

Dangerous dog management

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Abstract

Dangerous dogs are a problem throughout the United States and abroad, and a variety of measures have been taken to reduce their threat. One of the most common responses to a severe dog bite injury or fatality is a move to ban certain large breeds. Breed specific legislation, however, is not the best way to solve the problem. The HSUS opposes legislation aimed at eradicating, or strictly regulating, dogs based solely on their breed. These laws are difficult to enforce and ineffective at solving the problem. Non-breed specific laws that target irresponsible pet ownership and dog behavior are a much more effective way to manage dangerous dogs.

The problem

- There are over 4.5 million dog bites each year in the United States. This is an estimate as there is no central reporting agency for dog bites in the United States thus breed and other information is not captured. Out of the millions of bites, about 10-20 are fatal each year.
- Between 1979 through 1998, at least twenty-five different breeds or crossbreeds of dogs have been involved in fatally wounding a human being. Breeds cited range from the oft-maligned pit bulls and rottweilers to the legendary "forever loyal" breed of St. Bernard's (Sacks et al 2000).
- The problem of dangerous dogs has many ramifications for the community. Dangerous dogs consume resources like "time spent by volunteer and paid community officials on animal-related issues ... building appropriate medical support, ... and animal shelter support for unwanted pets." They may also contribute "to deterioration of relationships between neighbors, citizens' concerns about neighborhood safety for children, homeowners' insurance costs within the community." (Beaver et al 2001).

Breed specific legislation

When attacks occur, many communities lean towards breed-specific legislation to prevent another injury or death. They often want to ban certain breeds, such as rottweilers or pit bulls, due to the perception that these breeds are inherently more likely to bite. However, for several reasons breed-specific legislation fails to be the most effective solution.

- There are only 10-20 dog bite related deaths a year. While tragic, it represents a very small number statistically and should not be considered as a basis for sweeping legislative changes.
- The inherent problems in the lack of good statistics of dog bites make it impossible to determine which breeds are the most dangerous for several reasons:
 - It is impossible to determine the number of dogs of a certain breed at any given time, thus making it impossible to determine the relative danger of any breed (Beaver et al 2001). For example, if you review a study that states there have been 5 attacks by Golden Retrievers in a community and 10 attacks by Pit Bulls in that same community it would appear that pit bulls are more dangerous. But, if you look at the dog populations in that community and learn that there are 50 Golden Retrievers present and 500 Pit Bulls, then the Pit Bulls are actually the safer breed statistically.
 - A breed's popularity is constantly changing, making it unreliable to compare breed-specific bite rates (Beaver et al 2001).

- The statistics may be inaccurate due to the fact that multiple attacks by one dog may be counted many times (Beaver et al 2001).
- The biting dog's breed is often identified by people who may not know much about the breed and often identify mixed dogs as purebreds (Beaver et al 2001).
- Legislation that bans or restricts certain breeds is extremely difficult for animal control agencies, even those that are well funded and equipped, to enforce.
- There is no objective way to determine the breed of a dog. The closest thing to an objective measure of a dog's breed is a pedigree analysis combined with DNA testing, both of which can be time-consuming, complicated and expensive (Sacks et al 2000).
- The 'problem dog' at any given time is often the most popular breed among individuals who tend to be irresponsible, if not abusive, in the control and keeping of their pets. Simply put, if you ban one breed, individuals will just move on to another one. Banning a breed only speeds up the timetable. For example, two decades ago pit bulls and rottweilers (the most recent breeds targeted) were of little to no concern. At that time it was the Doberman pinscher and German shepherd who were being vilified. In 2001, few people had heard of the Presa Canario breed, involved in the tragic, fatal attack on Diane Whipple in California in January of 2001. Now, that breed is rumored to be sought by individuals who desire the new 'killer dog'.
- The constitutionality of breed-specific legislation is in question due to concerns of the owners' fourteenth amendment rights of due process and equal protection. According to an American Veterinary Medical Association (AVMA) task force, two constitutional questions are raised: "first, because all types of dogs may inflict injury to people and property, ordinances addressing only 1 breed of dog appear to be under-inclusive and therefore violate owners' 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 impossible, such ordinances have been considered unconstitutionally vague, and therefore to violate due process." (Beaver et al 2001).

Factors in dog bites

Furthermore, restrictions placed on a specific breed fail to address the larger problems of abuse, aggression training, and irresponsible dog ownership. Breed alone is not an adequate indicator of a dog's propensity to bite. Rather, a dog's tendency to bite is a product of several factors, including but not limited to:

- whether the dog has been spayed or neutered: intact dogs are 2.6 times more likely to bite than dogs that have been neutered (Sacks et al 2000)
- quality of care and supervision by the owner (is the dog kept indoors as part of the family or is she kept chained outside): chained dogs are 2.6 times more likely to bite than unchained ones (Sacks et al 2000)
- early socialization, or lack thereof, of the dog to people
- sound obedience training for recognition of where he or she "fits" with regard to dominance and people or mis-training for fighting or increased aggression
- genetic makeup, including breed and strains within a breed
- current levels of socialization of the dog with his or her human family
- behavior of the victim

Better solutions

If the goal is to offer communities better protection from dogs that are dangerous, then thoughtful legislation that addresses responsible dog keeping is in order. Legislation aimed at punishing the owner of the dog rather than punishing the dog is far more effective in reducing the number of dog bites and attacks. Well enforced, non-breed-specific laws offer an effective and fair solution to the problem of dangerous dogs in all communities. In particular, communities should focus on:

- Laws regarding **unrestrained and free-roaming animals**: Animals should be confined to their property or on a leash at all times. To protect the owners, there should be enough time to claim any animal that is impounded due to this law (Beaver et al 2001). From 1979 to 1998, 24% of human dog bite related fatalities were a result of owned dogs roaming outside of their owners property (Sacks et al 2000).
- Laws prohibiting **dog-fighting, the possession of dog-fighting paraphernalia as well as the participation as a spectator at dog-fights**: The dogs used for dog-fighting are bred and raised to be extremely aggressive and dangerous.
- **Vaccinations**: Rabies vaccines should be given dogs and cats. Rabies vaccines have reduced the number of rabies cases from 6,949 in 1947 to 126 in 1997 (Beaver et al 2001).
- **Licensing laws**: In addition to identifying an animal if he or she gets lost, licenses serve to make sure rabies vaccines are current, allow for the dog and owners to be identified quickly in case of a bite, provide revenue for animal control, and if comprehensive, could provide demographic data (Beaver et al 2001).
- Laws that seek to identify **potentially dangerous dogs**, meaning dogs that have not bitten but, due to other characteristics, are likely to bite in the future. These characteristics include the previous behavior of the animal, the adequacy of the confinement, whether the animal is allowed to run at large (Handy 2001).

Multi-disciplinary approach

When dangerous dogs are a problem in the community, the whole community should be involved in solving the problem. The AVMA task force has identified the following groups that can and should be involved in a local coalition (Beaver et al 2001):

- animal control;
- attorneys, judges;
- business sector (eg. local business leaders, insurance companies, pet stores);
- dog breeders and trainers;
- educational system (eg. schools, parent-teacher organizations);
- health departments and public health associations;
- humane societies;
- human healthcare providers and associations (eg. nurses, pediatricians, community health centers, emergency medical service and ambulance companies, health maintenance organizations, hospitals, managed care organizations, medical associations, medical examiners' and coroners' offices, schools of medicine and public health, trauma centers);
- kennel clubs, dog clubs, assistance dog organizations;
- law enforcement agencies;
- local government officials;
- media;
- occupational safety organizations, agencies, and groups (eg. firefighters, meter readers);
- veterinary care providers and associations, allied staff, clinics, schools of veterinary medicine and veterinary technology;

- volunteer, nonprofit organizations (eg. boy/girl scouts; various "Y"s; 4-H clubs; chapters of the American Red Cross, Safe Kids, National Safety Council, and National Fire Protection Association; foundations; United Way; and civic groups [Kiwanis, Rotary]); and
- Other groups (eg. sports recreation clubs [joggers, bicyclists], automobile clubs, extension offices).

Children especially should be targeted for dog bite prevention education. The National Association for Humane and Environmental Education (NAHEE), The HSUS's education division, has developed materials and programs to teach children to better read dog behavior in order to avoid being bitten. The program, titled BARK for "Be Aware, Responsible and Kind" instructs children how to respond in detail when they are approached by a strange dog, when they feel threatened by a dog, or when they are attacked by a dog. The program has been tested and proven to work. Efforts to incorporate increased dog bite prevention education into regular school curriculum would go far in reducing incidents of dog's bites.

Additionally, outreach to dog owners with information on how they can work to "bite proof" their dogs would also go far in reducing the number of bites.

Typically, it is left to the local animal sheltering agency to add bite prevention education to their repertoire of programs. Unfortunately, most sheltering agencies are not able to offer regular and far-reaching programs that would saturate the community as necessary with information. Local governments should take on, or at least share, the responsibility to fund better prevention programs in addition to those that address dog bites once they have occurred.

The Humane Society of the United States Model Dangerous Dog Legislation

§ 1. Definitions

For purposes of this section, the term:

- "Dangerous dog" means any dog that:
 - Causes a serious injury to a person or domestic animal; or
 - Has been designated as a potentially dangerous dog and engages in behavior that poses a threat to public safety as described in paragraph (f) of this section.
- "Serious injury" means any physical injury that results in broken bones or lacerations that require multiple sutures or cosmetic surgery.
- "Proper enclosure" means secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property.
- "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog.
- "Impound" means taken into the custody of the Animal Control Authority or the organization authorized to enforce the dangerous dog law of this jurisdiction.
- "Potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
 - Causing an injury to a person or domestic animal that is less severe than a serious injury;
 - Without provocation, chasing or menacing a person or domestic animal in an aggressive manner;

- (3) Running at large and impounded or owners cited by the Animal Control Authority two (2) or more times within any 12-month period.
- (4) Acts in a highly aggressively manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
- (g) "Responsible person" means a person at least 18 years old who is familiar with the dog and has the size and experience to be able to keep the dog under complete control at all times.

§ 2. Determination of a potentially dangerous dog

- (a) After an investigation, which must be initiated within [xx number] days after the situation becomes known to the Animal Control Authority, the Animal Control Director or his/her designee is authorized to make a determination whether a dog is potentially dangerous based on the factors listed in § 1(f) and shall notify the owner of the dog in writing by certified mail or hand delivery with signature of that status within five (5) days after the completion of the investigation.
- (b) Following notice to the owner, if the Animal Control Director or his/her designee has probable cause to believe that a dog is a potentially dangerous dog and may pose a threat to public safety, the Animal Control Director or his/her designee may obtain a search warrant pursuant to this jurisdiction's Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of § 6. The owner of the dog may be liable to this jurisdiction for the costs and expenses of keeping the dog.
- (c) Upon notice, the owner may, within [xx number] business days after a determination that a dog is a potentially dangerous dog, bring a petition in this jurisdiction seeking review of the determination. A decision by this jurisdiction overturning the Animal Control Director or his/her designee's determination shall not affect the Animal Control Director or his/her designee's right to later declare a dog to be a potentially dangerous dog or a dangerous dog, or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

§ 3. Determination of a dangerous dog

- (a) After an investigation, which must be initiated within [xx number] days after the situation becomes known to the Animal Control Authority, the Animal Control Director or his/her designee is authorized to make a determination whether a dog is dangerous based on the factors listed in § 1(a) and shall notify the owner of the dog in writing by certified mail or hand delivery with signature of that status within five (5) days after completing the investigation.
- (b) Following notice to the owner and prior to the hearing, if the Animal Control Director or his/her designee has probable cause and believes the dog to be a dangerous dog and that the animal poses an imminent threat to public safety, the Animal Control Director or his/her designee may obtain a search warrant pursuant to this jurisdiction's Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of § 6. The owner of the dog shall be liable to this jurisdiction for the costs and expenses of keeping the dog if the dog is determined to be a dangerous dog.
- (c) The owner may, within [xx number] business days after a determination that a dog is a dangerous dog, bring a petition in this jurisdiction seeking review of the determination. A decision by this jurisdiction overturning the Animal Control Director or his/her designee's determination shall not affect the Animal Control Director or his/her designee's right to later declare a dog to be a dangerous dog or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

§ 4. Exceptions

No dog shall be declared a dangerous or potentially dangerous dog if:

- (a) The dog was used by a law enforcement official for legitimate law enforcement purposes;
- (b) The threat, injury, or damage was sustained by a person:
 - (1) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;
 - (2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - (3) Who was committing or attempting to commit a crime; or
- (c) The dog was:
 - (1) Responding to pain or injury, or was protecting itself, its offspring; or
 - (2) Protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

§ 5. Consequences of a dangerous or potentially dangerous dog determination

- (a) If the Animal Control Director or his/her designee determines that a dog is a potentially dangerous dog under § 2, the owner shall comply with the provisions of §§ 5 and 6(a)(d) and any other special security or care requirements the Animal Control Director or his/her designee may establish.
- (b) If the Animal Control Director or his/her designee determines that a dog is a dangerous dog under § 3, the owner shall comply with the provisions of §§ 5 and 6(b)(c) and any other special security or care requirements the Animal Control Director or his/her designee may establish.
- (c) The Animal Control Director or his/her designee may require impoundment of the dog until the owner of the dog has satisfied all the requirements of the certificate of registration holding permit. The requirements must be met within thirty (30) days. If, after thirty (30) days, the owner has not satisfied all the requirements of the holding permit, the animal may be humanely euthanized on the thirty-first (31) day.

§ 6. Dangerous dog and potentially dangerous dog registration and handling requirements

- (a) The Animal Control Director or his/her designee shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes to the satisfaction of the Animal Control Authority that:
 - (1) The owner of the potentially dangerous dog is 21 years of age or older;
 - (2) A valid license has been issued for the potentially dangerous dog pursuant to jurisdiction;
 - (3) The potentially dangerous dog has a current rabies vaccination;
 - (4) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said potentially dangerous dog as described in § 1;
 - (5) The owner has paid an annual fee in an amount to be determined by the Animal Control Director or his/her designee, in addition to regular dog licensing fees, to register the potentially dangerous dog;
 - (6) The potentially dangerous dog has been spayed or neutered;
 - (7) The potentially dangerous dog has been implanted with a microchip containing owner identification information. The microchip information must be registered with the animal control authority of the jurisdiction; and

- (8) The potentially dangerous dog owner shall enter the dog in a socialization and/or behavior program approved or offered by the jurisdiction.
- (b) The Animal Control Director or his/her designee shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration of a potentially dangerous dog pursuant to paragraph (a) of this section, establishes to the satisfaction of the Animal Control Authority that:
- (1) The owner of the dangerous dog has written permission of the property owner or homeowner's association where the dangerous dog will be kept if applicable;
 - (2) The owner will maintain the dangerous dog exclusively on the owner's property except for medical treatment or examination; and
 - (3) The owner of the dangerous dog has posted on the premises a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog. The sign shall be very visible from the public roadway or 50 feet, whichever is less.
- (c) The Animal Control Director or his/her designee may order the immediate impoundment or humane euthanasia of a dangerous dog if the owner fails to abide by the conditions for registration or confinement or handling of a dangerous dog.
- (d) If any dog previously determined to be a potentially dangerous dog has not exhibited any of the behaviors specified in § 1(f) within the thirty-six (36) months since the date of the potentially dangerous dog determination, then that dog is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, then that same dog may again be declared a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors.

§ 7. Dangerous or potentially dangerous dog owner responsibility

It shall be unlawful to:

- (a) Keep a dog determined to be dangerous or potentially dangerous without a valid certificate of registration issued under § 6;
- (b) Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is under the control of a responsible person as defined in § 1, muzzled, and restrained by a lead not exceeding four (4) feet in length; The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human being or animal;
- (c) Fail to maintain a dangerous dog exclusively on the owner's property as required except for medical treatment or examination. When removed from the owner's property for medical treatment or examination, the dangerous dog shall be caged or under the control of a responsible person as defined in § 1, muzzled and restrained with a lead not exceeding four (4) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human being or animal;
- (d) Fail to notify the Animal Control Authority immediately upon escape if a dangerous or potentially dangerous dog is on the loose, is unconfined, has attacked another domestic animal, has attacked a human being; within five (5) business days if the dog has died; and within twenty-four (24) hours if the dog has been sold or has been given away. If the dangerous or potentially dangerous dog has been sold or given away, the owner shall also provide the Animal Control Director or his/her designee with the name, address, and telephone number

of the new owner of the dangerous or potentially dangerous dog;

- (e) Fail to surrender a dangerous or potentially dangerous dog to the Animal Control Director or his/her designee for safe confinement pending a disposition of the case when there is a reason to believe that the dangerous or potentially dangerous dog poses an imminent threat to public safety; or
- (f) Fail to comply with any special security or care requirements for a dangerous or potentially dangerous dog the Animal Control Director or his/her designee may have established pursuant to the finding that the dog was potentially dangerous or dangerous.

§ 8. Penalties

- (a) An owner of a dangerous or potentially dangerous dog who violates the provisions of § 6 and § 7 shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 90 days, or both, for a first offense and not more than \$1,000 or imprisonment not to exceed 90 days, or both, for a second offense.
- (b) An owner of a dangerous or potentially dangerous dog that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined up to \$10,000.
- (c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this act, or the rules issued under authority of this act.

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Link to The HSUS Statement on Dangerous Dogs and Breed-Specific Legislation:

http://www.hsus.org/pets/issues_affecting_our_pets/dangerous_dogs.html

References

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