



Vicki Deisner
State Legislative Director for the
Midwest Region

Post Office Box 228
Worthington, Ohio 43085-0228

Vicki.deisner@aspca.org
646.596.0321

www.aspca.org
www.aspcapro.org

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Bexley City Council
Bexley, Ohio

Re: ASPCA Support of Breed Neuter Local Ordinances

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA) and its more than 100,000 Ohio supporters, I write to express our opposition to breed specific ordinances. For the reasons outlined in this letter, the ASPCA believes that breed specific ordinances, which ban ownership of dog breeds deemed to be dangerous, raises serious constitutional objections, and perhaps most importantly will fail to resolve the problems that it seeks to address. The ASPCA therefore respectfully requests that the Bexley City Council pass breed neutral legislation.

Breed specific ordinances fail to address the root of the problem. Laws that ban or place restrictions on particular breeds without reference to the behavior of the individual dogs, punish even responsible pet owners whose dogs are entirely friendly and well supervised. Placing the onus where it belongs – on the pet owner – by enforcing laws designed to ensure proper supervision of dogs (anti-tethering laws, dog licensing laws, leash laws, animal fighting laws, and well-crafted breed-neutral dangerous dog laws) will accomplish a good deal more than overbroad efforts to ban or discriminate against specific dog breeds without regard to the behavior or temperament of the individual dog.

Notably, jurisdictions that have enacted breed-specific laws have learned by experience that these laws do not make their communities safer. In the second year after Council Bluffs, Iowa, enacted a breed specific ban, the bite levels exceeded the amount prior to the ban. Boxer and Lab bites had increased to replace pit bulls as top-biting dogs with no increase in public safety for the citizens of Council Bluffs (please see attached chart). A breed specific ban gives a false sense of safety to a community when any dog or other animal can be dangerous. Denver County, Colorado, enacted a breed specific ban in 1989. Denver County, with a population twice that of Larimer County, Colorado, had more than 7x as many dog bite-related hospitalizations as Larimer County even though they had a breed specific ban (please see attached chart). Breed specific bans, which are extremely costly to enforce and stretch thin already scant dog control resources, have not resulted in fewer dog attacks and do not replace other methods of enforcement such as leash laws that assure all dogs are under control. Cities and towns that have invested in low-cost spay neuter and that have passed and aggressively enforce anti-tethering, dog licensing, breed-neutral dangerous dog, and leash laws have seen a reduction in dog attacks. The

AVMA has found that less than .05% of fatal dog bite cases were caused by dogs on leashes (see

attached article). The AVMA also found that since 1975, dogs belonging to more than 30 breeds have been responsible for fatal attacks on people, including Dachshunds, Yorkshire Terriers and a Labrador Retriever.

Local leash laws, as well as Ohio's animal fighting laws, are all powerful protections against dogs that are aggressive and truly dangerous or merely creating a nuisance. In addition, the established association of dog aggression with chaining makes anti-tethering laws, as noted above, an extremely useful animal control tool. Ohio law does not prohibit localities from enacting breed-neutral dangerous dog ordinances that are protective of due process and provide residents their constitutional right to a hearing. In fact, some localities have both created a successful deterrent and augmented their animal control budgets by enacting local breed-neutral dangerous dog and other associated laws and imposing steep fines for these offenses. Certainly, nothing would preclude Bexley from doing this as well.

In addition to issues surrounding which breeds to regulate, breed-specific ordinances raise several legal issues. When a specific breed has been selected for stringent control, two constitutional questions concerning a dog owner's fourteenth amendment rights have been raised: first, because all types of dogs may inflict injury, ordinances addressing only one breed of dog are under-inclusive and therefore violate owner's equal protection rights; and second, because identification of a dog's breed with the certainty necessary to impose sanctions on the dog's owner is prohibitively difficult, such ordinances have been argued as unconstitutionally vague, and therefore, violate due process. A number of breed specific bans in Ohio are being legally challenged.

The ASPCA appreciates the substantial challenges faced by localities, particularly in the current fiscal climate, in addressing its dangerous dog problems. However, extensive review of this problem across a variety of localities, states, and countries makes clear that breed-specific laws do not provide the panacea that communities seek. The ASPCA is more than willing to discuss strategies for augmenting the funding of local animal control programs. We in turn ask Bexley to commit itself to the aggressive enforcement of dog license laws and other provisions designed to protect the community from dogs that are, by virtue of their behavior, truly "dangerous", as well as those that are in need of better supervision.

Thank you for your consideration of this issue.

Vicki Deisner, Esq.
State Legislative Director, Midwest region
ASPCA
vicki.deisner@aspca.org

SOURCES

- ¹ Calculated from source data on Nonfatal Injury Reports, 2001-2011, Unintentional Dog Bite, Both Sexes, 2001-2011, Disposition: Transferred/Hospitalized, All Ages, available at: Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS) [Online]. (2003). National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (producer). Retrieved from: www.cdc.gov/ncipc/wisqars. [2013 May 3].
 - ² Data retrieved from Injury Hospitalizations, Bite/sting - Dog, 1995-2011, All Gender, All County, available at: Colorado Department of Public Health and Environment: Colorado Health Information Dataset (2011). Injury Hospitalization Data. [Online]. Retrieved from: http://www.chd.dphe.state.co.us/cohid/topics.aspx?q=Injury_Hospitalizations [2013 April 25]
 - ³ Calkins, C.M., Bensard, D.D., Patrick, D.A., & Karrer, F.M. (2001). Life-threatening dog attacks: A devastating combination of penetrating and blunt injuries. *Journal of Pediatric Surgery*, 36(8):1115-1117.
 - ⁴ AVMA Animal Welfare Division. (17 April 2012). *The Welfare Implications of The Role of Breed in Dog Bite Risk and Prevention*. Retrieved from: https://www.avma.org/KB/Resources/Backgrounders/Documents/dog_bite_risk_and_prevention_bgnd.pdf
 - ⁵ American Bar Association. (2012). *100: Proposed Resolution and Report*. Retrieved from: <http://www.abanow.org/2012/06/2012am100/>
 - ⁶ National Canine Research Council. (2013). *A Community Model for Responsible Pet Ownership: Calgary Alberta*. Retrieved from: http://www.nationalcanineresearchcouncil.com/uploaded_files/tinymce/Community%20Model%20for%20RPO_Calgary.pdf
- National Canine Research Council. (n.d.) *Animal Services and the Responsible Pet Ownership Model*. Retrieved from: http://www.nationalcanineresearchcouncil.com/uploaded_files/tinymce/Bruce_Revised%20Viewpoint_updated%20title%202012.pdf

DENVER'S BREED-SPECIFIC LEGISLATION: BRUTAL, COSTLY, AND INEFFECTIVE

In 1989, the City and County of Denver banned the keeping of "pit bull" dogs. Thousands of companion dogs have been seized and killed in the years since. Despite significant and costly legal challenges, and notwithstanding a Colorado state law that recommends that cities and counties not regulate dogs on the basis of breed or appearance, Denver has maintained its ban. Presumably, Denver's purpose, and the motive behind its ruthless enforcement, was to improve community safety.

Has Denver's result been worth the public resources that the County has expended? Has the result been worth the price paid by pet owners and their treasured family companions?

Does Denver have a lower rate of dog-bite hospitalizations than other counties? Has the ban eliminated dog bite-related fatalities in Denver?

The answer to these questions is: NO.

"Breed-discriminatory Denver County, with a population of about twice that of breed-neutral Larimer County, had more than *seven times* as many dog bite-related hospitalizations during the same seventeen-year period."

DENVER CONTINUES TO HAVE SIGNIFICANTLY HIGHER DOG BITE-RELATED HOSPITALIZATION RATES THAN OTHER COUNTIES.

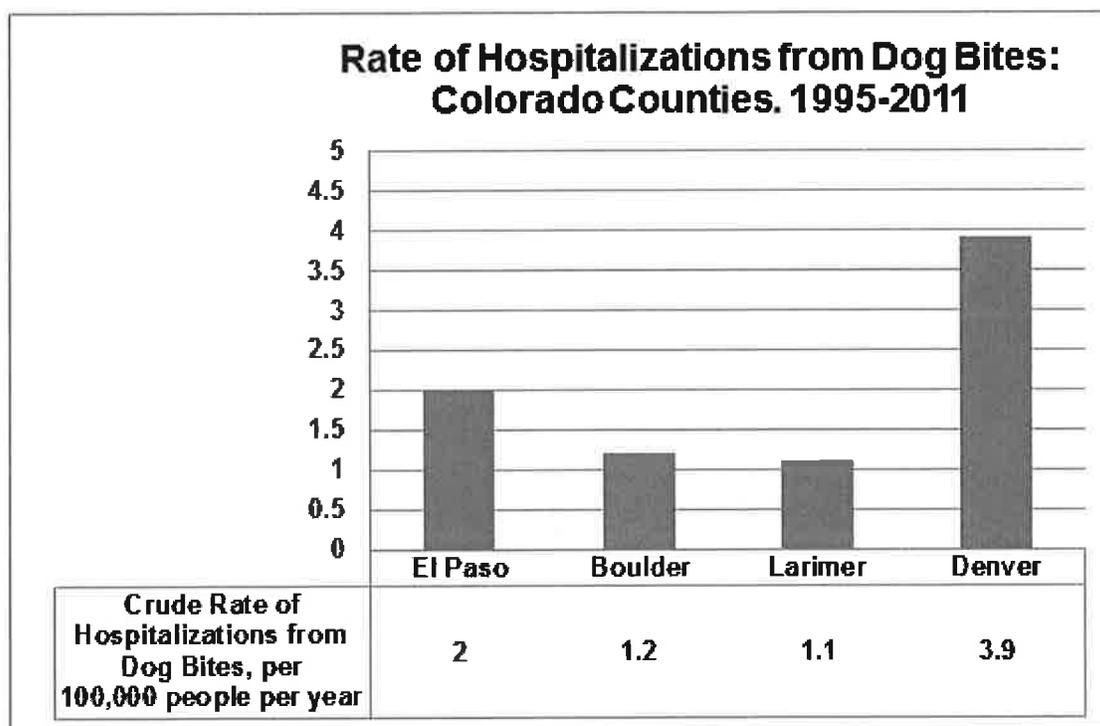
Dog bites are not a serious public health issue. Dog bite-related hospitalizations constitute less than 0.5% of the total hospitalizations/transfers on account of unintentional injuries in the United States.¹

While dog bite-injury hospitalizations are infrequent, the breed-discriminatory County of Denver continues to have a *significantly higher rate* of dog bite-related hospitalizations than all counties in the state except for one, according to the Colorado Department of Public Health and Environment statistics. The Colorado Trauma Registry Database has classified Denver County with a rating of "H" - an injury rate significantly higher than the rate for the state - over a seventeen-year period (1995-2011). Denver is one of only two counties in the state designated "H". Denver's breed ban was enacted six years prior to the first year reported (1995).

Three counties (El Paso, Boulder, and Larimer) were designated "L," with significantly lower rates of dog bite-related hospitalizations than the state, during the same time period:

- El Paso County (2010 pop.: 622,263) - 189 dog bite hospitalizations (1995-2011)
- Boulder County (2010 pop.: 294,567) - 59 dog bite hospitalizations (1995-2011)
- Larimer County (2010 pop.: 299,630) - 50 dog bite hospitalizations (1995-2011)
- Denver County (2010 pop.: 600,158) - 367 dog bite hospitalizations (1995-2011)²**

Breed-discriminatory Denver County, with a population of about twice that of breed-neutral Larimer County, had more than *seven times* as many dog bite-related hospitalizations during the same seventeen-year period.



A study of Denver dog bite-injury hospitalizations published in the *Journal of Pediatric Surgery* reported that, "because it is illegal to own a pitbull in the County of Denver, we rarely see injuries caused by this breed."³

THE BAN HAS NOT ELIMINATED DOG BITE-RELATED FATALITIES IN DENVER.

Dog bite-related fatalities remain exceedingly rare in Denver, and in Colorado, just as they are everywhere. In the last 46 years, there have been a total of 9 dog bite-related fatalities in Colorado.

One (1) of Colorado's fatalities occurred in Denver 7 years after enactment of the ban, and is attributed to a type of dog not subject to the ban.

A TIME FOR CHANGE

In 2012, the AVMA published a report stating that there is no evidence from which to conclude that one kind of dog should be considered disproportionately dangerous. The report also stated that it has not been shown that breed-specific legislation has ever reduced the rate or severity of dog bite-related injuries anywhere.⁴ The lack of results in Denver is another example of what has been a failure of breed-specific legislation on a worldwide basis.

The American Bar Association (ABA) House of Delegates passed a resolution in 2012 urging all towns and counties in the United States to repeal any breed-specific laws still in effect. The analysis supporting the resolution highlighted the many problems of breed-specific legislation: significant questions of due process; waste of government resources; failure to produce safer communities; inability to reliably identify dogs to be regulated or seized; and infringement of property rights.⁵

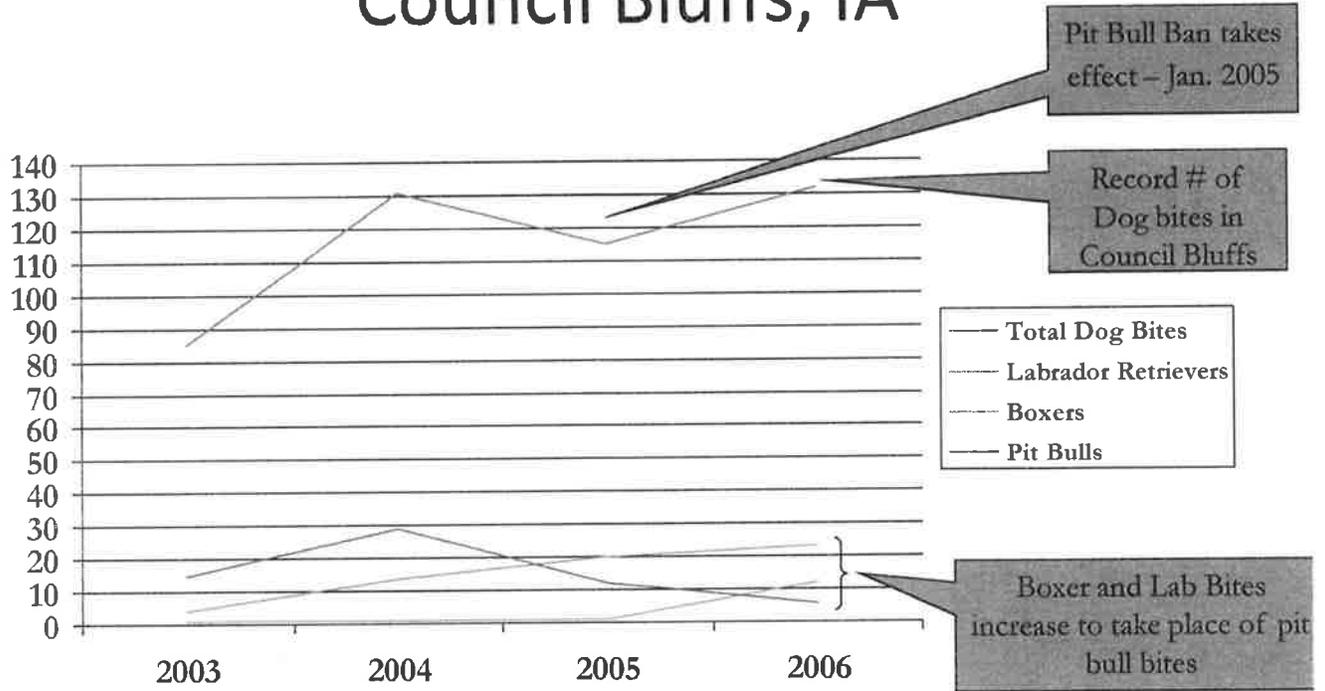
Consistent with the ABA recommendation, Massachusetts, Nevada, Connecticut, and Rhode Island have recently enacted laws that preempt towns and counties from regulating dogs on the basis of breed. From January 2012-May 2013 more than three times as many jurisdictions either rejected proposed breed-specific legislation or repealed an ordinance previously in effect as enacted breed-specific legislation of any kind. The message of this trend is clear: improved community safety results when we hold dog owners responsible for humane care, custody and control of their dogs, regardless of the dogs' presumed or actual breed.⁶

By every standard of responsible governance, Denver should acknowledge that its breed ban has been an unambiguous failure, and abide by the wisdom of the Colorado state legislature. Denver should repeal its costly, ineffective, and brutal breed-specific legislation.

Updated: 2 August 2013

(1) Council Bluffs, IA

Council Bluffs, IA



Second year after Council Bluffs enacted ban, they are above bite levels from the year prior to the ban and increased Animal Control

Boxer and Lab bites have grown to replace pit bulls as top-biting dogs

No increase in public safety for the citizens of Council Bluffs

Source: Email from Galen Barrett, Chief ACO Council Bluffs, 1/17/07