAL HISTORY* 3 (1915). And they were referring to the seventh century *Anno Dominae* (or *Common Era*).

29. See, e.g., RAYMOND COPPINGER & LORNA COPPINGER, *DOGS: A NEW UNDERSTANDING OF CANINE ORIGIN, BEHAVIOR, AND EVOLUTION* 41 (2001); MARK DERR, *HOW THE DOG BECAME THE DOG: FROM WOLVES TO OUR BEST FRIENDS* 86–87 (2013) [hereinafter DERR, *HOW THE DOG BECAME THE DOG*]; DARCY F. MOREY, *DOGS: DOMESTICATION AND THE DEVELOPMENT OF A SOCIAL BOND* 17–19 (2010); MARY ELIZABETH THURSTON, *THE LOST HISTORY OF THE CANINE RACE: OUR 15,000-YEAR LOVE AFFAIR WITH DOGS* 3 (1996); XIAOMING WANG AND RICHARD H. TEDFORD, *DOGS: THEIR FOSSIL RELATIVES AND EVOLUTIONARY HISTORY* 153–154 (2008).

30. See, e.g., Carl Zimmer, *Wolf to Dog: Scientists Agree on How, but Not Where*, N.Y. TIMES (Nov. 14, 2013), <http://www.nytimes.com/2013/11/14/science/wolf-to-dog-scientists-agree-on-how-but-not-where.html?action=click&contentCollection=Science&module=RelatedCoverage®ion=Marginalia&pgtype=article>. In fact, the last decade has witnessed a growing and lively debate over those subjects as scientists find new dog bones at archaeological sites and use DNA testing to evaluate their ancestry. See, e.g., Laurent A. F. Frantz et al., *Genomic and Archaeological*

Middle East, Africa, or Asia and say that it happened as recently as 9,000 to 15,000 years ago, or as remotely as 30,000 to 135,000 years ago.³¹

The traditional explanation is that, approximately 15,000 years ago, wolves followed tribes of hunters and gatherers as they searched for food and scavenged the animal remains that nomadic humans could not carry with them or later threw away as garbage. Humans accommodated the wolves, because they served to warn humans about more dangerous predators, and selected the tamer ones as hunting companions and guard dogs, which made early humans more efficient hunters and enabled them to sustain a larger population.³² Over time, humans bred the tame wolves into today's dogs.

Evidence Suggest a Dual Origin of Domestic Dogs, 352 SCI. 1228, 1228 (2016); Adam H. Freedman et al., *Genome Sequencing Highlights the Dynamic Early History of Dogs*, 10 PLOS GENETICS e1004016, at 2 (2014); Greger Larson et al., *Rethinking Dog Domestication by Integrating Genetics, Archaeology, and Biogeography*, 109 PROCEEDINGS NAT'L ACAD. SCI. 8878, 8878-79 (2012); Ed Yong, *A New Origin Story for Dogs*, THE ATL. (June 2, 2016).

31. For a sampling of the different views, see Adam R. Boyko, et al., *Complex Population Structure in African Village Dogs and its Implications for Inferring Dog Domestication History*, 106 PROCEEDINGS NAT'L ACAD. SCI. 13,903, 13,903 (2009); Mietje Germonpre et al., *Fossil Dogs and Wolves from Paleolithic Sites in Belgium, the Ukraine and Russia: Osteometry, Ancient DNA and Stable Isotopes*, 36 J. ARCHAEOLOGICAL SCI. 473, 473 (2008); Nikolai D. Ovodov et al., *A 33,000-Year-Old Incipient Dog from the Altai Mountains of Siberia: Evidence of the Earliest Domestication Disrupted by the Last Glacial Maximum*, 6 PLOS ONE e22,821, at 1, 6 (2011); Jun-Feng Pang et al., *mtDNA Date Indicate a Single Origin for Dogs South of Yangtze River, Less Than 16,300 Years Ago, from Numerous Wolves*, 26 MOL. BIOL. EVOL. 2849 (2009); Maud Pionnier-Capitan et al., *New Evidence for Upper Paleolithic Small Domestic Dogs in South-Western Europe*, 38 J. ARCHAEOLOGICAL SCI. 2123, 2138 (2011); Laura M. Shannon et al., *Genetic Structure in Village Dogs Reveals a Central Asian Domestication Origin*, 112 PROCEEDINGS NAT'L ACAD. SCI. 13,639, 13,639 (2015); Peter Savolainen et al., *Genetic Evidence for an East Asian Origin of Domestic Dogs*, 298 SCI. 1610, 1613 (2002); Pontus Skoglund et al., *Ancient Wolf Genome Reveals an Early Divergence of Domestic Dog Ancestors and Admixture into High-Latitude Breeds*, 25 CURRENT BIOLOGY 1515, 1517 (2015); O. Thalmann et al., *Complete Mitochondrial Genomes of Ancient Canids Suggest a European Origin of Domestic Dogs*, 342 SCI. 871, 871-72 (2013); Carles Vila et al., *Multiple and Ancient Origins of the Domestic Dog*, 276 SCI. 1687, 1689 (1997); Guo-Dong Wang et al., *Out of Southern East Asia: The Natural History of Domestic Dogs Across the World*, 26 CELL RES. 21, 22, 25 (2016); see also James Gorman, *Family Tree of Dogs and Wolves Is Found to Split Earlier Than Thought*, N.Y. TIMES (May 21, 2015), <http://www.nytimes.com/2015/05/22/science/family-tree-of-dogs-and-wolves-is-found-to-split-earlier-than-thought.html?action=click&contentCollection=Science&module=RelatedCoverage®ion=Marginalia&pgtype=article>; James Gorman, *15,000 Years Ago, Probably in Asia, the Dog Was Born*, N.Y. TIMES (Oct. 19, 2015), <http://www.nytimes.com/2015/10/20/science/central-asia-could-be-birthplace-of-the-modern-dog.html?action=click&contentCollection=Science&module=RelatedCoverage®ion=EndOfArticle&pgtype=article>. Dating back approximately 32,000 years, found inside Southern France's Chauvet Caves, are early cave paintings that depict men and wolves. The caves also contain what appear to be 26,000-year-old side-by-side footprints of a young boy and a canine companion. Mark Derr, *From the Cave to the Kennel*, WALL ST. J. (Oct. 29, 2011), <http://www.wsj.com/articles/SB10001424052970203554104577001843790269560> (last visited February 5, 2017) [hereinafter Derr, *From the Cave*].

32. See COPPINGER & COPPINGER, *supra* note 29, at 41-57; Robin McKie, *How Hunting With Wolves Helped Humans Outsmart the Neanderthals*, THE GUARDIAN (Feb. 28, 2015, 19:05 ET),

The current theory explains the domestication process differently. Humans abandoned a nomadic life in favor of establishing villages near stable food supplies. Relatively tame wolves wandered into the villages of early civilizations in search of food; their genetic differences (e.g., smaller size, lesser need for protein) allowed them to survive on the remnants of humans' meals; wolf-human contacts increased; and humans eventually kept and bred the more docile wolves into today's dogs. Over time, humans and dogs evolved together, each one helping the other to become more social and, in the process, generating between them a bond that is vastly more than a business partnership.³³

B. The Growth of Animal-Assisted Therapy

However, wherever, and whenever the partnership between humans and dogs first developed, in the United States it has become a "mutually beneficial and enduring" relationship.³⁴ In fact, the bond between humans and dogs is akin to the one normally seen among members of the same nuclear family unit.³⁵ Early

<https://www.theguardian.com/science/2015/mar/01/hunting-with-wolves-humans-conquered-the-world-neanderthal-evolution>; Froma Walsh, *Human-Animal Bonds I: The Relational Significance of Companion Animals*, 48 FAM. PROCESS 462, 463 (2009) (hereinafter Walsh, *Human-Animal Bonds I*) ("Valued for their intelligence, keen senses, and loyalty, early dogs were respected as guardians, guides, and equal partners in hunting and fishing. By 9,000 years ago, both dogs and cats assumed crucial roles in developing agricultural communities. Dogs assisted in herding and farming, while cats eliminated rodents that brought disease and threatened grain harvests. Although treated as subservient to their human masters, both became increasingly valued as companions.").

33. See, e.g., COPPINGER & COPPINGER, *supra* note 29, at 57–58; cf. Derr, *From the Cave*, *supra* note 31 ("For decades, the story told by science has been that today's dogs are the offspring of scavenger wolves who wandered into the villages established by early humans at the end of the last ice age, about 15,000 years ago. This view emphasizes simple biological drive—to feed on human garbage, the scavenging wolf had to behave in a docile fashion toward humans. And—being human—we responded in kind, seeking out dogs for their obsequiousness and unconditional devotion. As the story goes, these tame wolves bred with other tame wolves and became juvenilized. Think of them as wolves-lite, diminished in strength, stamina and brains. They resembled young wolves, with piebald coats, floppy ears and shorter, weaker jaws. Pleading whiners, they drowned their human marks in slavish devotion and unconditional love. Along the way, they lost their ability to kill and consume their prey. . . . This account is now falling apart in the face of new genetic analyses and recently discovered fossils. The emerging story sees humans and proto-dogs evolving together: We chose them, to be sure, but they chose us too, and our shared characteristics may well account for our seemingly unshakable mutual intimacy.").

34. Derr, *From the Cave*, *supra* note 31; see also, e.g., MARK DERR, DOG'S BEST FRIEND: ANNALS OF THE DOG-HUMAN RELATIONSHIP 4 (2004) [hereinafter DERR, DOG'S BEST FRIEND]; Alan M. Beck, *Companion Animals and Their Companions: Sharing a Strategy for Survival*, 19 BULL. SCI., TECH., & SOC'Y 281, 281–83 (1999).

35. As one scholar has described it:

[W]e allow them the run of our houses, give them personal names, and treat them as honorary members of the family. We stroke them, cuddle them, play with them, groom them and ensure that they receive all the exercise and social contact they need to keep them healthy and happy. They are regularly supplied with specially prepared, vitamin-enriched food, provided with warm

religions and literature touted the divine origin of dogs and lionized their faithful nature.³⁶ In today's more secular times, the relationship is described with emotional-laden terms. As one author put it, "At the heart of the relationship with pets is a unique affectionate bond. Quite simply, people love their pets."³⁷ People also reap what they sow. "Pets that are well-treated offer, in return, love, loyalty, and devotion that is unconditional, consistent, and nonjudgmental."³⁸

People also appreciate and benefit from even short-term or transient relationships with dogs that are not part of their family.³⁹ More than a century ago, Florence Nightingale commented that the presence of pets can ease the

and comfortable places to sleep, and at the first signs of illness, are immediately taken to expensive and highly trained doctors. And when they eventually expire, they are mourned like departed loved ones, even to the extent of being buried with full ceremonial honors.

SERPELL, IN THE COMPANY OF ANIMALS (Canto ed.), *supra* note 1, at 14; *see also* Diana Schaub, *Dog's Best Friend*, THE NEW ATLANTIS 81 (Winter-Spring 2013); Froma Walsh, *Human-Animal Bonds II: The Role of Pets in Family Systems and Family Therapy*, 48 FAM. PROCESS 481, 483–85, 487 (2009) [hereinafter Walsh, *Human-Animals Bonds II*]. It therefore is not surprising that the public spends billions of dollars each year on pet food, supplies, and medical treatment. SERPELL, IN THE COMPANY OF ANIMALS (Canto ed.), *supra* note 1, at 14–16.

36. *See* SERPELL, IN THE COMPANY OF ANIMALS (Canto ed.), *supra* note 1, at 74–75. Ancient Egyptians revered dogs and attributed them to the Egyptian god Anubis, the divine jackal who led the dead through the Hall of Truth. Some ancient Egyptians viewed their dogs as family members so they would perform intricate passing ceremonies upon the death of their dog, often involving mummification and burial in the tomb of the owner. Aztec myth stated that, Xoltol, the Aztec god of death depicted as a giant god, would send dogs to the souls of the dead to serve as a guide to the afterlife. The oldest known Mesopotamian story from the Near East, dating between 2150 and 1400 BCE, *The Descent of Innana*, honors the role of dogs as man's companion and fellow hunter, as the goddess Innana ventures to the underworld accompanied by her seven prized hunting dogs. Joshua Mark, *Dogs in the Ancient World*, in ANCIENT HISTORY ENCYCLOPEDIA (2014), <http://www.ancient.eu/article/184/> (last accessed June 20, 2016); *see also* Walsh, *Human-Animal Bonds I*, *supra* note 32, at 463 ("Dogs were considered such loyal companions during life that they were revered as guides in the afterlife. When a pet dog died, the owners shaved off their eyebrows, smeared mud in their hair, and mourned aloud for days. Even commoners scraped together enough money to embalm and mummify their dogs and buried them in one of Egypt's many animal necropolises. . . . During the early Greek and Roman empires, dogs were commonly kept as hunters, herders, and guardians, but were also treated as loyal, beloved pets. . . . In early Greek literature, Homer wrote about the dog's fidelity in *The Odyssey*. When Odysseus arrived home after an absence of many years, disguised as a beggar, the only one to recognize him was his aged dog, Argus, who wagged his tail at his master and then died. Animal burials in ancient Greece and Rome revealed their significance to human companions. The intentional wording of epithets described the merits of the animal and their owner's sorrow at their death. In the ruins of Pompeii, stretched out beside the remains of a child were the bones of a dog named Delta—identified by his engraved silver collar.").

37. Walsh, *Human-Animal Bonds I*, *supra* note 32, at 471; DERR, DOG'S BEST FRIEND, *supra* note 34, at 4 ("By most reliable surveys, 38 percent of the households in the United States have one or more dogs—estimated at 50 to 57 million—while only 35 percent have children.").

38. Walsh, *Human-Animal Bonds I*, *supra* note 32, at 471.

39. *See, e.g.*, Rebecca Johnson et al., *Animal-Assisted Interventions Research: Issues and Answers*, 24 W. J. NURSING RES. 422, 426 (2002).

suffering of long-term hospital patients through their compassion and friendship.⁴⁰ Dogs have been widely used in visitational or residential AAT programs⁴¹ because evidence shows that human-dog interactions generate numerous benefits.⁴² For example, human-animal interactions, such as petting a dog, produce immediate physiological benefits (e.g., lowered heart rate, blood pressure, cholesterol, and stress levels). Studies have shown that people with pets need fewer visits to a physician, have briefer hospital stays, and recuperate from injury or illness more rapidly.⁴³ Human-animal interactions help people cope with chronic illnesses (e.g., cancer, heart disease), debilitating psychological conditions (e.g., feelings of loneliness, autism, ADHD), and severe mental illnesses or developmental disabilities (e.g., schizophrenia,

40. Harkrader, *supra* note 7.

41. Animal-assisted therapy has relatively deep roots. In 1792, a Quaker group in York, England, tried to use farm animals to teach self-control to mentally ill patients. See SERPELL, IN THE COMPANY OF ANIMALS, *supra* note 36, at 76, 92; Deaton, *supra* note 6, at 49–50.

42. See, e.g., BECKER, *supra* note 2, at 154–56; CUSACK, *supra* note 2, at 162–65; LAI, *supra* note 3, at 6–8; LEVINSON, PET-ORIENTED CHILD PSYCHOTHERAPY, *supra* note 1, at 135–37; ANIMAL-ASSISTED PSYCHOTHERAPY: THEORY, ISSUES, AND PRACTICE 431–32 (Nancy Parish-Plass ed., 2013); Sandra B. Barker & Kathryn S. Dawson, *The Effects of Animal-Assisted Therapy on Anxiety Ratings of Hospitalized Psychiatric Patients*, 49 PSYCHIATRIC SERVS. 797, 797–98 (1998); Patty S. Beyersdorfer & Donna M. Birkenhauer, *The Therapeutic Use of Pets on an Alzheimer's Unit*, AM. J. ALZHEIMER'S CARE & RELATED DISORDERS & RES. 13, 16 (1990); Carl J. Charnetski et al., *Effect of Petting a Dog on Immune System Function*, 94 PSYCH. REP. 1087, 1087–88 (2004); Giovanni Colombo et al., *Pet Therapy and Institutionalized Elderly: A Study on 144 Cognitively Unimpaired Subjects*, 42 ARCHIVES OF GERONTOLOGY & GERIATRICS 207 (2006); Samuel A. Corson et al., *Pet Dogs as Nonverbal Communication Links in Hospital Psychiatry*, 18 COMPREHENSIVE PSYCHIATRY 61, 61 (1977); Susan L. Filan & Robert H. Llewellyn-Jones, *Animal-Assisted Therapy for Dementia: A Review of the Literature*, 18 INT'L PSYCHOGERIATRICS 597, 599, 603 (2006); HANDBOOK OF ANIMAL-ASSISTED THERAPY, *supra* note 2, at 5–6; Erika Friedmann & Sue A. Thomas, *Pet Ownership, Social Support, and One-Year Survival After Acute Myocardial Infarction in the Cardiac Arrhythmia Suppression Trial (CAST)*, 76 AM. J. CARDIOLOGY 1213, 1215–17 (1995); Erika Friedmann et al., *Animal Companions and One-Year Survival of Patients After Discharge From a Coronary Care Unit*, 95 PUB. HEALTH REP. 307, 308, 310 (1980); Annette M. Geisler, *Companion Animals in Palliative Care: Stories from the Bedside*, 21 AM. J. OF HOSPICE & PALLIATIVE MED. 285, 285–86 (2004); Rebecca A. Johnson et al., *Human-Animal Interaction: A Complimentary/Alternative Medical (CAM) Intervention for Cancer Patients*, 47 AM. BEHAV. SCIENTIST 55, 66 (2003); Mary Kaminski et al., *Play and Pets: The Physical and Emotional Impact of Child-Life and Pet Therapy on Hospitalized Children*, 31 CHILDREN'S HEALTH CARE 321, 327–29 (2002); Ira B. Perelle & Diane A. Granville, *Assessment of the Effectiveness of a Pet Facilitated Therapy Program in a Nursing Home Setting*, 1 SOC. & ANIMALS 91, 92–98 (1993); James A. Serpell, *Beneficial Effects of Pet Ownership on Some Aspects of Human Health and Behavior*, 84 J. ROYAL SOC. MED. 717, 719 (1991); Javier Virues-Ortega & Gualberto Buela-Casal, *Psychophysiological Effects of Human-Animal Interaction: Theoretical Issues and Long-Term Interaction Effects*, 194 J. NERVOUS & MENTAL DISEASE 52, 52–56 (2006); Walsh, *Human-Animal Bonds I*, *supra* note 32, at 462, 466–67; Deborah L. Wells, *The Effects of Animals on Human Health and Well-Being*, 65 J. SOC. ISSUES 523, 523–25 (2009).

43. See, e.g., BECKER, *supra* note 2, at 6.

depression).⁴⁴ And they ease one's end-of-life passage (e.g., anxiety).⁴⁵ That is why dogs are often used to visit patients and residents in hospitals, nursing homes, long-term care facilities, psychiatric wards, dementia units, and hospices.⁴⁶ The dogs, residents, and staff all enjoy and benefit from the interactions because a dog allows someone to feel respected, needed, and loved. In the words of one veterinarian, "animal rescues don't necessarily have to come in the form of a dog dragging you from a burning building to qualify as heroic. Just as often, pets perform heroic rescues on a daily basis, just by being there during times of need."⁴⁷

C. The Development of Prisoner-Dog Programs

The success in AAT over the last few decades has led to their use for a very different population in a very different setting: inmates in a prison or juvenile detention facility. It also happened by accident. A psychiatric worker at the Oakwood Forensic Center (previously the Lima State Hospital for the Criminally Insane) noticed improvements in inmates' behavior after they began caring for an injured bird found in the yard.⁴⁸ The facility decided to conduct an experiment by allowing one of two wards to care for a pet.⁴⁹ After a year, the officials discovered that the ward with animals saw a reduction by half in the incidence of violence and suicide attempts, as well as in the amount of medication used.⁵⁰ The facility decided to implement a permanent animal-assisted treatment program.⁵¹ Six years later, Sister Pauline Quinn (previously Kathy Quinn), a former psychiatric patient who had experienced the therapeutic benefits of AAT, established the nation's first PDP at the Washington Corrections Center for Women.⁵² The program was a success for the inmates and the dogs: "The women experienced increased self-esteem, developed a

44. See, e.g., Geisler, *supra* note 42, at 286; Friedmann & Thomas, *supra* note 42, at 1215–17; Filan & Llewellyn-Jones, *supra* note 42, at 603; Barker & Dawson, *supra* note 42, at 797–98.

45. See, e.g., Geisler, *supra* note 42, at 286.

46. See, e.g., Walsh, *Human-Animal Bonds I*, *supra* note 32, at 466–67, 469, 473–74.

47. BECKER, *supra* note 2, at 9.

48. CUSACK, *supra* note 2, at 162–64.

49. *Id.* at 163.

50. *Id.*

51. LAI, *supra* note 3, at 6–7.

52. See CUSACK, *supra* note 2, at 167–68; SERPELL, IN THE COMPANY OF ANIMALS, *supra* note 36, at 36; WENNER, *supra* note 7, at 1; Deaton, *supra* note 6, at 50; Furst, *supra* note 7, at 413. Sister Quinn attributed her recovery from past trauma to the unconditional love she experienced while participating in AAT. Susan King, *Tails of Inspiration*, L.A. TIMES (Aug. 19, 2001), <http://articles.latimes.com/2001/aug/19/news/tv-35993>; Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 72. For earlier efforts at AAT, see Furst, *supra* note 7, at 409 (detailing the use of AAT with the mentally ill and with airmen recovering from service-related injuries); Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 72 (recounting how an AAT program developed in an Ohio mental facility after a psychiatrist saw patients caring for an injured bird).

marketable skill, and earned college credits,” while “[d]ogs that would have otherwise been killed were trained to help people with special needs.”⁵³

The idea caught on. Sister Quinn herself helped start seventeen other PDPs, and other correctional systems followed, at first along the East Coast, but eventually nationwide.⁵⁴ Over time, numerous correctional systems in more than forty states⁵⁵ and the federal government adopted PDP programs.⁵⁶ The programs have various names—such as Pawsitive Partners Prison Program,⁵⁷

53. Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 72.

54. WENNER, *supra* note 7, at 1; *see Huss, supra* note 10, at 25–26; *see also, e.g.*, Amy Drew, *Tennessee Inmate Program Graduates Service Dogs*, LIFE WITH DOGS (Apr. 17, 2016), <http://www.lifewithdogs.tv/2016/04/tennessee-inmate-program-graduates-service-dogs/> [hereinafter Drew, *Tennessee Inmate Program*]; Matt Petrillo, *Prison Adopts Puppies for Good Behavior*, ABC NEWS WNEP 16, COLUMBIA, S.C. (Apr. 26, 2016, 4:59 PM), <http://wnep.com/2016/04/26/prison-adopts-puppies-for-good-behavior/>.

55. *See infra* Appendix.

56. *See* Graham Brink, *Time to Train*, ST. PETERSBURG TIMES (Feb. 25, 2001), http://www.sptimes.com/News/022501/Hillsborough/Time_to_train.shtml (describing the first BOP PDP graduation). The Federal Bureau of Prisons (BOP) operates PDPs such as the Veterans-to-Veterans Service Dog Training Program in the Morgantown Federal Correctional Institution (FCI) in West Virginia. *See generally* FEDERAL BUREAU OF PRISONS, DEP’T OF JUSTICE, MAKING CHANGES (Apr. 2016); Federal Bureau of Prisons, Dep’t of Justice, FCI Morgantown Begins Service Dog Training Program (Feb. 12, 2014), https://www.bop.gov/resources/news/20140211_service_dogs.jsp (“In November 2013, FCI Morgantown began a Veterans-to-Veterans Service Dog Training Program. The service dog program will provide training and certification to twenty-one inmates who will become service dog trainers. The inmates have been carefully screened and selected for this particular training. All of them are military veterans and will be training dogs for veterans in the community who have mobility impairments and/or Post Traumatic Stress Disorder (PTSD). This program is made possible through a partnership with the West Virginia University’s Division of Animal and Nutritional Sciences and researchers at the National Institute for Occupational Safety and Health. Currently, the inmates are training eight Golden Retriever puppies, a Labradoodle, Labrador retriever, and a Poodle. The inmate trainers, and the dogs assigned to them, all reside in a housing unit designated specifically for inmate-veterans at FCI Morgantown.”). Another PDP, the “Prisoners Assisting With Service Dogs” program, is at the Waseca FCI in Minnesota. *See* Diane Lee, *PREA Audit Report*, U.S. DEP’T OF JUSTICE 3 (Oct. 6, 2015), https://www.bop.gov/locations/institutions/was/WAS_prea.pdf (audit of Waseca FCI in Minnesota noting Prisoners Assisting with Service Dogs (PAWS) Program at the facility).

57. MONTY’S HOME, <http://www.montyshome.org/partners/about-pawsitive-partners-prison-program/> (last visited Aug. 8, 2016) (“In May of 2008, Monty’s Home received state approval to start its first Pawsitive Partners Prison Program (PPPP), in conjunction with a local correctional facility – the first companion dog prison program in Southeastern North Carolina! The state generously provided funds to build kennels at the correction facility, BUT, Monty’s Home assumes all other costs associated with the program – veterinary bills, grooming supplies, food, toys, bedding, leashes, collars, treats – all expenses associated with proper canine care and training. This important program is totally staffed by volunteers and exists only THROUGH YOUR GENEROUS DONATIONS! After temperament evaluation and heartworm testing, trainers select dogs from a local shelter. They are then spayed/neutered and brought up to date on vaccinations before entering the Pawsitive Partners Prison Program. Living at the facility with their specially screened inmate-trainers, the dogs go through an eight weeks training course. Inmates, under the guidance of Monty’s Home volunteer trainers, train the dogs in basic obedience and household

Prisoners Assisting With Support Dogs (PAWS),⁵⁸ A Dog on Prison Turf (ADOPT),⁵⁹ Puppies Behind Bars,⁶⁰ Prison PUP Partnership,⁶¹ Pups On

manners. After graduation, the wonderfulness starts again for more shelter dogs!”) (emphasis removed).

58. See Lee, *supra* note 56, at 3.

59. Huss, *supra* note 10, at 28–29 (“[ADOPT] is a program that takes in both cats and dogs, many from a local shelter. The animals are integrated into two units of the inmates’ dormitory style housing facilities. In the unit housing the dogs, each inmate is paired with a dog. The inmate handler is responsible for the care and training of the dog. The goal of the basic obedience training is to enable the dog to become adoptable. Training for the inmate handlers is provided by outside volunteers and more experienced inmate handlers. As part of their training, the dogs are crated at night in the unit. The inmate handlers have the ability to take the dogs outside for toileting at all times, and there is a secured fenced area for the dogs to run in the afternoon hours.”) (footnotes omitted).

60. PUPPIES BEHIND BARS, <http://www.puppiesbehindbars.com/mission> (last visited Feb. 4, 2017) (“Puppies Behind Bars (PBB) trains prison inmates to raise service dogs for wounded war veterans and explosive detection canines for law enforcement. Puppies enter prison at the age of eight weeks and live with their inmate puppy-raisers for approximately 24 months. As the puppies mature into well-loved, well-behaved dogs, their raisers learn what it means to contribute to society rather than take from it. PBB programs bring the love and healing of dogs to hundreds of individuals every year. The dogs bring hope and pride to their raisers, and independence and security to those they serve.”).

61. National Education for Assistance Dogs Services, <https://www.neads.org/training-placement/prison-pup-partnership> (last visited Feb. 4, 2017) (“90-95% of NEADS puppies are trained in 9 correctional facilities throughout New England. Our statistics show that, under the guidance of NEADS staff, inmates are able to provide consistent training at a high level simply because of the amount of time they are able to devote to the dogs. This enables us to place dogs faster with people in need.”).

Parole,⁶² Prison PAALS,⁶³ Prison Pet Partnership,⁶⁴ Paws in Prison,⁶⁵ Canine Helpers Allow More Possibilities (CHAMP),⁶⁶ Prisoners Overcoming Obstacles

62. Programs, HEAVEN CAN WAIT ANIMAL SOC'Y, <https://hcws.org/programs-events/programs/pups-on-parole> (last visited Jan. 24, 2017) ("From an everyday standpoint, being sent to prison is not the ideal way to begin a wonderful new life, but for the dogs rescued by the Heaven Can Wait Animal Society, it is the start of an extraordinary experience. The Pups on Parole program is the beginning of a second chance to find a family to call their own. Residents from the Jean and the Southern Nevada Correctional Facilities for women provide rehabilitation and training to dogs that are rescued by HCWS volunteers. The program is designed to save 'last day dogs' from the shelter, our Ground Zero program and owner turn-ins. Pups On Parole has changed the lives of many homeless dogs.").

63. *Our Programs*, PALMETTO ANIMAL ASSISTED LIFE SERVS. PRISON, <https://www.paals.org/programs/> (last visited Feb. 7, 2017) (describing a program in which inmates are paired with puppies that they train to become service animals for people with disabilities) ("PAALS put three puppies in Kershaw Correctional Institution in February 2009 to begin teaching inmates to raise and train canines for people with disabilities. This program allows PAALS puppies in training to receive a large amount of one-on-one time and training with men who are trying to turn their lives around and give back to the community. In 2013 PAALS became a certified member of the Department of Justice Apprenticeship Program and inmates have the ability to complete a nationally recognized certificate program through Prison PAALS. During the program, the inmates learn more than just how to train a life-changing canine. Inmates learn how to work as part of a team, how to use rewards to get good behavior from dogs and people alike, how to provide medical care and first aid, and most importantly how to love again!").

64. PRISON PET P'SHIP, <http://www.prisonpetpartnership.org> (last visited Jan. 24, 2017) ("[A] non-profit organization located on the grounds of the Washington Corrections Center for Women in Gig Harbor. We rescue and train homeless animals to provide service dogs for persons with disabilities and operate a boarding and grooming facility to provide vocational education for women inmates. Our program benefits all involved — the animals who are given the chance to lead lives of service, the inmates who learn valuable skills so they may find gainful employment upon release, and the individuals with disabilities who receive well-trained dogs to help increase their level of independence.").

65. PAWS IN PRISON, CENT. ARK. RESCUE EFFORT FOR ANIMALS, <http://www.careforanimals.org/paws-in-prison.cfm> (last visited Jan. 24, 2017) ("Paws in Prison is a special program that places shelter dogs within the prisons for approximately 8 weeks of 24/7 obedience training and socialization by ADC inmate handlers in preparation for the dogs' adoption through CARE. The dogs live with their inmate trainers/handlers, who, in turn, are themselves trained by professional dog trainers.").

66. *About CHAMP*, CHAMP ASSISTANCE DOGS, <http://www.champdogs.org/about/> (last visited Feb. 4, 2017) ("CHAMP Assistance Dogs . . . is a nonprofit organization which places skilled service dogs with people who have disabilities to help them lead lives of greater independence, and places facility dogs with professionals who utilize their dogs' special skills in healthcare facilities, courthouses, and children's advocacy centers. CHAMP also provides our community with an education program, therapy dog teams, a puppy-raising program in St. Louis, MO, a puppy-raising program in Columbia, MO, and an assistance dog training program at a Missouri Department of Corrections women's prison.").

& Creating Hope (POOCH),⁶⁷ and Death Row Dogs.⁶⁸ PDPs have also been used in juvenile correctional facilities, such as Project POOCH in Oregon.⁶⁹

Different PDPs have different protocols,⁷⁰ but there are some features in common.⁷¹ Inmates must volunteer to participate in these programs, and correctional staff must approve inmates who have volunteered.⁷² When making selection decisions, correctional officials consider a host of variables, such as the inmate's criminal history (Does he have a history of animal cruelty?), custodial level (Is he in minimal or medium security?), the length of his remaining sentence (Will his prison term end before completion of the training program?), his disciplinary record (Is he irascible?), and his educational level (Does he have a high school diploma or GED?).⁷³ Some programs may place

67. The POOCH Program is operated by Tender Loving Canines, a private organization devoted to the training and placement of service dogs. The POOCH Program is in use at two California state prisons. See *Pooch Program*, TENDER LOVING CANINES, <http://tenderlovingcanines.org/pooch/> (last visited Feb. 14, 2017); see also Adam Ashton, *These Puppies Have a 'Magical' Effect on a State Prison. Can They Help Inmates Change?*, THE SACRAMENTO BEE (Nov. 2, 2016, 12:01 AM), <http://www.sacbee.com/news/politics-government/capitol-alert/article111664572.html>.

68. Lisa Lamb, *Dogs Trained for Wounded Soldiers*, INSIDE CORRECTIONS, June 2011, at 1, 5.

69. See PROJECT POOCH, <http://www.pooch.org/> (last visited Jan. 24, 2017) (“Project POOCH has successfully paired youths incarcerated at the McClaren Youth Correctional Facility in Woodburn, Oregon with homeless shelter dogs since 1983. Youths (guided by professionals) learn to train the dogs, groom them, and find them new adoptive “forever homes.” The dogs leave the program ready to be great pets, while their trainers re-enter the community with new job and personal skills and increased compassion and respect for all life.”); see also Harkrader, *supra* note 7, at 74; Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 75.

70. PDPs can vary in size. See Britton & Button, *supra* note 3, at 82 (“The type of program in place at any given institution is usually dictated by local resources and needs, and indeed the spread of these initiatives appears to have been more a result of positive word of mouth among correctional administrators than any systematic assessment of the programs themselves.”); Furst, *supra* note 7, at 421. For a summary of different types of PDPs, see Furst, *supra* note 7, at 413 tbl. 1, 420–21.

71. See, e.g., Harkrader, *supra* note 7, at 74–75, 78. For a discussion on uniform guidelines for animal programs at correctional institutions, see Huss, *supra* note 10, at 51–61.

72. See, e.g., LAI, *supra* note 3, at 18 (programs are open only to volunteers to ensure that an inmate is committed to the program); see also Britton & Button, *supra* note 3, at 85 tbl. 2 (describing the factors that motivate inmates to volunteer in the programs); Brink, *supra* note 56 (“The handlers are chosen from among the women at the minimum-security work camp facility at Coleman, 75 miles north of Tampa in Sumter County. They must be non-violent offenders eligible to leave the prison grounds for daylong furloughs with the dogs.”); Diana Herbst, *Go Inside the Louisiana Animal Shelter Run by Prison Inmates*, PEOPLE (Apr. 14, 2015, 1:25 PM) <http://site.people.com/pets/go-inside-the-louisiana-animal-shelter-run-by-prison-inmates/> (“‘I don’t hire sex offenders or guys with animal cruelty charges,’ says Smith. ‘Those are deal breakers right there.’”).

73. See, e.g., Furst, *supra* note 7, at 422 (stating that 22.5% of programs do not render inmates ineligible to participate because of their crimes, but 59.2% take the opposite position; in addition, 22.6% of programs have educational requirements); DREW, THE POWER OF PRISON PUPS, *supra*

new inmates on a probationary status to ensure that they are nonviolent, competent trainers.⁷⁴ The inmate-trainers receive instruction, sometimes from a professional dog trainer, both at the outset and on an ongoing basis, regarding training strategies and tactics to foster a safe and effective relationship between the inmate and his dog.⁷⁵ Use of a professional trainer helps reduce inconsistencies among inmate training methods and teaches inmates to be aware for sudden changes in their dogs' demeanor suggestive of negative handling. Once admitted to a PDP, inmates must remain free from violence or infractions; either one will lead the institution to drop an inmate from the program.⁷⁶

Community service programs are the most common type of PDPs.⁷⁷ Inmates are paired with a "rescue dog" from a humane society and are responsible to care for and train the dog in basic obedience commands. Upon completion of their

note 8, at 4 (noting that the New England-based NEADS program requires inmates to have a minimum of eighteen months left of sentencing, because their program requires inmates to train their dog for that period); Harkrader, *supra* note 7, at 78 ("Inmates are also required to have at least two years left on their sentences. This is important because it takes a great deal of time for inmates to develop the necessary skills to train a puppy and program administrators like to use the same inmates for several rotations of puppy training, as opposed to training new inmates yearly."); Justin George, *Maryland Prisoners Train Service Dogs for Veterans*, BALT. SUN (Oct. 28, 2013, 5:00 AM), <http://www.baltimoresun.com/news/maryland/bs-md-prison-dogs-20131028-story.html> ("Inmates . . . cannot have had disciplinary adjustments in their level of supervision for a year or any incidents of assault, weapons or fighting for two years"); Harkrader, *supra* note 7, at 75 ("[A]t Bland . . . Only honor inmates (those who have had no infractions during their terms) are allowed to work with the dogs. Each inmate is interviewed by Eaton and screened for a history of domestic abuse. Inmates with a history of violence against animals are immediately disqualified."); *id.* at 78 ("A very important aspect of inmate dog training that could directly impact the puppies is the selection of inmates who will train them. Animal abuse has been clearly linked to other types of crimes against people, including violent crime and property crime, but even more important as an indicator of family violence. According to the Doris Day Animal Foundation, in abusive relationships, animals can be used as means of control by an abusive husband who threatens harm or death to a family pet if his commands are not met by his wife or children. . . . Of the programs reviewed, each had a careful screening process to prevent these problems from occurring. In several of the New York programs, inmates undergo a careful screening and interview process to ensure that inmates who committed heinous crimes are not given puppies."); Hauser, *supra* note 10 (noting that the PDP program at Georgia's Coffee Correctional Facility requires inmates to possess a high school diploma or GED and have had no discipline infractions for the past year). The BOP requires a high school diploma or GED to participate in a federal PDP. *Inmate Occupational Training Directory*, U.S. DEP'T OF JUSTICE, FED. BUREAU OF PRISONS 127 (2016), https://www.bop.gov/inmates/custody_and_care/docs/inmate_occupational_training_directory.pdf.

74. See, e.g., LAI, *supra* note 3, at 17–18.

75. See, e.g., Deaton, *supra* note 6, at 52 ("[Inmate-trainers] must first pass a 12-week training course which teaches them the basics of dog care, grooming and training."); Bard, *supra* note 8.

76. See, e.g., Press Release, Commonwealth of Va., Dep't of Corrections, Prison Inmates Teach Puppies, Give Service Dogs Back to the Community (Dec. 14, 2012), https://vadoc.virginia.gov/news/press-releases/12dec14_blandservice.shtm ("To stay in the program, inmates must maintain a spotless conduct record, and most do."); see also Harkrader, *supra* note 7, at 78.

77. Furst, *supra* note 7, at 417 (noting that community service programs constituted approximately one third of PDPs).

training, the dogs are placed for adoption in the community. Because community service programs train dogs to become pets, dogs of all shapes, sizes, and breeds participate.⁷⁸ Depending on the program, inmates may care for a dog for a few hours each day or the dog may live with the prisoner on a 24/7 basis.⁷⁹ In the latter programs, the inmates are responsible for bringing their dogs with them wherever they go.⁸⁰ The training period can last from as few as forty days to as long as twelve to eighteen months.⁸¹

At the conclusion of the PDP, correctional facilities may hold “graduation” ceremonies for the dogs and their new human partners. For example, upon completion of training, the CARES program brings adoptive families inside the prison to meet the inmate trainers.⁸² The community can witness the positive results of a prisoner’s hard work, and inmates can experience the satisfaction of making someone’s life better and contributing to the community. As inmates bid farewell to their old friends, they can apply the lessons learned and skills acquired to a new friend in another round of training.

Arguably the most valuable and rewarding type of PDP is the service dog socialization program, such as the New England-based National Education for Assistance Dogs Services (NEADS) program. The program provides for inmates to train dogs to become service animals for the handicapped (e.g., blind, deaf, PTSD).⁸³ Local humane societies provide the dogs for training by inmates

78. See, e.g., Kirkwood, *supra* note 5, at 17.

79. See, e.g., Berger, *supra* note 8 (stating that the dogs in the Puppies Behind Bars program live in crates in the inmate-trainer’s cell); Kirkwood, *supra* note 5, at 17 (SOS Pen Pals in Virginia requires inmates to care for their dog 24 hours a day for six weeks). Some PDPs have dogs stay with inmate-trainers from Monday through Friday, but take the dogs to a foster family for the weekend so that they can become accustomed to features like intersections and grocery stores on the outside. Bard, *supra* note 8.

80. See, e.g., Bard, *supra* note 8 (“The dogs at the prison spend nearly all their time with the minimum-security inmates at NCCI. ‘My whole day is based on training him,’ said Mike Decensi, who has been training six-month-old black Lab Teddy for two months. ‘It’s pretty much all I have to do.’”); Brink, *supra* note 56 (“It’s a yearlong commitment with a lot of grunt work, but the competition to be one of the five or six handlers is intense. The dogs live inside the prison and are the inmates’ responsibility. Days start early with morning feeding, kennel cleaning and doggy playtime. Inmates teach the basic commands, such as sitting and staying, and make sure the dogs are housebroken. To graduate, the dogs must become well-behaved in a variety of situations. The dogs and their handlers make supervised visits to malls, courthouses and downtown Tampa. Often the dogs accompany the handlers to the prison hairdresser, chapel and gym and go to meals in the cafeteria with all the other inmates.”).

81. See LAI, *supra* note 3, at 17; see also, e.g., Bard, *supra* note 8; Brink, *supra* note 56. For example, one program accepts only Labrador and Golden Retrievers. The dogs arrive at the prison at eight-weeks-old and are trained by the women until they are twenty-months-old. During training, they learn eighty-two commands. At any given time, there are normally eighty dogs in the program. From 1997 to 2008, inmates trained 483 dogs. See Berger, *supra* note 8.

82. See, e.g., Britton & Button, *supra* note 3, at 89–90, 92.

83. *Our Mission and Services*, NAT’L EDUC. FOR ASSISTANCE DOG SERVS., <http://www.neads.org/about-us/our-mission-and-services> (last visited Feb. 10, 2017).

for a defined period of time before the dogs go on to schools to receive their specialized training.⁸⁴ Service dog socialization programs take advantage of the restrictive nature of the prison environment and implement a rigorous training regimen for the dogs. Generally, prospective service dogs enter the program at a young age to begin their training. They share a cell and their day with an inmate-trainer on a 24/7 basis for more than a year. Some programs recruit community residents to assume responsibility for the dog for weekends so that the dog can become socialized to the world outside of the prison (e.g., mailmen, pedestrians, parks, intersections, grocery stores, restaurants).⁸⁵ This allows the inmate to enjoy a mini-vacation from training, while also allowing the dog exposure to new people, venues, and scenarios. In addition to weekend trainers, the NEADS program provides inmates with a mental health expert whom they refer to as their “dog psych,” as well as a professional trainer who oversees the medical needs of the dog and supervises inmate training.⁸⁶

III. THE EFFECTIVENESS OF PRISONER-DOG PROGRAMS

PDPs are a unique use of AAT, one focused on training or rehabilitating both the dog and the trainer. PDPs bring together two populations whom society has largely discarded in the hope that each one will treat the other as having a clean slate.⁸⁷ In his book *Pets and Mental Health*, Odean Cusack explains that “pets seem to bring out the best in us. If there is a capacity for affection, compassion, for empathy or tenderness overlooked by our human fellows, a pet has an uncanny ability to ferret it out.”⁸⁸ That is a particularly difficult attribute to display in a setting where violence or its threat is the order of the day.⁸⁹ For

84. See, e.g., Brink, *supra* note 56 (“Southeastern Guide Dogs Inc. provides the dogs and instruction. The inmates work as handlers, training and socializing the dogs every day from the time they are ten weeks old until about fifteen months. After that, the dogs go on to ‘polishing school’ outside the prison for six months of advanced training. The dogs are then placed with the sight-impaired.”). One PDP in Texas even offers the advanced training necessary for a dog to become certified as an assistance dog. See Patriot PAWS, <http://www.patriotpaws.org/prison-training-program.html> (last visited Apr. 19, 2017) (“The goal of the [Patriot PAWS] program is to train prison inmates to train service dogs for disabled veterans. It takes 1½-2 years to train one service dog at a cost of about \$33,000 per dog.”). Patriot PAWS partners with the Texas Department of Corrections.

85. DREW, THE POWER OF PRISON PUPS, *supra* note 8, at 4.

86. *Id.* at 5.

87. See Berger, *supra* note 8 (“The tender mercy here is that a dog does not know the difference between a prisoner and a model citizen. It responds to kindness, firmness, patience and consistency.”).

88. CUSACK, *supra* note 2, at 33; see Deaton, *supra* note 6, at 49.

89. See Berger, *supra* note 8 (“‘When we first become incarcerated,’ Ms. Powers said, ‘you shut off, you’re numb, you don’t want to become vulnerable.’ The dogs teach them to loosen up and vent an emotion or two. ‘There’s no other place in this facility where you can show love and caring and not feel that people will see you as weak,’ she said. ‘Our pups allow us to be human again.’”).

many dogs and inmates the relationship formed in a PDP may be the first positive one that they have experienced.⁹⁰ Each partner can emerge from their time together in the program a better creature than he was beforehand and able to help others—the dogs, to be a service dog for the blind, the disabled, or a veteran in need; the inmate, to be a better trainer while confined and a better person once released.⁹¹

Inmate-trainers also acquire skills that can be used after their release.⁹² Aside from having skills teaching basic dog obedience, former inmates have learned dog handling, dog grooming, and basic animal husbandry. Former inmate-trainers can use those skills in several different lines of employment that do not

90. CUSACK, *supra* note 2, at 169 (“The dogs love us unconditionally, regardless of what’s in our past.”); FURST, *supra* note 7, at 415 (“For some, it was the first time they had even known a dog as a pet; their previous experience was with dog fighting or dogs serving as protection.”).

91. See BRINK, *supra* note 56 (“The graduates filed out of the ceremony in a tight line, not knowing that their next stop would be a new home, with different handlers. The inmates had tears in their eyes.”); BRITTON & BUTTON, *supra* note 3, at 91 (“Participants believe that the dogs help them to deal with anger, teach them patience, give them unconditional love, and simply make doing time a little easier. . . . Beyond these individual-level effects, however, inmates also perceive that the presence of the dogs also improves the institutional climate more generally. The program’s coordinator told us that dogs often become ‘mascots,’ adopted by the inmates in the handler’s housing unit. Participants confirm that most inmates welcome the presence of the dogs, and that their benefits are not limited to the handlers.”).

92. See, e.g., Fed’l Bureau of Prisons, Dep’t of Justice, FCI Morgantown Veterans Wing (Mar. 30, 2016) (“Inmate-veterans who reside in the Veterans’ Wing have the opportunity to become certified service dog trainers. Through the Veterans-to-Veterans Service Dog Program, in collaboration with West Virginia University’s (WVU) Division of Animal and Nutritional Sciences Department and Hearts of Gold Service Dog Certification Program, inmate-veteran dog trainers can achieve various levels of certification. Once training is complete, the dogs are placed with veterans in the community who have mobility impairments and/or Post Traumatic Stress Disorder (PTSD).”); BRINK, *supra* note 56 (“For Tindall, who is serving 16 months for bank fraud, the benefits far outweighed any downside. She said she has learned how to cope with problems, set goals and work with others in stressful situations. She has earned a certificate in veterinarian assistance and intends to earn her two-year veterinary technician certificate after she is released this spring.”); HERBST, *supra*, note 72 (“Veterinarians and vet students from LSU teach the inmates invaluable animal-care lessons, with some, such as Vanscoter, earning a veterinary technician degree. Vanscoter and his colleagues give vaccinations, detect and treat animals for parasites and skin conditions and provide basic medical care. One former inmate, Matt Eldridge, became a member of Animal Planet’s *Pit Bulls and Parolees*.”); STRIMPLE, *Inmate-Animal Interaction*, *supra* note 4, at 73.

require an occupational license: dog training,⁹³ dog grooming,⁹⁴ dog walking,⁹⁵ or dog sitting.⁹⁶ With additional classroom instruction and practical training, a former inmate-trainer can eventually go on to become a veterinary technician or animal behaviorist.⁹⁷ Those opportunities could help a newly released prisoner “walk the straight and narrow” and avoid returning to the place from whence he came.⁹⁸

Reports on the effectiveness of PDPs have consistently emphasized their successes.⁹⁹ Dogs have successfully received basic obedience training and can

93. See Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook HANDBOOK, 2016-2017 Edition*, Animal Care and Service Workers: Summary, <http://www.bls.gov/ooh/Personal-Care-and-Service/Animal-care-and-service-workers.htm#> (last visited Apr. 19, 2017) (stating that animal trainers earn a median amount of \$26,610 annually and that the animal training job market is projected to grow eleven percent by 2024, signaling the potential creation of thousands of new jobs in the industry).

94. See *id.* (stating that the non-farm animal care market is expected to expand by eleven percent by 2024, and that non-farm animal care providers earned a median wage annual wage of \$21,010 in 2015).

95. The average wage for a dog-walker is approximately \$13.27 per hour. See Dog Walker Salary, http://www.payscale.com/research/US/Job=Dog_Walker/Hourly_Rate (last visited Apr. 19, 2017).

96. The average wage for a dog-sitter is \$12.69 per hour. See Dog Sitter Salary, http://www.payscale.com/research/US/Job=Dog_Sitter/Hourly_Rate (last visited Apr. 19, 2017).

97. See, e.g., Jared Brumbaugh, *Inmates, Dogs Bond for a Bright Future*, PUBLIC RADIO EAST, FM 89.3 WTEB (Aug. 1, 2014), <http://publicradioeast.org/term/craven-correctional-institution> (“Craven Community College offers a 120 credit hour vet tech course at the prison where inmates can learn the skills necessary to get a job at a veterinarian’s office or an animal shelter when they are released back into society. The North Carolina Department of Labor also offers inmates an apprentice certification which can help them land a job. Malanga says most inmates decide to stick with the program because they have to complete 4,000 hours of on the job training and a total of 288 hours of related instruction to get the certification.”).

98. See, e.g., Herbst, *supra* note 72 (“‘It’s probably the best thing that could have happened to me,’ Wylie Vanscoter, 22, a lifelong animal lover and former drug addict convicted of armed robbery at 17 told PEOPLE. ‘I kinda have found what I was supposed to do in life here.’”); Harkrader, *supra* note 7, at 76–77; Heather Steeves, *K9 Corrections Program Helps Inmates, Dogs to Get Along*, BANGOR DAILY NEWS (Aug. 10, 2016 12:59 PM), <http://bangordailynews.com/2016/08/19/news/state/k-9-corrections-program-helps-inmates-dogs-learn-to-get-along/> (“‘Some people don’t like this program because they think [the prisoners] are playing with dogs and this is prison and it’s supposed to be a hard place. This isn’t playing with dogs. It’s training them to get into homes and not be euthanized. It’s giving prisoners ways to deal with conflict in a nonviolent manner — which is important. They’re at the end of their sentences. They’ll get out,’ Finnegan said.”).

99. See, e.g., BECKER, *supra* note 2, at 18; WENNER, *supra* note 7, at 2 (“Of the sixty-one administrators surveyed, all but one responded they would recommend a prison-based animal program to other prison administrators. The administrator who did not recommend the program explained that he only answered as such because it had no financial gain for the institution. . . . [T]he anecdotal reports from staff, inmates, and recipients of the service dogs are overwhelmingly positive; therefore, not surprisingly, animal training programs are becoming increasingly common in correctional facilities.”); Berger, *supra* note 8 (“‘One of the things prison usually means is being useless, being defined by our worst acts,’ said Judy, 58, a New York City mother with close-

be referred for additional training as service dogs or adopted as companions, options that benefit the dogs and their ultimate human companions.¹⁰⁰ Participating inmates commit fewer rule infractions and are involved in fewer violent incidents than other prisoners in the same facility.¹⁰¹ Inmates also acquire skills as dog trainers and groomers that could enable them to find work after release, as well as an enhanced sense of self-esteem.¹⁰² The quality of the prison environment has improved wherever such a program is in use.¹⁰³ And the community benefits from a reduction in the recidivism rate.¹⁰⁴ PDPs therefore

cropped graying hair who did not want to give her last name or to describe the crimes that landed her here. ‘The program gives me a sense I can be useful, useful to people on the outside, to some person who can be helped by having the fruits of my work. There’s a sense that what we do has a life that’s positive in other people’s lives.’’); see Britton & Button, *supra* note 3, at 82 (‘‘From the perspective of prison administrators, dog-training programs have many apparent advantages. They serve the very important function of keeping inmates busy, always a concern in medium and maximum security prisons; they are relatively inexpensive; and they offer considerable potential for improving relations between institutions and communities. The latter is a particularly promising prospect in an environment in which the public seems increasingly willing to view inmates as anti-social monsters, incapable of doing anything positive.’’); Brink, *supra* note 56 (‘‘When similar programs began in a handful of state prisons in the early 1990s, skeptics thought the dogs could be a distraction. Or worse, the inmates would turn out delinquent dogs. . . . The concerns eased as the programs had one success after another. Many prisons see improved behavior by the dogs’ handlers and a renewed hope.’’); Deaton, *supra* note 6, at 47 (‘‘At first, it appears that the majority of these programs provide vocational skills, work experience, or a service to the community. Upon taking a closer look, it becomes evident they are also highly therapeutic. Working with animals provides meaningful experiences for incarcerated individuals during which many important life lessons are learned.’’); Drew, *Tennessee Inmate Program*, *supra* note 54 (‘‘Prison officials say the dogs have a calming effect on their inmate handlers, inspiring more confidence in them, as well. ‘The difference in them after this program is just amazing,’ Associate Warden of Treatment Jeff Butler said.’’).

100. See e.g., Harkrader, *supra* note 7, at 75. (‘‘Puppies Behind Bars has been very successful, with 87 percent of dogs trained by inmates being found fit to move on to more rigorous training, as compared with only 50 percent of those trained by volunteers outside the prison walls.’’).

101. Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 70, 72, 75.

102. See CUSACK, *supra* note 2, at 162 (‘‘H.R. Swenson, who was a warden at the Missouri State Penitentiary, said: ‘I have worked in various prison capacities for the past 31 years and I know there is a universal urge among inmates to acquire the affection of something alive. Inmates, in turn[,] lavish their love on the object of affection.’’); Bard, *supra* note 8 (‘‘Dr. Bill McCarthy, an assistant professor of criminal justice at Quinsigamond Community College, said studies have shown programs like NEADS’ are successful. . . . ‘It gives the inmates something to care for. They learn lessons on how to be responsible for a life. Some obtain job skills,’ he said. ‘It also gives them the opportunity to feel better about themselves and the ability to accomplish goals.’’).

103. See Bard, *supra* note 8 (‘‘Steve O’Brien, superintendent at NCCI, said the inmates want to be part of the program, and it has been a boon to the institution as well. . . . ‘We can’t tell you how beneficial it’s been to us,’ he said. ‘It changes the ambiance of the prison.’’).

104. See, e.g., Patriot PAWS, *supra* note 84 (‘‘[S]ince the start of the program in 2008, the recidivism rate is less than 3%.’’); Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 70 (‘‘In private communication with Robert Kent, superintendent of the Sanger B. Powers Correctional Center in Oneida, Wisconsin, he said, ‘Since our dog training program started in 1997, we’ve had 68 inmates released who were involved in the program and not one has reoffended and returned to prison.’’).

appear to be a “win-times-five.” In the words of one veterinarian, caring for dogs acquaints prisoners with “respect, self control, and responsibility,” and helps them become “more attentive and responsible citizens of the world, more aware of the needs of others, and more responsible for their own behavior, which is just this side of a miracle.”¹⁰⁵

That last potential benefit would make PDPs especially attractive to legislators concerned about the current unacceptably high recidivism rate of parolees and prisoners released after completing their sentences. A 2015 report by the United States Sentencing Commission found that nearly half of federal inmates are rearrested within three years of their release, almost one-third are reconvicted, and almost one-quarter are re-imprisoned.¹⁰⁶ The numbers are even worse in the states.¹⁰⁷ The result is an increase in the crime rate, as well as the human suffering that it causes, not to mention the cost of incarcerating offenders who failed to remain outside of prison. Given the current cost of imprisonment for federal and state offenders, any program that can make a dent in that recidivism rate is worth its weight in gold. If PDPs can serve as effective rehabilitative strategies, it might make sense to expand the size of those programs in the hope that their apparent reformative ability reduces the current rate of recidivism.

Unfortunately, we do not yet have the type of proof of their success ordinarily required before making a major commitment to the expansion of PDPs.¹⁰⁸ Anecdotal reports and testimonials have their value, but they do not substitute for the same type of critical examination used elsewhere in the social sciences to determine whether a cause-and-effect relationship exists between a particular intervention and a positive outcome.¹⁰⁹ “The proverbial gold standard for studies of the effectiveness of clinical interventions is the randomized clinical trial, in which patients are randomly assigned to treatment or control (placebo or equivalent) conditions.”¹¹⁰ To date, however, no such studies of PDPs have been

105. BECKER, *supra* note 2, at 18.

106. U.S. SENTENCING COMM’N, RECIDIVISM AMONG FEDERAL OFFENDERS: A COMPREHENSIVE OVERVIEW 5, 15 (2015).

107. *Id.* at 15 (noting that the rearrest, reconviction, and reimprisonment numbers for the states were approximately seventy-six percent, fifty-five percent, and twenty-eight percent, respectively).

108. See Britton & Button, *supra* note 3, at 82 (“While such programs are undeniably popular, we have little sense of what they actually do—whether inmates’ lives are changed by them, whether they improve institutional environments or serve as the basis for conflict between the inmates themselves or between inmates and staff. . . . [T]he existence and relative impact of these possibilities are, yet to be assessed in a rigorous, empirical way.”); Furst, *supra* note 7, at 407 (“Although the programs make sense intuitively and are successful according to a substantial amount of anecdotal evidence, empirical research on the topic is scarce.”).

109. See WENNER, *supra* note 7, at 2 (“Unfortunately, there is virtually no systematic research on the effects of animal programs.”); Britton & Button, *supra* note 3, at 79 (“Literally no systematic studies exist.”).

110. HANDBOOK OF ANIMAL-ASSISTED THERAPY, *supra* note 2, at 402.

published.¹¹¹ Perhaps that is because Boris Levinson, a therapist who first saw the benefits of AAT, was derided by his colleagues in the profession at his first presentation on its benefits.¹¹² Perhaps that is because researchers have only recently begun to scientifically examine the benefits of human-animal interactions.¹¹³ Or possibly because the public sees the greatest value in PDPs not in their potential for inmate rehabilitation, but in their ability to save on the expense of providing basic or advanced training to service dogs by prisoners instead of private parties.¹¹⁴ Or maybe because financially strapped correctional systems lack the funding to do more than operate a handful of small scale PDPs.¹¹⁵ It may be because the pet food industry has sponsored much of the research in this subject.¹¹⁶ Whatever the reason may be, we cannot say with the degree of confidence we would like that PDPs are proven rehabilitative strategies.

The problem may be unavoidable. Prisons do not randomly assign inmates to PDPs to gauge their effectiveness in the same way that pharmaceutical companies use double blind studies to measure a potential new drug's efficacy.

111. See *id.* (“Among the most common concerns [among reviewers of AAT results] are the lack of random assignment of subjects to treatment and control groups, the need for treatment manuals to standardize intervention procedures, the importance of assessing the clinical as well as the statistical significance of outcomes, the need to include strong control conditions, and the lack of long-term post-treatment follow-up assessments.”) (citations omitted); see also *id.* at 403 (discussing the “file drawer effect”: “This is the tendency for the results of studies reporting positive results to be published, whereas negative or null results are either not submitted for publication or are rejected by reviewers and journal editors.”); *id.* at 403–05 (discussing problems with published studies).

112. See Stanley Coren, *How Therapy Dogs Almost Never Came to Exist*, PSYCHOLOGY TODAY (Feb. 11, 2013), <https://www.psychologytoday.com/blog/canine-corner/201302/how-therapy-dogs-almost-never-came-exist> (“Levinson was distressed to find that many of his colleagues treated his work as a laughing matter. One even cat-called from the audience, ‘What percentage of your therapy fees do you pay to the dog?’”); Hines, *supra* note 6, at 10 (“Dr. Boris Levinson described to me the ridicule he received from his colleagues when he presented his ideas at psychology meetings, including questions of whether he shared his fee with the dog.”).

113. See Britton & Button, *supra* note 3, at 80–81 (“It has only been over the past twenty-five years that research has begun to confirm the value of animals in our everyday lives.”).

114. See LAI, *supra* note 3, at 4 (noting that “serious epidemiological studies cost hundreds of thousands of dollars but most grants to study human-animal interactions are for \$10,000 or less”) (emphasis and internal punctuation omitted); WENNER, *supra* note 7, at 3 (“Communities see the benefit of prison training programs in huge savings for the cost of training service dogs which can be expensive. Much of the literature hypothesizes that these clear benefits are part of the reason for the lack of systematic evidence despite these programs having existed for over 30 years.”); Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 74 (“Although the normal expense of training a service dog may run \$10,000 to \$12,000 in the civilian world, the cost in the military will average \$4,000.”).

115. See Britton & Button, *supra* note 3, at 82 (“Prison administrators, pressed to provide programming on a limited budget, increasingly require empirical data to justify expenditures.”).

116. See Hines, *supra* note 6, at 13 (“The majority of funding to establish and advance this field has come from the pet food industry.”).

Inmates must volunteer for these programs, and not every volunteer is accepted. One reason for that selectivity is almost certainly the fear of public condemnation were a prisoner to mistreat and injure one of the dogs, or worse. Fortunately, no such incident has yet occurred. While it is unlikely that one will occur,¹¹⁷ there is no guarantee.¹¹⁸ Were such an incident to occur, it would be a public relations nightmare for the correctional system involved. Given today's 24/7/365 news cycle, the incident would be replayed endlessly on one or more cable news channels (at least until some other equally ghastly event replaced it) and would be forever available on the Internet. Even one particularly ugly event could sink a program that otherwise had an almost 100 percent success rate.¹¹⁹ The public has come to demand perfection in government programs, and the punitive attitude toward offenders that the public manifested not long ago is still very close to the surface.¹²⁰ The consequence of not randomly assigning dogs to prisoners, however, is the risk of "selection bias."¹²¹ Inmates who volunteer for PDPs might not commit post-release crimes for reasons wholly unrelated to the effectiveness of a PDP at reformation. If so, it cannot be said with any certainty that the program had any rehabilitative effect; it might have just been

117. See Britton & Button, *supra* note 3, at 89 ("The effect of hyper-surveillance, under which the dog handlers work, belies one of the primary concerns of the general public about prison dog-training programs, which is the belief that dogs will somehow be abused by the inherently violent, uncontrollable men who supposedly live behind prison walls. In fact, our interviews indicate that the opposite is true: dogs are undoubtedly much less likely to be abused inside the prison than in the 'free world.'").

118. Interestingly, prisoners in a PDP program might well treat an injury to one of their dogs as an assault upon them all. See *id.* at 88 ("While a man fighting another man might be left to fend for himself, the inmates agree almost to a man that anyone who harms one of their dogs will face the possibility of retribution."). Another report emphasized that the prisoners in one such program "put themselves at risk to protect the dogs during an August prison riot." James Hettinger, *On the Inside, Looking Out*, ANIMAL SHELTERING, Jan. - Feb. 2010, at 31, <https://www.animalsheltering.org/sites/default/files/content/asm-jan-feb-2010-issue.pdf>.

When the rioting started, inmates led the dogs out of their dormitory on leashes, had them lie down, then lay on top of them to protect them from the smoke from the fires and chemical agents as authorities sought to quell the disturbance, according to an account by the prison. "The night of the riot, these inmates considered the dogs' safety above their own," says Rita Douglas, a correctional unit administrator for the Kentucky Department of Corrections. "The inmates literally covered the dogs with their own bodies and led them to an area out of harm's way."

Id.

119. See Rachel E. Barkow, *Prosecutorial Administration: Prosecutor Bias and the Department of Justice*, 99 VA. L. REV. 271, 288, 316 (2013) ("[Released infamous prisoner Willie] Horton's violence overshadowed the fact that the [Massachusetts furlough] program overall had a 99.5% success rate.").

120. See Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 70 ("Generally, the public is motivated by one concept in dealing with prisoners: punishment.").

121. See WENNER, *supra* note 7, at 3 ("Existing studies' greatest weakness is bias in the selection of inmate dog handlers.").

happenstance that the inmate was a trainer. That possibility robs current PDPs of the predictive validity necessary to prove that they effectively reduce the crime rate and rehabilitate prisoners.¹²²

We also do not know whether PDPs can be successfully or efficiently expanded or, if they can, what is their upper limit. Current programs have a relatively small number of prisoner-trainers and dogs.¹²³ Different factors limit the number of participants, such as the number of dogs available for training, inmates who volunteer for the program, volunteers accepted into a PDP, and parties who can instruct inmate-trainers how to perform their new assignment. Also important is the willingness of the local humane societies to support a PDP.¹²⁴ Most programs inside (or outside) of prison have an upper limit to their effectiveness because there are a limited number of people that any one person can manage. Given the environment in which PDPs operate, that number likely is lower than what would be the case with private dog trainers.

But that is not all. The size of the cells used to house prisoners and their dogs and the configuration of the participating institutions limit the ability to expand PDPs.¹²⁵ Facilities with already-overcrowded cells, particularly ones under a court order to decrease their population, might not be able to accommodate dogs.

122. See *id.* at 3–4 (“[A]ny changes observed in the treatment group could be attributed to [participating inmates’] ‘better’ chances for success due to good behavior and desirable qualities.”).

123. See Furst, *supra* note 7, at 421 (finding that both the size of the PDP programs and number of animals used in the programs varied).

124. Harkrader, *supra* note 7, at 77 (“One overwhelming consideration that was apparent in all the successful programs reviewed for this article was support from both the community and local dog training schools. Prison administrators have to be able to convince a dog-training school that the prison is prepared for training dogs and that it has facilities to conduct the training, and coordinate with the schools to get professionals to teach the inmates how to properly train puppies. Prison administrators also need to show that their facility contains responsible inmates who want to give back to the community and are sincere in their desire to work with puppies. Along with this, prisons need to have a strong base of community volunteers who will care for and keep the puppies for weekend furloughs throughout the puppies’ training.”).

125. See Britton & Button, *supra* note 3, at 86 (“In this institution, the trainer inmates live with the dogs almost constantly. The dogs sleep in the men’s cells—all of which also house another inmate—and accompany them to meal times and appointments (with the exception of visits). In a closed, cramped environment in which people have little choice about with whom they associate, it is logical to expect that adding animals to the mix will result in some tensions.”); Harkrader, *supra* note 7, at 77–78 (“Another important consideration is the physical facility in which the puppies will be located, keeping in mind the puppies’ overall welfare. Many prison facilities have special areas designated for puppy training away from the regular prison population. At Bland, puppies stay with inmates in the Honor Building where only the prison’s most well-behaved inmates are housed. The Wisconsin Correctional Liberty Dog Program took an existing farm shop on prison grounds and completely remodeled the structure, putting in its place a dog training center and kennel. It is imperative that prisons have both adequate facilities and access to veterinary health care for the puppies used in the program.”); *id.* at 75 (“Inmates participating in the Prison Pup Program [in Virginia’s Bland Correctional Facility] live in a special honors dorm that is separated from the rest of the prison population. This allows for inmate trainers to spend every minute of the day with their puppy.”).

Other, less-crowded facilities might not be able to expand their PDPs without making enormously expensive modifications to the construction of existing facilities. Enlarging the size of PDPs may require a corresponding increase in the number of correctional officers necessary to oversee inmates during training or transit to and from a training area. And it is important to remember that there is a limit to the willingness of correctional officials to take the risk of an inmate abusing his dog. Each new pairing of an inmate-trainer with a dog increases the potential risk of animal abuse, and few wardens would be willing to increase that risk indefinitely.

At some point, realpolitik considerations will cap any increase in the number and size of PDPs. The food and veterinary medical costs of PDPs compete with the food and human medical costs borne by state programs directed at poor, ill, or disabled men, women, and children—all of whom are current or future voters, unlike inmates or dogs. Realpolitik considerations can make it difficult for even the most persuasive prisoner rehabilitation advocate to convince a legislator to shift state expenditures from voters to nonvoters. PDPs receive donations and raise funds through the sale of trained dogs or activities such as the grooming of privately owned dogs.¹²⁶ PDPs that cannot pay their own way are always at risk of being downsized or eliminated. Finally, legislatures still committed to a punitive approach to punishment, as well as ones whose constituents possess that attitude, would likely blanch at the prospect of mainstreaming what they see as boutique rehabilitation programs regardless of what experts might say about their rehabilitative potential. In sum, proof that PDPs reduced recidivism could spur legislatures to appropriate additional funds for those programs on the ground that those short-term expenses will generate long-term savings, but that increase might lead to only a minor uptick in the number of inmates and dogs working together.

There are options, however, for Congress and the Attorney General to consider. Congress could seek help from the Government Accountability Office (GAO). Created by the Budget and Accounting Act of 1921,¹²⁷ the GAO provides investigative, evaluative, and auditing services for Congress. Congress could direct the GAO to evaluate the effectiveness and efficiency of existing federal and state PDPs. A principal focus of any such inquiry should be whether PDPs have materially reduced the recidivism rate for participating inmate-

126. See Furst, *supra* note 7, at 423 (“[A majority of PDPs studied] report receiving donations. Programs reported receiving donations from staff and inmate fundraisers, the general public, private veterinarians, and privately owned supply stores, including Wal-Mart, PetCo, and PetSmart, and from corporations such as Iams® and Purina®. Donations of animals, food, supplies, and medical services are also received through the humane society, shelter, or nonprofit organization that administers the program. In addition, [programs] may collect fees related to the animals[.] Money is usually from adoption fees or training or service fees.”).

127. Ch. 18, 42 Stat. 20 (1921); see Karen L. Manos, 2 *Government Contract Costs & Pricing* § 86:11 (2016) (the GAO was originally known as the Government Accounting Office); see also GAO Human Capital Reform Act of 2004, Pub. L. No. 108-271, 118 Stat. 811 (July 7, 2004); see generally Budget and Accounting Act of 1921, ch. 18, § 312, 42 Stat. 20 (1921).

trainers. Even though the GAO cannot randomly assign dogs to prisoners within the BOP system, the GAO's close study of the history of the federal and state programs might well offer sufficient information for Congress to decide whether it should expand PDPs in the federal system. Alternatively, Congress could direct the Attorney General to attempt to create a pilot project making such a random assignment at one or more minimum-security facilities that do not house any inmate with a history of animal abuse. Or the Attorney General could create a pilot project on his own. The results of a project at one BOP facility might provide sufficient evidence of a program's effectiveness to justify the expenditures necessary to create PDPs at additional facilities. In the meantime, the Justice Department could investigate the effectiveness of state PDP programs, especially if the states have minimum-security facilities that are comparable to the ones managed by the BOP and that house the same type of offenders.

Of course, there is a limit as to how far those programs can be expanded. Prisoners in solitary confinement or in so-called "Super Max" facilities would not be eligible to become inmate-trainers, so no correctional system could create a PDP for every facility or even for every wing in certain facilities. But it may be possible and desirable to expand those programs beyond their current implementation. If so, the number of people benefitted by these "win-times-five" programs would only increase.

To answer those questions, further research is necessary.¹²⁸ It is critical for Congress, through the GAO, or the Justice Department, through the BOP or Bureau of Justice Programs, to conduct or fund the research necessary to determine whether these programs can materially reduce the current recidivism rate. The costs in dollars and human suffering that could be avoided justify the time and expense of undertaking the necessary investigation. As one commentator put it:

Homeless animals and prison inmates are both "throw-away" populations, discarded by a society that cares not what happens to them (and prefers that they be kept out of sight). Having inmates and animals help each other in a symbiotic relationship results in a win-win situation, with not only the inmate and animal benefitting but the larger community as well.¹²⁹

128. Strimple, *Inmate-Animal Interaction*, *supra* note 4, at 77 ("[T]here is evidence from firsthand experience that animals and animal training programs can change the atmosphere of prisons and provide meaningful work and training for inmates. The wardens and superintendents who pride themselves in the improvement they have seen in their correctional institutions need to speak out. State and federal funds should be made available to develop and evaluate animal programs in correctional facilities. Animal programs appear to be an effective cost-saving way of training inmates and keeping them from returning to prison, but research in this area is desperately needed.")

129. Furst, *supra* note 7, at 425.

IV. CONCLUSION

The use of PDPs is an innovative rehabilitative strategy that takes advantage of the bond that humans have had with dogs for thousands of years. Numerous state correctional facilities, along with the BOP, have adopted these programs to give prisoners, and sometimes dogs, a second chance. The informal results witnessed to date appear positive for everyone concerned. Inmates benefit because the animal-training instruction they receive, along with the experience they acquire training dogs in their care, provides them with a skill that they can use after their release. More importantly, the relationship that a prisoner builds with his dog teaches him the need to achieve a goal; the importance of discipline and patience, along with disutility of violence, in being successful; the value and sense of self-worth in empathizing and caring for another creature; and, perhaps for the first time, the emotional bond with another living creature that allows him to feel and express love. Dogs benefit because they escape their own death row and find their own “forever” homes. Prisons benefit because the close interaction between prisoners and dogs leads to a reduction in the number of infractions and amount of violence. Members of the community benefit by receiving a dog that can become a service dog or a treasured family member. And society benefits from a reduction in the recidivism rate of participating inmates.

Prisoners, private parties, private organizations, correctional officials, and observers have all offered testimonials to the worthwhile effects of PDPs. Dogs have done so too, in their own way. To prove the utility of PDPs as a valuable rehabilitative strategy, Congress should instruct the GAO or the Justice Department to analyze existing PDPs to determine whether they are operating effectively and efficiently.

The perfect should not be the enemy of the good. Dogs, inmates, and the community may benefit from imperfectly justified programs. After all, each one is imperfect as well.

V. APPENDIX

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ALASKA: Alaska Dep't of Corrections Cell Dog and Service Dog Training Program, <http://www.correct.state.ak.us/blog/akdocdogs/category/SPOT+Program>

ARIZONA: Arizona Department of Corrections Horse Program, <https://corrections.az.gov/article/adc-horse-program>

ARKANSAS: Paws in Prison, <http://www.careforanimals.org/paws-in-prison.cfm>

CALIFORNIA: Paws for Life – Karma Rescue, <http://karmarescue.org/paws-for-life/>

COLORADO: <https://www.coloradoci.com/serviceproviders/puppy/index.html?intro>

Christiane Deaton, *Humanizing Prisons with Animals: A Closer Look at “Cell Dogs” and Horse Programs in Correctional Institutions*, 56 J. CORRECTIONAL EDUC. 46, 54-55 (2005)

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DELAWARE: Paws with a Cause, <http://www.doc.delaware.gov/news/pdfs/12press0820.pdf#search=dogs>

FLORIDA: Paws on Parole and Teaching Animals and Inmates Life Skills, (TAILS), <http://www.dc.state.fl.us/apps/utopia/learn.html>

GEORGIA: Operation Second Chance – Jail Dogs and Cats, <http://www.jaildogs.org/>

HAWAII: No program

IDAHO: Inmate Dog Alliance Project of Idaho (IDAPI), <https://www.idahohumanesociety.org/programs/idapi/>

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MARYLAND: Justin George, *Maryland prisoners train service dogs for veterans*, BALTIMORE SUN, Oct. 28, 2013 (discussing America's VetDogs), <http://www.baltimoresun.com/news/maryland/bs-md-prison-dogs-20131028-story.html>

MASSACHUSETTS: (not government funded): <http://www.neads.org/training-placement/prison-pup-partnership>

MICHIGAN: <http://lifelineprisonministry.org/Canine-Inmate-Programs>

MINNESOTA: <http://www.ruffstartrescue.org/info/display?PageID=15476>

MISSISSIPPI: No program

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MONTANA: <http://www.kulr8.com/story/22659461/prison-paws-for-humanitys-unique-program>

NEBRASKA: <http://www.corrections.nebraska.gov/dogtraining.html>

NEVADA: <http://nevadahumanesociety.org/nhs-carson-city/pups-on-parole-program/>

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