



The Issue: Breed Specific Legislation and Policies

The MSPCA is opposed to breed-specific (BSL), or breed-discriminatory (BDL), ordinances for many reasons. We are committed to working with municipalities on the important issue of preventing dog bites and believe that doing so can produce an outcome that is both effective and fair.

A highly praised article from the Journal of the American Veterinary Medical Association (JAVMA) called "[A Community Approach to Dog Bite Prevention](#)" provides important information. The multidisciplinary Task Force that wrote this report had as its goal to create "a well-planned proactive community approach" to address dog bite concerns. The Center for Disease Control published a study on fatal dog-bites and recommended against BSL to address this problem.

We understand the struggle to comprehend and deal with public safety issues and how difficult it can be for legislative bodies to address society problems resulting from individual behavior. It is important that we examine the issue of dog bites carefully and thoroughly because, as with many issues, prevention is more complicated than simply focusing on one measure -- in this case on one breed of dog. Examining the animal control laws and their enforcement must happen, because focusing efforts on specific breeds, rather than on dealing with the true cause of these threats to public safety -- pet owner responsibility -- will not work.

We can't begin to holistically address this problem without going beyond news articles and finding out what is really happening and why. There can be a tendency for the media to report on "pit bull attacks" and not others. It has been said "Dog bites man isn't news, but Pit Bull bites man is." (See pit bull bias reports from the National Canine Research Council) Similarly, certain breeds can be over-represented in statistics, as they are more likely to be reported, when bites by other breeds are not. When the media or legislators list pit bull incidents, they almost all are from off-leash dogs who had been violating the leash law. This begs the question: if a municipality can't enforce the leash law, how can the breed-specific law be enforced? Again, this is an issue of pet owner responsibility.

Following is a summary of the main reasons why breed-specific legislation is neither appropriate nor effective:

It is overinclusive. Breed-specific legislation unfairly brands all dogs of a particular breed, regardless of their behavioral history.

There are problems with enforcement. If dogs involved in bites are not licensed and not restrained on a leash, the owners are unlikely to comply with breed-specific regulations.

It is underinclusive. Breed-specific legislation does not impact on dogs of other breeds who

may be dangerous.

There are problems with identification. In *American Dog owners Association v. City of Lynn*, 404 Mass. 72, 80 (1989), the court found: “Unlike an ordinance which generally prohibits the keeping of a “vicious dog,” enforcement of which involves questions of fact whether the particular dog is vicious or known by its owner to be vicious, or a strict liability restraint or dog bite law, such as G. L. c. 140, § 155, the Lynn Pit Bull ban ordinance depends for enforcement on the subjective understanding of dog officers of the appearance of an ill-defined “breed,” leaves dog owners to guess at what conduct or dog “look” is prohibited, and requires “proof” of a dog’s “type” which, unless the dog is registered, may be impossible to furnish without expensive DNA testing. Such a law gives unleashed discretion to the dog officers charged with its enforcement, and clearly relies on their subjective speculation whether a dog’s physical characteristics”

There are potential legal challenges. Breed-specific legislation has been challenged (successfully in Massachusetts) on due process and equal protection grounds. See *American Dog owners Association v. City of Lynn*, 404 Mass. 72, 80 (1989).

Other breeds of dogs could be trained to be dangerous. Without targeting the real factors that cause dog bites to occur, people who want a “dangerous” dog are simply going to move on to the next breed of dog. Or those who keep dogs for fighting or other illegal purposes would not comply and even worse -- could result with dogs being kept in a manner that could exacerbate their unpredictability and aggressiveness.

Instead, we believe alternatives should be explored. Alternatives can include:

- Increased/graduated fines for violation of the dangerous dog ordinance;
- Mandatory education classes on dog ownership and obedience training if a dog is declared dangerous;
- Mandatory sterilization of animals declared dangerous;
- Prohibition on owners who have had dangerous dogs banned from the city (which only transfers the problem elsewhere) from owning a dog again (for a number of years);
- Financial liability for owners who fail to comply with ordinance and civil/criminal liability for harm done by their dogs;
- Requiring a dog that has been found running at large over a certain number of times, to comply with ordinance, even if not “dangerous”
- Restrictions on chaining/tethering (see MSPCA’s Tethering packet), known factors in dog bites.

In addition, municipalities can explore alternatives outside the ordinance to prevent dog bites. This could include:

- Increasing the number of animal control officers;
- Increasing the number of licensed and microchipped dogs;
- Initiating a campaign to promote reporting of dogs running at large;
- Educating the community about responsible animal ownership and obedience training

- Passing a spay/neuter ordinance that will not only combat overpopulation, but will minimize the number of dogs who are bred irresponsibly and indiscriminately and for traits such as aggression;
- Increasing the cost of a license for unsterilized animals.

We encourage municipalities to form a task force consisting of a diverse group of interests, backgrounds and expertise to explore substantive, long-term strategies that will reach the goal we all want -- a decrease in the number of dog bites.

As stated in the JAVMA article, “Although this (specific breeds as dangerous) is a common concern, singling out 1 or 2 breeds for control can result in a false sense of accomplishment. Doing so ignores the true scope of the problem and will not result in a responsible approach to protecting a community’s citizens.”

Municipalities may find BSL to be unenforceable, or extremely expensive to enforce, as well. And, while they’re trying to enforce a bad ordinance, they cannot focus their efforts in more effective ways, which can negatively affect public safety. Best Friends has created an economic analysis modeling tool for cities and towns to estimate the costs associated with BSL; it includes litigation and DNA analysis testing, which are required when the burden of proof for breed identification falls to the city or town. Animal control departments are notoriously underfunded, forcing animal control officers to do the best they can with the resources that they have, including kennel space. Wasting money on enforcement of an ordinance that unfairly targets dogs based on breed further exacerbates this problem, and can result in euthanasia of safe, friendly dogs.

Some people argue that labeling a dog as “dangerous” or even “potentially dangerous” has negative effects, as well. However, those designations can be changed/repealed over time if conditions are met, such as: sterilization, training, socialization, etc. and if there are no further incidents, proving that the interventions have worked. Such changes will facilitate coverage by homeowner’s insurance companies, too.

How You Can Help

Get to know your local legislators

Write letters to the editor of your local paper if articles are breed-biased

Watch out for BSL/BDL in your communities

Promote breed neutral dangerous dog ordinances

Local breed-specific provisions

Despite the fact that BSL has never proved effective in decreasing dog bites anywhere, hundreds of municipalities across the country have ordinances that ban or restrict dogs based on breed – more than 30 breeds/breed mixes are affected.

Model language to promote instead of BSL:

See the model language in the AVMA report, “A community approach to dogbite prevention” : http://www.avma.org/public_health/dogbite/dogbite.pdf

Language used in ordinances in select Massachusetts cities:

At least seven Massachusetts communities have breed-specific ordinances, and others have considered or are currently considering them. Here are some examples of the kinds of ordinances **to oppose** if they are suggested in your community:

Boston: http://www.cityofboston.gov/animalcontrol/pdfs/pitbull_ord.pdf

Everett:

http://www.egovlink.com/public_documents300/everett/published_documents/City%20Clerk/Ordinances/Chapter%2003%20-%20Animals.pdf

Haverhill:

http://www.ci.haverhill.ma.us/departments/police/animal_control/ordinances/pitbull.html

Relevant state legislation:

Massachusetts has comprehensive animal control legislation pending at the state level that would *prevent* breed discrimination in dangerous dog determinations (see www.mspca.org/legislation). Twelve other states have laws on the books that prevent local breed specific ordinances, though California’s law does allow breed specific programs (spay/neuter required for pit bulls). On the other hand, Ohio has a state law that is breed specific.

Resources:

MSPCA-Angell Advocacy Department
350 S. Huntington Avenue
Boston, MA 02130
www.mspca.org
617-522-7400

Other animal protection organizations:

The Humane Society of the United States (HSUS): www.HumaneSociety.org
The American Society for the Prevention of Cruelty to Animals (ASPCA): www.ASPCA.org
The Animal Legal Defense Fund: www.aldf.org
Best Friends Animal Society: www.bestfriends.org
Massachusetts Animal Coalition: www.massanimalcoalition.org
Understand-A-Bull: <http://www.understand-a-bull.com/>

Government/public policy entities:

Animal Control Officers Association of Massachusetts: <http://www.acoam.com/home/>
Massachusetts Municipal Association: www.mma.org
Massachusetts state website: www.mass.gov
Municipal Code Corporation: www.municode.com

Working with the Media, Media Bias:

The Spin Project: www.spinproject.org
National Canine Research Council: <http://nationalcanineresearchcouncil.com/>