

Pit Bull Lives Matter: Ineffectiveness Breeds Unconstitutionality in Miami-Dade's Breed Specific Legislation

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Introduction

“Pit Bull Attack Leaves Man Dead on South Side.”¹ “3-Month-Old Boy, Mauled To Death By Pit Bull.”² “Woman Mauled to Death by Pet Pit Bull.”³ Media stories over the past several decades have painted pit bull dogs as monsters and unprovoked killers. The term “Pit Bull” has become synonymous with negative words such as “dangerous,” “vicious,” and “killer” over the past thirty years. Despite the loyal, loving nature of these dogs, they have been abused, neglected, thrown into shelters, and destroyed by the millions.⁴ Public hysteria and media hype have created a terrible reputation for this good-natured animal. As a result, breed-specific legislation has been enacted all over the world to restrict and ban these poor animals,⁵ forcing them into hiding and resulting in the destruction of approximately one million of them every year.⁶

Although breed-specific legislation has as many opponents as it does supporters, these laws have managed to remain in place for the past several decades. Miami-Dade County's pit bull ban is no exception. Miami's ordinance unconstitutionally regulates pit bull dogs and their

¹*Pit Bull Attack Leaves Man Dead on South Side*, THE HUFFINGTON POST, www.huffingtonpost.com/2010/01/18/pit-bull-attack-leaves-ma_n_427024.html (last updated May 25, 2011).

² Cavan Sieczkowski, *Rayden Eugene Bruce, 3-Month-Old Boy, Mauled To Death By Pit Bull*, THE HUFFINGTON POST, www.huffingtonpost.com/2012/09/26/rayden-eugene-bruce-3-month-old-mauled-pit-bull-texas_n_1915839.html (last updated Jul. 24, 2014).

³ *Woman Mauled By Pet Pit Bull In San Francisco Bay Area Home*, THE HUFFINGTON POST, www.huffingtonpost.com/2015/03/02/woman-mauled-by-pet-pit-b_n_6787062.html (last updated Mar. 2, 2015).

⁴ *A Dose of Reality*, THE REAL PIT BULL, <http://www.realpitbull.com/perspective.html> (last visited Apr. 3, 2016).

⁵ See, e.g., Dangerous Dogs Act, 1991, c.65, §1 (U.K.), available at http://www.legislation.gov.uk/ukpga/1991/65/pdfs/ukpga_19910065_en.pdf; Dog Control Amendment Act 2003 (N.Z.), available at <http://www.legislation.govt.nz/act/public/2003/0119/latest/DLM229323.html> (last visited Apr. 3, 2016); Legal Regime for the Possession of Potentially Dangerous Animals (R.D. 2002, 287) (Spain), available at <http://www.loc.gov/law/help/bigcats/spain.php> (last visited Apr. 3, 2016).

⁶ *A Dose of Reality*, *supra* note 4.

owners. Although it portrays a purpose of protecting the public, the ban is completely ineffective in reducing dog bites in the county and should be repealed. Despite overwhelming evidence that contradicts the negative portrayals of the pit bull breed, challenges to breed-specific laws have consistently been difficult to overcome. Various forms of breed-specific legislation have remained in place throughout the nation even though data has shown such legislation has failed to fulfill its stated goal of reducing dog bites. Breed-specific legislation ignores the real problem of irresponsible ownership and instead unfairly discriminates against animals solely because of their breed.

Part I of this article reviews the history of the pit bull breed and the “see-saw” reputation that pit bulls have endured. Part II describes unsuccessful constitutional challenges to breed specific legislation. Part III discusses the problems with Miami-Dade County’s breed-specific ordinance and proposals for change that do not include unconstitutionally targeting a particular breed.

Miami-Dade County’s Ordinance banning pit bull dogs is so ineffective and flawed in its design to promote public safety that it does not meet rational basis scrutiny and is therefore unconstitutional and should be invalidated. Inaccurate statistics and media portrayals of the “pit bull” breed⁷ have led to vague and overly broad restriction laws put into place in order to calm public fear of this loyal and compassionate animal. These laws in turn have punished innocent animals and responsible owners for the wrongdoings of irresponsible owners and breeders. Miami-Dade’s breed-specific legislation is not an effective means for reducing dog bites, and therefore does not promote its intended government purpose of public safety.

I. Pit Bulls and the Evolution of Breed-Specific Legislation

⁷ See *infra* note 55-57.

A. What is Breed-Specific Legislation?

Breed-specific legislation constitutes any restrictive statute, ordinance, or other law that regulates or bans the ownership of a particular breed of dog.⁸ Over 700 municipalities in the United States have enacted breed-specific legislation of some form.⁹ Breed-specific legislation can range anywhere from spay or neuter requirements; requirements on confinement or muzzling, licensing, registration, or insurance regulations; notice requirements via signage on property; to complete bans of a particular breed.¹⁰ Pit bulls have been the focus of breed specific legislation “based on the belief that dogs such as pit bulls possess inherent traits, like strength and aggression, which make all members of the group dangerous.”¹¹

Miami-Dade County in Florida enacted an ordinance in April 1989¹² that prohibits the acquisition or sale of any pit bull dog within the County after January 1, 1990.¹³ The ordinance also restricts ownership of any previously acquired pit bull dog by requiring the owners to secure the animals “at all times . . . indoors, [or] in a securely and totally enclosed and locked pen, with either a top or with all four (4) sides at least six (6) feet high, and with a conspicuous sign displaying the words ‘Dangerous Dog.’”¹⁴ In circumstances where the dog is not confined, the Miami ordinance requires the owner to have it leashed and muzzled “in such a manner as to

⁸ Safia Gray Hussain, *Attacking the Dog-Bite Epidemic: Why Breed-Specific Legislation Won’t Solve the Dangerous-Dog Dilemma*, 74 FORDHAM L. REV. 2847, 2859 (2006).

⁹ *Breed-specific Laws State-by-State*, DOGSBITE, <http://www.dogsbite.org/legislating-dangerous-dogs-state-by-state.php> (last modified Oct. 26, 2015).

¹⁰ *Breed-specific Legislation (BSL) FAQ*, NATIONAL CANINE RESEARCH COUNCIL, <http://www.nationalcanineresearchcouncil.com/dog-legislation/breed-specific-legislation-bsl-faq/> (last updated Aug. 11, 2014).

¹¹ Devin Burstein, *Breed Specific Legislation: Unfair Prejudice & Ineffective Policy*, 10 ANIMAL L. 313, 317 (2004).

¹² MIAMI-DADE COUNTY ORDINANCE, § 89-22 (1989) (memorandum amending chapter 5 of the Miami-Dade Code of Ordinances), available at <http://www.miamidade.gov/animals/library/pit-bull-ordinance-89-22.pdf>.

¹³ MIAMI-DADE, FLA., CODE OF ORDINANCES, ch. 5, §5-17.6(b) (2015), available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH5ANFO_S5-17LEIN.

¹⁴ *Id.* at §5-17.2(a).

prevent it from biting or injuring any person or animal.”¹⁵ The ordinance also mandates detailed registration by every pit bull owner through the Animal Services Department.¹⁶ As pit bulls that were alive in 1990 are no longer living, the most relevant section of Miami’s ordinance is the complete ban of any new pit bull dogs within the County. Miami considers each day that a pit bull is present in the County as a separate violation; and while owners receive only civil citations for these violations, the innocent dogs are destroyed.¹⁷

The State of Florida’s dangerous dog statute prohibits restrictive legislation by its municipalities based on breed.¹⁸ Miami-Dade’s breed-specific legislation avoids invalidation under this Florida Statute because the statute exempts any ordinance that was adopted before October 1, 1990.¹⁹ When state law to the contrary does not exist, the judicial branch has decided that municipalities may regulate specific dogs by their breed.²⁰ As Miami-Dade’s ordinance just falls within the time frame to be free from prohibition, and as attempts to amend the provision allowing such prohibition in Florida Statute 767 have been unsuccessful, the ordinance has remained in effect for the past two and a half decades.²¹

B. History of the “Pit Bull”

1. Bull-Baiting in England

The canine breed now commonly known as the pit bull was originally bred for bull baiting in England.²² The participants in this spectator sport bred English bull dogs and terriers

¹⁵ *Id.* at §5-17.2(b).

¹⁶ *Id.* at §5-17.4.

¹⁷ *Id.* at §5-17.6(b).

¹⁸ FLA. STAT. §767 (2015).

¹⁹ §767.14.

²⁰ Karyn Grey, *Breed-Specific Legislation Revisited: Canine Racism or the Answer to Florida’s Dog Control Problems?*, 27 NOVA L. REV. 415, 417 (2003).

²¹ *Id.* at 418.

²² Hussain, *supra* note 8, at 2852.

to create a smaller, agile dog ideal for fighting bulls and bears.²³ These bull terriers were bred for “quickness, stamina, and dog-[]targeted aggression.”²⁴ The breed was unusually strong for its size, with unwavering determination despite enduring extreme pain during the fights.²⁵ When bull baiting was outlawed, the participants continued their breeding practices and instead began staging fights between the dogs.²⁶ Dog fighting became the new spectator sport.²⁷

Owners of these bull terriers, who bred them solely for the purpose of fighting, abused the animals in order to make them vicious in the arena.²⁸ These animals were not only physically abused, but also neglected by way of food and water deprivation.²⁹ The owners of these animals saw them as business investments, and not as sentient beings.³⁰ Dog fighting is a highly organized and highly violent spectator sport, and the matches can last hours until one (or both) of the animals finally succumb to injuries.³¹ Although the dogs tore each other apart, they were bred to focus their violence only toward their opponent and not toward the humans who handled them.³²

2. Early Twentieth Century America

When immigrants from England came to America in the early twentieth century, they brought their bull terriers with them.³³ As the immigrants moved west across America, however, the dogs were not used for entertainment but instead for work on the farms.³⁴ The dogs protected

²³ Kristen E. Swann, *Irrationality Unleashed: The Pitfalls of Breed-Specific Legislation*, 78 UMKC L. REV. 839, 841 (2010).

²⁴ *Id.*

²⁵ Hussain, *supra* note 8, at 2853.

²⁶ *Id.* at 2852.

²⁷ *Id.*

²⁸ Jamey Medlin, *Pit Bull Bans and the Human Factors Affecting Canine Behavior*, 56 DEPAUL L. REV. 1285, 1299-1300 (2007).

²⁹ *Id.* at 1300.

³⁰ *Id.*

³¹ *Id.*

³² Hussain, *supra* note 8, at 2852-53; Burstein, *supra* note 11, at 325.

³³ Medlin, *supra* note 28, at 1288.

³⁴ *Id.*

both the livestock and the families that owned them.³⁵ Pit bull terriers were popular family companions and became known as the “all-American dog.”³⁶ Their determination and loyalty toward their owners attracted the attention of the military and law enforcement, and pit bull terriers were used to promote and participate in World War I.³⁷ Sergeant Stubby, an American Pit Bull Terrier, received both a purple heart and the Gold Medal of Valor for his heroism in World War I.³⁸ Stubby not only assisted in seeking out wounded soldiers on the field of battle, but, because of his heightened senses, was able to notify his regime of incoming artillery shells and poisonous gas attacks.³⁹ His heroism saved many American lives in the War, assisted in the capture of a German spy, and gained the respect of many United States Presidents.⁴⁰

Pit bulls eventually entered the entertainment industry in the United States, but this time in a positive way. Buster Brown Shoe Company began as a comic strip featuring the talking pit bull “Tige” and his owners.⁴¹ Petey the Pup from the Little Rascals was also a pit bull terrier, and was the first to be registered by the American Kennel Club as an American Staffordshire Terrier.⁴² Life magazine put pit bulls on its cover three times; more than any other breed of dog.⁴³ These portrayals of a loving, loyal animal are not the portrayals given to pit bull dogs now, nor have they been in the past several decades.

3. War on Drugs

³⁵ *Id.*

³⁶ Hussain, *supra* note 8, at 2853.

³⁷ Swann, *supra* note 23, at 845.

³⁸ Medlin, *supra* note 28, at 1289.

³⁹ *Proud Pit Bull History*, PIT BULL AWARENESS COALITION, <http://www.whatapittie.org/proud-pit-bull-history> (last visited Apr. 3, 2016).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Jane Berkey, *Dog Breed Specific Legislation: The Cost to People, Pets, and Veterinarians, and the Damage to the Human-Animal Bond*, in BREED SPECIFIC LEGISLATION: THE FAILURE OF BREED SPECIFIC LEGISLATION, available at <http://www.animalfarmfoundation.org/files/BSL-Ebook-8-28-15.pdf>.

⁴³ *Fun Facts About Famous Pit Bulls*, CESAR’S WAY, <https://www.cesarway.com/about-dogs/pit-bulls/pit-facts> (last visited Apr. 3, 2016).

In the late 1970s, crack cocaine was introduced to America's streets and abuse of the substance was quick to spread, causing President Reagan to declare a war on drugs.⁴⁴ This crack down on the illegal activity led criminals to turn to pit bulls as the "drug dealing accessory."⁴⁵ Criminals used pit bulls as guards to ward off law enforcement and uninvited persons from coming into their homes where drugs were being held or sold.⁴⁶ As a result, pit bulls became synonymous with gangs and the drug trade, so much so that a court in Michigan permitted testimony that a criminal defendant owned pit bull dogs as evidence of his drug involvement.⁴⁷ A United States Court of Appeals in Massachusetts even held that the presence of a pit bull dog along with knowledge of drug involvement was enough to justify a no-knock warrant.⁴⁸

C. Dog Bite Statistics

Simultaneous to the 1970s and 1980s war on drugs was a highly publicized dog bite epidemic.⁴⁹ A series of dog attacks around the nation promoted local governments to enact breed-specific legislation restricting or banning pit bull dogs.⁵⁰ The extensive media coverage of these attacks tarnished the reputation of the previously loved breed and cast it as inherently dangerous.⁵¹ Despite the fact that any breed of dog can and does inflict serious and fatal injuries on humans, extensive coverage by the media of pit bull attacks has led to public hysteria and a generalized fear of the breed.⁵²

⁴⁴ Swann, *supra* note 23, at 844.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 845 (citing *United States v. Wheeler*, 67 Fed. App'x 296, 300-01 (6th Cir. 2003)).

⁴⁸ Swann, *supra* note 23, at 845 (citing *United States v. Jewell*, 60 F.3d 20, 23-24 (1st Cir. 1995)).

⁴⁹ Swann, *supra* note 23, at 847.

⁵⁰ Grey, *supra* note 20, at 417.

⁵¹ Hussain, *supra* note 8, at 2854.

⁵² *Id.* at 2848.

One of the main factors that has led to the banning of pit bulls is the statistics that media and other sources have advanced as evidence of the dangerous nature of the animal.⁵³ Most statistics involving pit bulls, however, have been proven inaccurate by subsequent studies, thereby illustrating that breed-specific legislation is based on inaccurate data. Misidentification of the animals and media-driven hype have created erroneous statistics relating to pit bulls.

1. Inaccurate Numbers

Dog bite statistics regarding pit bulls are inaccurate due in large part to misidentification of the animals.⁵⁴ As the bull terrier itself was bred in England as a mix of two breeds, the label “pit bull” is merely a subgroup of the terrier breed.⁵⁵ There are three breeds recognized by the American Kennel Club and the United Kennel Club that constitute what have come to be known as the “pit bull.”⁵⁶ The American Kennel Club recognizes the American Staffordshire Terrier and the Staffordshire Bull Terrier; while the United Kennel Club recognizes the American Pit Bull Terrier.⁵⁷ While all three of these breeds have common characteristics, such as a compact muscular frame; a broad head with pronounced cheeks; short, glossy hair; and an appearance of great strength; these characteristics are not found solely in the pit bull type breeds, nor do they encompass the entire picture of the breed.⁵⁸ In fact, there are approximately 25 recognized dog breeds that have been mistaken for pit bulls.⁵⁹ In 2008, Dr. Victoria Voith, an Animal Behavior Professor at Western University, conducted a study in which she took 20 shelter dogs that were labeled as “mix breed” from 17 different shelters and performed DNA testing on them.⁶⁰ The

⁵³ Swann, *supra* note 23, at 847.

⁵⁴ Hussain, *supra* note 8, at 2876.

⁵⁵ Swann, *supra* note 23, at 840.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Hussain, *supra* note 8, at 2852.

⁵⁹ *Id.* at 2870.

⁶⁰ Ted Brewer, *Beyond Breed: New Research on the Visual Identification of Breeds Calls Into Question Breed-Discriminatory Legislation* (2011), in BEST FRIENDS MAGAZINE, reprinted in BREED SPECIFIC LEGISLATION: THE

DNA results showed that the shelters were correct in their identification of only 31 percent of the 20 dogs.⁶¹

Aside from misidentification of the animals, another factor that leads to inaccurate dog bite statistics is the lack of recognition given toward the population of the breeds.⁶² The United States Center for Disease Control and Prevention conducted a study of dog bite-related fatalities.⁶³ The study showed a total of 238 dog bite fatalities, with 66 of those attributed to pit bull dogs.⁶⁴ The 66 fatal bites by pit bull dogs, however, was out of a population of 5,256,000, which means that the percentage of pit bulls who fatally attacked between 1979 and 1998 was only 0.00125%.⁶⁵ By comparison, 39 fatal bites by Rottweilers occurred from a population of 900,000 dogs, making its percentage 0.00433%; and 17 German Shepherd fatalities were out of a population of 780,000, producing a percentage of 0.00217%.⁶⁶

In essence, dog bite statistics for a particular breed are going to be higher when there are more dogs of that breed interacting with humans.⁶⁷ The population numbers themselves are based off of the registrations of pure bred dogs from the American Kennel Club and the United Kennel Club.⁶⁸ Therefore, considering the number of mix breed dogs that exist, coupled with the fact that owners of pure bred dogs may choose whether to register their animals, the population

FAILURE OF BREED SPECIFIC LEGISLATION, available at <http://www.animalfarmfoundation.org/files/BSL-Ebook-8-28-15.pdf>.

⁶¹ *Id.*

⁶² Jeffrey J. Sacks, *Breeds of Dogs Involved in Fatal Human Attacks in the United States Between 1979 and 1998*, 217 J. AMER. VETERINARY MEDICAL ASS'N 836, 839 (Sept. 15, 2000), available at <http://www.cdc.gov/homeandrecreationalsafety/images/dogbreeds-a.pdf>.

⁶³ *Id.* at 836.

⁶⁴ *Id.* at 837-38.

⁶⁵ *Pit Bull Myths and Facts*, 1-800-PETMEDS, <http://www.1800petmeds.com/education/pit-bull-facts-and-myths.htm> (last visited Nov. 21, 2015).

⁶⁶ *Id.*

⁶⁷ Swann, *supra* note 23, at 843.

⁶⁸ *Id.* at 842.

of pit bulls is even higher than projected.⁶⁹ Following their study on dog bite fatalities, the Center for Disease Control refused to support the enactment of breed-specific legislation.⁷⁰

The media played a large role in tarnishing the pit bull's reputation through extensive coverage of dog attacks with no follow-up verification as to the breed involved or the circumstances surrounding the attack.⁷¹ Public hysteria from this media coverage led the legislature to enact varying forms of breed-specific legislation, in an attempt to calm the fear.⁷² A media study conducted by the National Canine Research Council in 2007 compared four media stories in a period of four days covering dog bite cases.⁷³ Three of those cases involved non-pit bull type dogs, and each of those cases was only portrayed in the media once or twice.⁷⁴ By contrast, the fourth case involving a pit bull dog was portrayed 230 times amongst media outlets, even though the injuries sustained in the case with the pit bull were no worse than the other cases in the study.⁷⁵ Not only does the media explode when a pit bull is involved, but the reporters have the same issues that the public does with misidentification of the pit bull breed.⁷⁶ Pit bulls and mix breed dogs vary greatly in size and appearance, and share similar descriptive characteristics as other breeds of dog.⁷⁷ Public fear of the pit bull breeds make it easy for the media to continue to assume dog bite incidents involve those breeds and maintain the presumption that they are dangerous animals.⁷⁸

⁶⁹ *Id.* at 842-43.

⁷⁰ *Breed-Specific Legislation*, AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.asPCA.org/fight-cruelty/dog-fighting/breed-specific-legislation> (last visited Apr. 3, 2016).

⁷¹ *Misidentified, Misjudged and Misunderstood*, PIT BULL AWARENESS COALITION, <http://www.whatapittie.org/misidentified-misjudged-and-misunderstood> (last visited Apr. 3, 2016).

⁷² Hussain, *supra* note 8, at 2848.

⁷³ *Pit Bull Myths and Facts*, *supra* note 65.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Misidentified, Misjudged and Misunderstood*, *supra* note 71.

⁷⁷ Swann, *supra* note 23, at 854.

⁷⁸ *Misidentified, Misjudged and Misunderstood*, *supra* note 71.

2. Bite Force

Another misconception about the pit bull type breeds that causes fear in the public is that they have an unusually strong bite force and are able to lock their jaws after biting something or someone.⁷⁹ The assumption that pit bulls can lock their jaws is anatomically impossible.⁸⁰ “No dog, of any breed or mix [of breed], has the anatomical structure [of] a locking mechanism in their jaw.”⁸¹ In 2008, a study was conducted to measure the bite force of healthy dogs of different breeds.⁸² Bite force was measured in Newtons (N) at both the canine teeth and the molar teeth of each dog.⁸³ The study showed that the highest canine bite force belonged to the German Shepherd at 926 N, and the highest molar bite force belonged to the Golden Retriever at 3417 N.⁸⁴ The study measured the Pit Bull’s bite force to be 896 N at the canine teeth and 1991 N at the molars.⁸⁵ Bite force is another example of how media portrayals have led to an unsubstantiated fear of the pit bull.⁸⁶

D. Fear Induced Law

Breed-specific bans on pit bulls were the legislature’s “quick-fix solution [to] public outcry and extensive media coverage of pit bull attacks.”⁸⁷ Rather than targeting the actual dogs and owners responsible for the attacks, breed-specific legislation presumes that ownership of a particular breed means ownership of a dangerous dog.⁸⁸ Miami-Dade is only one of hundreds of

⁷⁹ *Fear v. Fact*, in BREED SPECIFIC LEGISLATION: THE FAILURE OF BREED SPECIFIC LEGISLATION, available at <http://www.animalfarmfoundation.org/files/BSL-Ebook-8-28-15.pdf>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Swann, *supra* note 23, at 861.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Hussain, *supra* note 8, at 2848.

⁸⁸ *Id.* at 2854.

counties that have enacted some form of breed-specific legislation.⁸⁹ Denver has the harshest form of breed-specific legislation with a complete ban on pit bulls and a requirement that any visitor to Denver must have a license to bring their pit bull into the city with the understanding that the dog will remain no longer than six hours.⁹⁰ Denver punishes violators of their ordinance through criminal punishment of the owner and destruction of the dog.⁹¹ California alternatively enacted a form of breed-specific legislation only as to licensing of breeders of certain dogs.⁹² California attributes the spate of dog bites to irresponsible breeding rather than the inherent nature of any one breed.⁹³ While California is on the right track, all forms of breed-specific legislation create “a false sense of public security through oversimplification of the problem and under-inclusiveness of the solution” by restricting the breed itself instead of the owners that control them.⁹⁴

II. Legal Challenges to Breed-Specific Legislation

Courts have generally upheld breed-specific legislation as constitutional.⁹⁵ Constitutional challenges against breed-specific legislation include alleged vagueness or overbreadth of an ordinance, equal protection violations, and substantive due process violations.⁹⁶ These challenges have been an uphill battle for opponents of breed-specific legislation, as courts have rejected the challenges under the assumption that this form of legislation is an adequate method of protecting the public.⁹⁷ Pit bull owners have occasionally succeeded on a challenge that a

⁸⁹ *Breed-specific Laws State-by-State*, *supra* note 9.

⁹⁰ Swann, *supra* note 23, at 848.

⁹¹ *Id.*

⁹² Medlin, *supra* note 28, at 1292.

⁹³ *Id.*

⁹⁴ Hussain, *supra* note 8, at 2881.

⁹⁵ *Id.* at 2862.

⁹⁶ *Id.* at 2863-67.

⁹⁷ *Id.* at 2862.

particular form of breed-specific legislation is void for vagueness:⁹⁸ however, challenges are almost always ultimately lost under substantive due process claims because courts have accepted as fact the presumption that pit bulls are inherently dangerous.⁹⁹

A. Vagueness and Overbreadth

Breed-specific legislation “is unconstitutionally vague when one cannot reasonably understand that his contemplated conduct is within the scope of that proscribed by the legislation.”¹⁰⁰ To test for vagueness, one must look to whether there is “adequate notice to citizens [about what conduct is prohibited] and adequate standards to prevent arbitrary enforcement.”¹⁰¹

In 1988, the Miami-Dade County ordinance was challenged for vagueness in *State v. Peters*.¹⁰² The Court in *Peters* held that reference to the three breeds defined under the American Kennel Club and the United Kennel Club did not make the ordinance unconstitutionally vague because the owners “need only to look at each of the three standards and determine whether the dog is described by any one of them” in order to have adequate notice of the law.¹⁰³ The Court further reasoned that the ordinance should survive the vagueness challenge even when there were “technical deficiencies” in conforming to the three standards because “[l]aws using phrases similar to ‘technical deficiencies’ and ‘substantially conform’ have withstood challenges on vagueness grounds.”¹⁰⁴ The vagueness claim in *Peters* failed because the Court found that the

⁹⁸ See, e.g., *Am. Dog Owners Ass’n v. City of Lynn*, 533 N.E.2d 642, 646 (Mass. 1989) (holding an ordinance defining pit bulls as any of three described breeds as void for vagueness given science could not conclude that a dog was one of the three breeds).

⁹⁹ See, e.g., *Am. Canine Found. v. City of Aurora*, 618 F. Supp. 2d 1271, 1273 (D. Colo. 2009) (holding that a legitimate interest of public protection existed because of preconceived determinations that pit bulls are stronger and more aggressive than other breeds).

¹⁰⁰ *Hearn v. City of Overland Park*, 772 P.2d 758, 761 (Kan. 1989).

¹⁰¹ *State v. Worrell*, 761 P.2d 56, 58 (Wash. 1988) (citing *State v. Maciolek*, 676 P.2d 996, 998 (Wash. 1984)).

¹⁰² *State v. Peters*, 534 So. 2d 760 (Fla. Dist. Ct. App. 1988).

¹⁰³ *Id.* at 766.

¹⁰⁴ *Id.* at 767.

definition of pit bull did not need to be stated with absolute certainty in order to be constitutional and that the issue of whether an animal fell under a specific breed category was an evidence issue and not a constitutional issue.¹⁰⁵

Miami-Dade County dog owners again challenged the Miami-Dade ordinance for vagueness in 1989 in *American Dog Owners Ass’n v. Dade County* for defining pit bull dogs by physical characteristics rather than by their genetic bloodlines.¹⁰⁶ The Court reasoned that “[a]ll that is required is that the people to whom the statute is addressed will, if they are of common intelligence, be placed on notice as to what the law forbids” in order to be constitutional.¹⁰⁷ For a law to pass a test for vagueness, it must provide clear standards for those to whom the law applies in order to prevent arbitrary enforcement.¹⁰⁸

The city of Yakima, Washington enacted a similar ordinance to Miami-Dade’s, which banned dogs that fell under the recognized pit bull breeds and those that shared the physical characteristics of such.¹⁰⁹ The Court in *American Dog Owners Association v. City of Yakima* refused to find the ordinance vague merely “because it requires subjective evaluations by an officer.”¹¹⁰ The Court found that since dogs are considered property, they “are subject to police power and [therefore] may be destroyed or regulated to protect citizens.”¹¹¹ More recently, in *Dog Federation of Wisc., Inc. v. City of Milwaukee*, the Court found that an ordinance defining pit bull dogs under the three breeds of the AKC and UKC was not unconstitutionally vague, even

¹⁰⁵ Grey, *supra* note 20, at 431.

¹⁰⁶ *Am. Dog Owners Ass’n v. Dade Cnty.*, 728 F. Supp. 1533, 1535 (S.D. Fla. 1989).

¹⁰⁷ *Id.* at 1539.

¹⁰⁸ *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972); *Am. Dog Owners Ass’n v. City of Yakima*, 777 P.2d 1046, 1048 (Wash. 1989).

¹⁰⁹ *City of Yakima*, 777 P.2d at 1047.

¹¹⁰ *Id.* at 1048 (citing *State v. Worrell*, 761 P.2d 56, 60 (Wash. 1988)).

¹¹¹ *Id.* (citing *Sentell v. New Orleans & C.R.R.*, 166 U.S. 698, 704 (1897)).

though there was expert opinion that it would be extremely difficult to determine, without reviewing lineage, if a particular dog was a pit bull.¹¹²

A rare win came for pit bull owners in *American Dog Owners Ass’n v. City of Lynn*, where the Court held that an ordinance similarly defining pit bulls was void for vagueness because expert witnesses “could not provide specific objective criteria for identifying dog breeds.”¹¹³ The ordinance in *Lynn* was found to be void for vagueness using the same argument that had been and continues to be made regarding the application of these ordinances;¹¹⁴ however *Lynn* remains the exception as it pertains to court rulings on this issue.

Overbreadth challenges to breed-specific legislation involve the argument that the laws are “impermissibly overgeneralized by subjecting . . . both dangerous and docile members of the target breed.”¹¹⁵ While Florida courts have not addressed overbreadth challenges for breed-specific legislation,¹¹⁶ other state courts have discussed overbreadth questions along with challenges for vagueness.¹¹⁷ The Court in *City of Yakima* rejected the overbreadth challenge of the city ordinance by reasoning that overbreadth is only an applicable claim when the law refers to “‘a substantial amount of constitutionally protected conduct.’”¹¹⁸ The Court held that, for the protection of the public, laws that ban pit bulls were constitutional, even when innocent dogs were punished in the process.¹¹⁹

B. Equal Protection

¹¹² Dog Fed’n of Wisc., Inc. v. City of S. Milwaukee, 504 N.W.2d 375, 378 (Wisc. Ct. App. 1993).

¹¹³ Am. Dog Owners Ass’n v. City of Lynn, 533 N.E.2d 642, 644 (Mass. 1989).

¹¹⁴ *Id.*

¹¹⁵ Hussain, *supra* note 8, at 2863.

¹¹⁶ Grey, *supra* note 20, at 434.

¹¹⁷ Am. Dog Owners Ass’n v. City of Yakima, 777 P.2d 1046 (Wash. 1989).

¹¹⁸ *Id.* at 1048 (quoting *City of Houston v. Hill*, 482 U.S. 451, 458 (1987)).

¹¹⁹ *Id.* at 1048.

The Equal Protection Clause of the Constitution states that “no state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”¹²⁰ Equal protection arguments in the breed specific legislation context focus on discrimination by showing that the statute in question is overinclusive or underinclusive.¹²¹ These equal protection challenges are discrimination claims that regulation against pit bulls “unfairly singles out owners of a particular breed of dog.”¹²² In *State v. Peters*, the dog owners claimed that the Miami-Dade ordinance violated their equal protection rights in that it unfairly distinguishes between pit bull owners and owners of other dog breeds.¹²³ The claim failed because the Court reasoned that the Constitution “does not guarantee that all dog owners will be treated alike; . . . just that all owners of defined pit bulls will be treated alike.”¹²⁴ The Court in *Peters* based its decision on findings that pit bull ownership is inherently dangerous.¹²⁵ Other equal protection challenges to breed-specific legislation have also failed.¹²⁶

In *Garcia v. Village of Tijeras*, pit bull owners in New Mexico challenged the local ordinance that banned pit bulls by questioning its constitutionality because it “bann[ed] only one breed of dog rather than all breeds.”¹²⁷ The Court in *Garcia* held that the ordinance did not violate equal protection rights of the owners because “there [was] substantial evidence of record that American Pit Bull Terriers presented a special threat to the safety of the residents of the Village over and above that presented by other breeds of dog.”¹²⁸ The Court therefore held that

¹²⁰ U.S. CONST. amend. XIV, §1.

¹²¹ Burstein, *supra* note 11, at 319.

¹²² Hussain, *supra* note 8, at 2862.

¹²³ *State v. Peters*, 534 So. 2d 760, 763 (Fla. Dist. Ct. App. 1988).

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ Grey, *supra* note 20, at 415.

¹²⁷ *Garcia v. Village of Tijeras*, 767 P.2d 355, 360 (N.M. Ct. App. 1988).

¹²⁸ *Id.* at 361.

the ordinance did not present an equal protection violation as long as it complied with substantive due process requirements.¹²⁹

Similarly in *City of Toledo v. Tellings*, a pit bull owner challenged an ordinance that restricted pit bull ownership by claiming that it violated dog owners' equal protection rights.¹³⁰ The Court in *Tellings* held that ordinances which regulate the ownership of pit bulls do not violate equal protection laws because such ordinances are rationally related to a legitimate government interest of protecting the public.¹³¹

C. Substantive Due Process

The Fourteenth Amendment of the United States Constitution provides that “[n]o state shall . . . deprive any person of life, liberty, or process, without due process of law.”¹³² The test for substantive due process under the Fourteenth Amendment is whether the government can justify infringing individual liberties through legislative acts.¹³³ “[T]he touchstone of due process is protection of the individual against arbitrary action of government.”¹³⁴ The “substantive component” of due process safeguards against subjective legislation “by requiring a relationship between a statute and the government interest it seeks to advance.”¹³⁵ If a law “does not implicate a fundamental right, [then] it must . . . bear a rational relationship to a legitimate government interest.”¹³⁶ An ordinance that regulates the possession of specific breeds of dog

¹²⁹ *Id.*

¹³⁰ *City of Toledo v. Tellings*, 871 N.E.2d 1152, 1158 (Ohio 2007).

¹³¹ *Id.*

¹³² U.S. CONST. amend. XIV, §1.

¹³³ *Young v. Broward Cnty.*, 570 So. 2d 309, 310 (Fla. Dist. Ct. App. 1990) (citing U.S. CONST. amend. XIV §1).

¹³⁴ *Dias v. City and Cnty. of Denver*, 567 F.3d 1169, 1181 (10th Cir. 2009) (citing *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998)) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974)).

¹³⁵ *Dias*, 567 F.3d at 1181.

¹³⁶ *Id.* at 1182 (citing *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997)).

within city limits is evaluated under rational-basis scrutiny¹³⁷ because “dog ownership is not a fundamental right, and pit bulls are not a suspect class.”¹³⁸

Substantive due process claims against breed-specific legislation allege that the legislation “is not rationally related to a legitimate government interest in the protection and safety of the public” because pit bulls are not inherently dangerous.¹³⁹ However, given that highly publicized, severe dog attacks typically precipitate the enactment of breed-specific legislation, the courts have generally had no problem upholding rational basis scrutiny.¹⁴⁰ It is very rare for a challenger to prevail under rational basis scrutiny as this test affords substantial deference to the legitimacy of government action.¹⁴¹ For example, in *Garcia v. Village of Tijeras*, pit bull owners challenged an ordinance banning pit bull dogs on the grounds that the ordinance was not rationally related to the government purpose of public safety.¹⁴² The Court in *Garcia* rejected this argument, holding that the ban was rationally related to public safety because of a pit bull attack on a young girl that had occurred four years prior.¹⁴³ The Court held that “there [was] substantial evidence of record that American Pit Bull Terriers presented a special threat to the safety of the residents of the Village over and above that presented by other breeds of dog.”¹⁴⁴

Similarly, in *American Canine Foundation v. City of Aurora*, pit bull owners challenged a Colorado city ordinance that restricted multiple breeds of dog, including pit bulls.¹⁴⁵ The Court

¹³⁷ *Am. Canine Found. v. City of Aurora*, 618 F. Supp. 2d 1271, 1278 (D. Colo. 2009).

¹³⁸ *Burstein*, *supra* note 11, at 318.

¹³⁹ *Hussain*, *supra* note 8, at 2865.

¹⁴⁰ *Swann*, *supra* note 23, at 851.

¹⁴¹ *See, e.g.,* *Nebbia v. People of New York*, 291 U.S. 502, 537 (1934) (holding that a state may adopt any policy reasonably related to promoting the welfare of the public).

¹⁴² *Garcia v. Village of Tijeras*, 767 P.2d 355, 360 (N.M. Ct. App. 1988).

¹⁴³ *Id.* at 358-59.

¹⁴⁴ *Id.* at 361.

¹⁴⁵ *Am. Canine Found. v. City of Aurora*, 618 F. Supp. 2d 1271, 1273 (D. Colo. 2009).

in *City of Aurora* found that the ordinance was rationally related to “the protection of health and safety of the public.”¹⁴⁶ The Court decided that rational basis scrutiny was met because of “evidence . . . that pit bulls . . . tend to be stronger than other breeds, . . . give no warning signals before attacking[,] and are less willing than other dogs to retreat from an attack.”¹⁴⁷ The Court held that any reasonable set of facts to show rational basis would meet substantive due process under the Fourteenth Amendment.¹⁴⁸

III. Evaluation of Breed-Specific Legislation and Proposed Reforms

The legislative intent of breed-specific legislation is to protect the health and safety of the public by restricting a breed that is considered inherently dangerous to humans.¹⁴⁹ Since the enactment of such legislation, however, studies have shown the reality of the pit bull’s inherently nonthreatening nature and how ineffective these blanket restrictions on the breed have been.¹⁵⁰ This form of legislation has been shown to be so ineffective that it has failed to demonstrate any reliable correlation to protection of the public from dog bites.¹⁵¹ Miami’s ordinance has failed to reduce dog bites within the County,¹⁵² which is consistent with statistics showing that pit bull breeds are good-natured animals and are not dangerous when trained properly.¹⁵³ The costs of Miami’s and other breed-restrictive laws are substantial and impact the municipalities that put these laws into place more than the violators of the laws.¹⁵⁴

¹⁴⁶ *Id.* at 1278.

¹⁴⁷ *Id.* at 1279.

¹⁴⁸ *Id.* at 1278.

¹⁴⁹ Swann, *supra* note 23, at 847.

¹⁵⁰ See *Breed-Specific Legislation (BSL) FAQ*, *supra* note 10.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ See Dana M. Campbell, *Pit Bull Bans: The State of Breed-Specific Legislation*, GP SOLO MAGAZINE, July/Aug. 2009, available at

http://www.americanbar.org/content/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/pit_bull.html

¹⁵⁴ See Hussain, *supra* note 8, at 2872.

No rational relationship exists between banning pit bulls and preventing dog bites. Therefore, breed-specific legislation is unconstitutional. Miami's law is vague in its application as identification of the breed is difficult to determine. The law is overly broad as it restricts all animals determined to be pit bulls, regardless of past actions, and it violates the equal protection rights of owners by putting restrictions on them merely because they own pit bull dogs.

Miami-Dade's ordinance needs to be repealed so that Florida's dangerous dog law under Chapter 767 becomes the prevailing restrictive dog law in the County. More owner liability is necessary for this type of law, as a large amount of data on this issue has placed owners as the source of responsibility for dog aggression.

A. Miami-Dade County's Breed-Specific Legislation Needs to be Repealed

1. Miami-Dade Ordinance is Ineffective

Studies of pit bulls conducted over the past several decades have presented evidence of a docile, human-friendly animal that thrives best in structured environments.¹⁵⁵ Studies of temperament, aggression, and environment have revealed that legislation that bans a particular breed on its face is ineffective in protecting the public without any consideration of the humans that raise them.¹⁵⁶ The American Bar Association, American Kennel Club, American Society for the Prevention of Cruelty to Animals, American Veterinary Medical Association, Animal Farm Foundation, Center for Disease Control and Prevention, National Canine Research Council, United Kennel Club, U.S. Department of Justice, and the White House Administration all refuse to endorse breed-specific legislation.¹⁵⁷ With high enforcement costs and low results, the White

¹⁵⁵ *Meet the American Staffordshire Terrier*, AMERICAN KENNEL CLUB, <http://www.akc.org/dog-breeds/american-staffordshire-terrier/detail> (last visited Apr. 3, 2016).

¹⁵⁶ *About Canine Temperament*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://www.atts.org/about-temperament> (last visited Apr. 3, 2016).

¹⁵⁷ *Organizations That Do Not Endorse Breed Specific Legislation (BSL)*, in BREED SPECIFIC LEGISLATION: THE FAILURE OF BREED SPECIFIC LEGISLATION, available at <http://www.animalfarmfoundation.org/files/BSL-Ebook-8-28-15.pdf>.

House Administration called breed-specific legislation “ineffective and . . . a waste of public resources.”¹⁵⁸ Statistics now show that more than seven times as many municipalities have now rejected or repealed breed-specific legislation than have enacted it.¹⁵⁹ Miami however, ignores the realities of this prejudicial legislation and maintains its enforcement.

a. Breed-Specific Legislation Has Failed In Its Objective

Breed-specific legislation was originally enacted based on statistics gathered from the media hype surrounding pit bull bite incidents from the 1980s.¹⁶⁰ Miami-Dade County enacted its pit bull ban after a series of attacks on citizens in the county in conjunction with the presumption that these animals posed a more serious threat than other breeds of dog.¹⁶¹ Studies undertaken since then have revealed that this form of legislation regulating pit bulls was based on just that foundation – hype and irrational fear. The American Temperament Test Society has kept a consistent record of temperament studies undertaken on various breeds of dog since 1977.¹⁶² The test conducted on these animals to determine their temperament looks at each dog’s reaction to audible, visual, and tactile stimuli, as well as their interaction with strangers.¹⁶³ The statistics found using this temperament study shows that all three terrier breeds that make up the pit bull breed passed at above the average rate of 83%.¹⁶⁴ American Pit Bull Terriers have passed the temperament test at an average rate of 86.8%,¹⁶⁵ American Staffordshire Terriers have

¹⁵⁸ *Id.*

¹⁵⁹ *Breed-Specific Legislation (BSL) FAQ*, *supra* note 10.

¹⁶⁰ Medlin, *supra* note 28, at 1285-86.

¹⁶¹ MIAMI-DADE COUNTY ORDINANCE, § 89-22 (1989) (memorandum amending chapter 5 of the Miami-Dade Code of Ordinances), available at <http://www.miamidade.gov/animals/library/pit-bull-ordinance-89-22.pdf>.

¹⁶² *General Information about the American Temperament Test Society, Inc.*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://www.atts.org/about-atts/> (last visited Apr. 3, 2016).

¹⁶³ *Description of the Temperament Test*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://www.atts.org/tt-test-description> (last visited Apr. 3, 2016).

¹⁶⁴ *ATTS Breed Statistics*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://atts.org/breed-statistics/statistics-page8/#totals> (last updated Feb. 14, 2013).

¹⁶⁵ *ATTS Breed Statistics*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://atts.org/breed-statistics/statistics-page1/> (last updated Feb. 14, 2013).

passed at an average rate of 84.5%,¹⁶⁶ and Staffordshire Bull Terriers have passed at an average rate of 90.7%.¹⁶⁷ In comparison, Pembroke Welsh Corgis have a passing rate of 78.7%¹⁶⁸ and Chihuahuas a passing rate of only 69.8%.¹⁶⁹ In 2008, the University of Pennsylvania conducted a study on the aggression of 33 different breeds.¹⁷⁰ The study revealed that while pit bulls, German shepherds, and boxers showed the most dog-directed aggression, Rottweilers, Yorkshire terriers, Doberman pinschers, and Poodles showed the most stranger-directed aggression; and Dachshunds, Chihuahuas, and Jack Russell Terriers showed the most overall aggression.¹⁷¹

The American Kennel Club describes American Staffordshire Terriers as “people-oriented dog[s that] are natural clowns,”¹⁷² and describes Staffordshire Bull Terriers as “sweet-natured, family-oriented [dogs] so trustworthy that they’ve earned a reputation as a ‘nanny dog.’”¹⁷³ The United Kennel Club describes American Pit Bull Terriers as “eager to please and brimming over with enthusiasm[, making] excellent family companions.”¹⁷⁴ Pit Bull breeds have been used as therapy dogs for veterans coping with post-traumatic stress disorder,¹⁷⁵ and for surviving victims of the Boston Marathon bombing in 2013.¹⁷⁶

¹⁶⁶ *Id.*

¹⁶⁷ *ATTS Breed Statistics*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://atts.org/breed-statistics/statistics-page7/> (last updated Feb. 14, 2013).

¹⁶⁸ *ATTS Breed Statistics*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://atts.org/breed-statistics/statistics-page3/> (last updated Feb. 14, 2013).

¹⁶⁹ *ATTS Breed Statistics*, AMERICAN TEMPERAMENT TEST SOCIETY, INC., <http://atts.org/breed-statistics/statistics-page6/> (last updated Feb. 14, 2013).

¹⁷⁰ Swann, *supra* note 23, at 858.

¹⁷¹ *Id.* at 858-59.

¹⁷² *Meet the American Staffordshire Terrier*, *supra* note 155.

¹⁷³ *Meet the Staffordshire Bull Terrier*, AMERICAN KENNEL CLUB, <http://www.akc.org/dog-breeds/staffordshire-bull-terrier/detail> (last visited Apr. 3, 2016).

¹⁷⁴ *American Pit Bull Terrier*, UNITED KENNEL CLUB, <http://www.ukcdogs.com/Web.nsf/Breeds/Terrier/AmericanPitBullTerrier> (last visited Apr. 3, 2016).

¹⁷⁵ *Operation Sidekick*, AMERICAN PIT BULL FOUNDATION, <http://americanpitbullfoundation.com/os/> (last visited Apr. 3, 2016).

¹⁷⁶ Kate Bratskeir, *These 16 Dogs Are Heroes. They Are Also Pit Bulls*, THE HUFFINGTON POST (July 29, 2014, 9:34 AM), http://www.huffingtonpost.com/2014/07/29/pit-bulls-heroic-happy-and-good_n_5563496.html.

Looking at the results of these temperament studies, it is not surprising to discover that dog bite statistics have not decreased since the enactment of breed-specific legislation. Banning one breed of dog does not solve the dog bite problem; bans have only led to a rise in bites from a different breed.¹⁷⁷ In the 1990s, pit bull fatalities decreased yet Rottweiler fatalities increased.¹⁷⁸ Despite Denver's very harsh ban on pit bulls, the rate of dog bites in that city remain higher than other cities in Colorado, and a disproportionate number of these dog bites have been attributed to German Shepherds and Chow Chows.¹⁷⁹ The enactment of Miami's breed-specific ordinance has also failed to reduce dog bites in Miami-Dade County.¹⁸⁰ Despite being active for over two and half decades, the legislation has not produced any evidence of reducing dog bites.¹⁸¹ As a result of breed-specific legislation's inefficiency in reducing dog bites, localities around the world, including in the Netherlands and Italy, have repealed such regulations against the breed.¹⁸²

b. Costs of BSL

Not only do statistics show the inefficiency of breed-specific legislation, but the costs associated with banning or regulating pit bull animals are extraordinary.¹⁸³ Costs associated with breed-specific legislation include salaries for additional animal control staff often necessary to enforce the legislation, kenneling and maintenance costs for holding pit bulls who are awaiting determination by the courts, court costs and attorney fees for the impending litigation

¹⁷⁷ Grey, *supra* note 20, at 442.

¹⁷⁸ *Id.* at 440.

¹⁷⁹ *Denver's Breed-Specific Legislation: Brutal, Costly, and Ineffective* (2013) (citing National Canine Research Council), in *BREED SPECIFIC LEGISLATION: THE FAILURE OF BREED SPECIFIC LEGISLATION*, available at <http://www.animalfarmfoundation.org/files/BSL-Ebook-8-28-15.pdf>.

¹⁸⁰ *Breed-specific Legislation (BSL) FAQ*, *supra* note 10.

¹⁸¹ Hannah Sentenac, *10 Facts About Breed-Specific Legislation and How You Can Help Stop It*, <http://www.onegreenplanet.org/animalsandnature/facts-about-breed-specific-legislation-and-how-you-can-help-stop-it/> (August 8, 2014).

¹⁸² Berkey, *supra* note 42.

¹⁸³ Hussain, *supra* note 8, at 2871.

challenging the regulations, and even “loss of city revenue [associated with] inhabitants . . . that may move outside city limits to protect their dogs.”¹⁸⁴ In 2003, a task force was formed in Prince George’s County, Maryland, to assess the efficiency of the pit bull ban.¹⁸⁵ The task force, through its research, calculated “[t]he cost of maintaining a single pit bull throughout the entire determination and appeals process was approximately \$68,000.”¹⁸⁶ Miami’s breed-specific legislation costs the county around \$603,445 each year.¹⁸⁷ These costs greatly exceeded the fees required of pit bull owners who did not comply with the ordinance.¹⁸⁸ Breed-specific legislation causes “[c]ities and states [to] spend money enforcing restrictions and bans instead of putting that money to better use by . . . responding proactively to target owners of [dogs] that [actually pose] a risk to the community.”¹⁸⁹

c. Owner Responsibility

Breed-specific legislation ignores owner responsibility associated with dog attacks.¹⁹⁰ Breed-specific restriction laws are the legislature’s response to pit bull attacks, although the underlying problem lies with irresponsible owners of these animals.¹⁹¹ Legislation is “a human invention, designed to deal with human shortcomings;” therefore laws that address dog attacks should address human responsibility for dog aggression.¹⁹² “Dog owners determine the manner in which their dogs behave,” and abuse can make any dog become aggressive.¹⁹³

¹⁸⁴ *Id.* at 2871-72.

¹⁸⁵ *Id.* at 2872.

¹⁸⁶ *Id.*

¹⁸⁷ Sentenac, *supra* note 181.

¹⁸⁸ Hussain, *supra* note 8, at 2872.

¹⁸⁹ *Why Breed-Specific Legislation Is Not the Answer*, AMERICAN VETERINARY MEDICAL FOUNDATION, <http://www.avma.org/public/Pages/Why-Breed-Specific-Legislation-is-not-the-answer.aspx> (last visited Apr. 3, 2016).

¹⁹⁰ Burstein, *supra* note 11, at 323.

¹⁹¹ Medlin, *supra* note 28, at 1286.

¹⁹² Swann, *supra* note 23, at 854 (quoting Randall Lockwood, *Human Concerns About Dangerous-Dog Laws*, 13 U. DAYTON L. REV. 267, 267-68 (1987)).

¹⁹³ Medlin, *supra* note 28, at 1298.

As evidenced in cases of dog fighting, pit bulls have been subject to particularly abhorrent treatment and abuse.¹⁹⁴ Although dog fighting is now illegal in all fifty U.S. states, the practice has not stopped and has instead moved underground.¹⁹⁵ The abuse of pit bulls in this spectator sport continues, and is difficult to stop when organizers use police scanners to prevent detection.¹⁹⁶ These criminals are not interested in abiding by the felony laws against dog fighting, let alone abiding by breed-specific legislation laws.¹⁹⁷ Despite the Miami-Dade County pit bull ban being in effect for more than two decades, “an estimated fifty thousand Pit Bull type dogs populate [the] County.”¹⁹⁸ Even if they were willing to abide by laws banning pit bull breeds, their interest is not specifically with the pit bull breed but in a dog that can be trained to be aggressive and agile.¹⁹⁹ Any breed of dog can be trained to be aggressive; therefore, as one breed is banned, criminals will move on to the next.²⁰⁰ Pit bulls are among many breeds of dog which have been deemed “dangerous” and in turn been the target of restrictive laws.²⁰¹

Aggression of an animal does not always mean involvement in a criminal enterprise. Owners lacking in education, training, or general responsibility can raise a dog to be aggressive. The Center for Disease Control and Prevention conducted a study on dog bites and cited multiple factors, other than breed, that affected propensity toward aggression.²⁰² Some of the main problems linked to aggression were: (1) abuse and neglect of the animal; (2) chaining the animal and ownership for purposes of guarding or fighting; (3) failing to spay or neuter the animal; and

¹⁹⁴ *Id.*

¹⁹⁵ Swann, *supra* note 23, at 841.

¹⁹⁶ Medlin, *supra* note 28, at 1303.

¹⁹⁷ Grey, *supra* note 20, at 438.

¹⁹⁸ *The cost of BSL*, <http://stopbsl.files.wordpress.com/2008/08/costofbsl.pdf> (last visited March 19, 2016).

¹⁹⁹ Medlin, *supra* note 28, at 1304.

²⁰⁰ Hussain, *supra* note 8, at 2873.

²⁰¹ *Breed Specific Legislation*, *supra* note 70.

²⁰² *Breed-Specific Legislation*, *supra* note 70.

(4) irresponsible ownership and supervision.²⁰³ This study and others from the past several decades have shown that a majority of fatal dog attacks have been linked to poor ownership of the animals.²⁰⁴ Breed-specific legislation ignores these studies and unfairly focuses only on breed when restricting or banning them from localities. As a result, approximately 1 million pit bull dogs are killed every year.²⁰⁵

Even dogs that have been severely abused can be rehabilitated to be loving family companions.²⁰⁶ When Michael Vick’s dogfighting case in 2007 led to fifty dogs being seized and scheduled for euthanasia, the court instead allowed for temperament evaluations to be performed by a group of behaviorists.²⁰⁷ After the evaluations were completed, only one of the fifty dogs seized ended up being euthanized; the remaining dogs were saved and sent to rescue groups for rehabilitation and eventual adoption.²⁰⁸

Breed-specific laws themselves recognize the human factor that exists in aggressive behavior of dogs, but continue to blame the breed and not the owners.²⁰⁹ The Miami-Dade County ordinance cites the intent for the pit bull regulation as seeking to “ensure responsible handling by their owners.”²¹⁰ Denver has very strict breed-specific legislation, but even its ordinance recognizes human responsibility through its argument for enforcement that “pit bulls are uniquely dangerous, ‘especially where improperly raised or trained.’”²¹¹ Despite this recognition, Miami and other counties continue to enforce this flawed legislation. Ignoring the

²⁰³ *Id.*

²⁰⁴ *See also* Sacks, *supra* note 62, at 837-38.

²⁰⁵ *A Dose of Reality*, *supra* note 4.

²⁰⁶ Campbell, *supra* note 153.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ Medlin, *supra* note 28, at 1286.

²¹⁰ MIAMI-DADE, FLA., CODE OF ORDINANCES, ch. 5, §5-17. (2015), available at https://www.municode.com/library/fl/miami-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH5ANFO_S5-17LEIN.

²¹¹ Medlin, *supra* note 28, at 1294 (quoting Denver City Council Bill 434 (1989)).

realities of owner responsibility, high enforcement costs, and lack of results, breed specific legislation has proven completely ineffective in Miami and elsewhere. This legislation is so ineffective that it cannot show a rational relationship to public safety and is therefore unconstitutional and must be invalidated.²¹²

2. Miami-Dade Ordinance is Unconstitutional

Constitutional challenges to breed-specific legislation began almost immediately after their fear-induced enactments, and therefore public fear played a large role in the courts' decisions to uphold such laws.²¹³ An examination of the post-enactment statistics shows a lack of correlation between the laws restricting pit bulls and protection of the public. Miami's ordinance violates the equal protection rights of responsible dog owners, and is unconstitutionally vague and overbroad in its language to unfairly discriminate against an inordinate amount of dogs. Miami cannot change the wording of its ordinance to avoid constitutional infirmities. Despite requests by the United Kennel Club to Miami to cease using its description in the ordinance due to copyright infringement concerns,²¹⁴ Miami cannot remove it without losing the entire ordinance. Florida Statute 767.14 only allows the grandfathering of breed-specific legislation enacted before October 1, 1990;²¹⁵ therefore, any change to the ordinance would constitute an amendment and would not be accepted by the State of Florida. Consequently, Miami continues to assert that its controversial ordinance is constitutional when it is not.

a. Substantive Due Process

²¹² Grey, *supra* note 20, at 442.

²¹³ *Id.* at 429.

²¹⁴ *A Legal Challenge to Miami-Dade County Pit Bull Ban*, ANIMAL LAW COALITION (Sept. 18, 2008), <https://animallawcoalition.com/a-legal-challenge-to-miami-dade-county-pit-bull-ban>.

²¹⁵ FLA. STAT. §767.14 (2015).

Miami-Dade County's breed-specific ordinance violates substantive due process because it is so ineffective in reducing dog bites that it bears no rational relationship to protecting the public. In order to meet substantive due process, the statute must be reasonably related to the legislative objective and must not be arbitrary.²¹⁶ Courts in the past have upheld breed-specific legislation by taking judicial notice that pit bulls are inherently dangerous.²¹⁷ This fact however has been disproved by multiple studies done in the past several decades, and is therefore unfairly dismissive of the realities associated with substantive due process.

"[T]he constitutionality of a statute predicated upon the existence of a particular state of facts may be challenged by showing the court that those facts ceased to exist."²¹⁸ For example, in *Dias v. City and County of Denver*, dog owners challenging the due process of the Denver ordinance argued that "there is a lack of evidence that pit bulls as a breed pose a threat to public safety, and thus, it is irrational for Denver to enact a breed-specific prohibition."²¹⁹ The Court in *Dias* agreed that this conflict in the facts made for a valid due process claim, and denied the defense motion to dismiss.²²⁰ There is overwhelming evidence that breed-specific legislation is ineffective in protecting the safety of the public, and therefore these laws cannot pass rational-basis scrutiny.

b. Overbreadth

Miami-Dade County's ordinance restricting and banning pit bulls is overly broad in that it regulates all dogs determined to be a part of that breed without regard to their behavior or conduct.²²¹ The ordinance claims a need to protect the community, but it reaches too far by

²¹⁶ *Young v. Broward Cnty.*, 570 So. 2d 309, 310 (Fla. Dist. Ct. App. 1990).

²¹⁷ *See State v. Peters*, 534 So. 2d 760, 763 (Fla. Dist. Ct. App. 1988); *Am. Canine Found. v. City of Aurora*, 618 F. Supp. 2d 1271, 1276 (D. Colo. 2009).

²¹⁸ *United States v. Carolene Prod. Co.*, 304 U.S. 144, 153 (1938).

²¹⁹ *Dias v. City and Cnty. of Denver*, 567 F.3d 1169, 1183 (10th Cir. 2009).

²²⁰ *Id.* at 1184.

²²¹ *Hussain*, *supra* note 8, at 2863.

regulating both dogs that are actually dangerous to humans and those who are completely innocent.²²² Studies have already shown that breed is only one of many factors that determines propensity toward human aggression;²²³ therefore it is unconstitutionally overbroad to ignore these studies and restrict dogs based solely on breed. Our society has evolved from restricting the rights of a particular ethnic group based on some perceived stereotype; similarly, dogs are sentient beings that should not be judged solely on their breed.²²⁴ “If legislation aims to successfully protect society without unnecessarily punishing innocent dogs and dog owners, it must deal with the reality that every dog is an individual.”²²⁵

Miami’s ordinance is also overly broad by subjecting “any dog which exhibits those characteristics” of the pit bull breeds to the law’s restrictions.²²⁶ This legislation designates certain physical characteristics to pit bulls, causing other breeds to be lumped into the same category.²²⁷ It sets out the incorrect presumption that the physical characteristics of a dog express its genetic constitution.²²⁸ This overly broad form of regulation causes mixed breeds and non-pit bull breeds of similar physiques to be unfairly restricted. Miami’s ordinance all but guarantees that non-pit bull type dogs are restricted by allowing restrictions even when there are “[t]echnical deficiencies in the dog’s conformance to [AKC and UKC] standards.”²²⁹ Legislation that results in restrictions on dozens of breeds that fall outside of the intended “dangerous” breed does not rationally relate to a purpose of promoting public safety.

²²² *Id.*

²²³ *Id.* at 2869.

²²⁴ Burstein, *supra* note 11, at 323.

²²⁵ *Id.* at 326.

²²⁶ MIAMI-DADE, FLA., CODE OF ORDINANCES, ch. 5, §5-17.1(a) (2015), available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH5ANFO_S5-17LEIN.

²²⁷ Swann, *supra* note 23, at 840.

²²⁸ *Id.* at 853.

²²⁹ MIAMI-DADE, FLA., CODE OF ORDINANCES, at §5-17.1(c).

c. Vagueness

The Miami-Dade County ordinance is unconstitutionally vague in that it fails to give owners adequate notice of what is regulated and gives way to arbitrary enforcement. “[A]n enactment is void for vagueness [under due process] if its prohibitions are not clearly defined.”²³⁰ Although the provision defining “pit bull” in the ordinance refers to the descriptions used by the American Kennel Club and the United Kennel Club,²³¹ these descriptions vary greatly and contain characteristics that are innate in breeds other than the pit bull breeds. These descriptions do not give adequate notice to owners of mixed breeds and non-registered pure bred dogs, and unfairly allows for arbitrary animal control and law enforcement through estimations of breed by physical characteristics.

Miami’s ordinance is unconstitutionally vague because its description of what constitutes a pit bull does not provide adequate notice to dog owners whether the ordinance applies to them. Section 5-17.1 provides that “any dog which exhibits those characteristics” of the American Kennel Club’s American Staffordshire Terrier and Staffordshire Bull Terrier, and the United Kennel Club’s American Pit Bull Terrier will be subject to restrictions under the ordinance; as well as dogs that are determined to be pit bulls but that do not conform exactly to the American Kennel Club and United Kennel Club standards.²³² This definition is not only overly broad but also causes confusion as to which dogs qualify under these breeds as the descriptions used by the AKC and UKC differ and do not take into account mixed breeds of dog. The American Kennel Club describes the American Staffordshire Terrier as having a “stocky body and strong, powerful head . . . [with a] short coat [that] can be any color.”²³³ The American Kennel Club describes the

²³⁰ *Grayned*, 408 U.S. at 108.

²³¹ MIAMI-DADE, FLA., CODE OF ORDINANCES, at §5-17.1(a).

²³² *Id.* at §5-17.1(a), (c).

²³³ *Meet the American Staffordshire Terrier*, *supra* note 155.

Staffordshire Bull Terrier as “weighing anywhere between 24 and 38 pounds[,], rock-solid [and] muscular,” with a broad head, “pronounced cheek muscles, and [a] tight-fitting coat.”²³⁴ The United Kennel Club describes the American Pit Bull Terrier as being “of medium length, with a broad, flat skull, and a wide, deep muzzle[;] [e]ars are small to medium in size, high set, and may be natural or cropped[;] comes in all colors and color patterns [;] combines strength and athleticism with grace and agility and should never appear bulky or muscle-bound or fine-boned and rangy.”²³⁵

Not only do these descriptions vary amongst the breeds, but they also set out characteristics that are present in many other breeds. The AKC describes the Cane Corso, Dogo Argentino, and Boerboel breeds all as having a muscular frame and short coat.²³⁶ All three pit bull type breeds are stated as being capable of having multiple colors and patterns of coats.²³⁷ While the AST is taller, the SBT and APBT only stands about a foot and a half in height.²³⁸ The AKC and UKC descriptions are based on pure breeds alone,²³⁹ and therefore it is even more difficult for owners of mixed breed dogs to determine whether their animal falls within the ordinance. A law must provide adequate notice to those it applies to, and must be “sufficiently definite so that a person of ordinary intelligence can reasonably tell what is prohibited.”²⁴⁰ The descriptions set out by the AKC and UKC are not definitive in providing notice to an owner that their short-haired, muscular dog is in fact a pit bull.

²³⁴ *Meet the Staffordshire Bull Terrier*, *supra* note 173.

²³⁵ *American Pit Bull Terrier*, *supra* note 174.

²³⁶ See *Meet the Cane Corso*, AMERICAN KENNEL CLUB, <http://www.akc.org/dog-breeds/cane-corso/detail> (last visited Apr. 3, 2016); *Meet the Dogo Argentino*, AMERICAN KENNEL CLUB, <http://www.akc.org/dog-breeds/dogo-argentino/detail> (last visited Apr. 3, 2016); *Meet the Boerboel*, AMERICAN KENNEL CLUB, <http://www.akc.org/dog-breeds/boerboel/detail> (last visited Apr. 3, 2016).

²³⁷ See *Meet the American Staffordshire Terrier*, *supra* note 155; *Meet the Staffordshire Bull Terrier*, *supra* note 173; *American Pit Bull Terrier*, *supra* note 174.

²³⁸ *Id.*

²³⁹ Swann, *supra* note 23, at 842.

²⁴⁰ *Am. Dog Owners Ass’n v. City of Yakima*, 777 P.2d 1046, 1047 (Wash. 1989).

Courts will entertain constitutional challenges on vagueness grounds if a law “invites an inordinate amount of police discretion, to the point of allowing police to selectively enforce the statute at their ‘whim’.”²⁴¹ It is difficult for anyone to say with certainty that a certain dog is a pit bull, as “even scientists who study canine genetics note . . . very little difference between breeds.”²⁴² DNA studies conducted on dogs show that the genes related to the physical characteristics of each dog makes up only 0.25% of their genes.²⁴³ The studies also confirmed that the phenotype genes are different than genes related to brain development.²⁴⁴ Similar to humans, even pure bred dogs within the same breed will have different DNA; consequently, even scientific evidence is not conclusory in identifying a dog’s breed.²⁴⁵ Mixed breeds are genetically recognized as their own breed, making all pit bull mixes a completely different breed of dog.²⁴⁶ The University of Florida conducted a study out of four different Florida Animal Shelters, and had groups of staff members at the shelters visually identify at total of 120 dogs.²⁴⁷ The staff members in the study identified fifty-five (55) of the 120 dogs as being pit bull type dogs, while only twenty-five (25) of them were “true” pit bulls by DNA testing. Additionally, staff members did not identify five (5) dogs as pit bulls that were found to be “true” pit bulls by DNA.²⁴⁸

Visual identification has been rendered completely unreliable when even educated persons such as veterinary professionals and scientists have trouble with identifying the pit bull

²⁴¹ State v. Worrell, 761 P.2d 56, 61 (Wash. 1988) (concurring opinion) (citing Kolender v. Lawson, 461 U.S. 352, 358 (1983)).

²⁴² Grey, *supra* note 20, at 439-40.

²⁴³ *All Dogs Are Individuals*, ANIMAL FARM FOUNDATION, <http://www.animalfarmfoundation.org/pages/Multimedia-Infographics> (last visited Apr. 3, 2016).

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Incorrect Breed Identification Costs Dogs Their Lives*, MADDIE’S FUND (Feb. 2012), <http://www.maddiesfund.org/incorrect-breed-identification>.

²⁴⁸ *Id.*

breeds. In *American Dog Owners Ass’n, Inc. v. City of Lynn*, a breed-specific ordinance restricting pit bulls “defined a ‘Pit Bull’ as ‘American Staffordshire, Staffordshire Pit Bull Terrier, Bull Terrier or any mixture thereof.’”²⁴⁹ The Court in *Lynn* held that the ordinance was void for vagueness because “the dog officers . . . used ‘conflicting [,] subjective standards’ to determine what dogs should be defined as ‘Pit Bulls’ under the ordinance.”²⁵⁰ Regulation laws that require persons of ordinary intelligence to guess at their meaning and which differ in their application violate due process of law.²⁵¹ Miami-Dade’s breed-specific legislation relies on visual identification of pit bulls; leaving too much discretion in the local police powers to allow for regulation of the animals based on its physical characteristics, and thereby making this legislation unconstitutionally vague.

d. Equal Protection

Miami-Dade County’s breed-specific ordinance violates the equal protection rights of dog owners by singling out owners of particular breeds of dogs and requiring them to comply with special regulations that do not apply to other dog owners.²⁵² Equal protection challenges in breed-specific legislation cases have historically been upheld on the accepted theory that pit bull ownership is inherently dangerous.²⁵³ The Court in *City of Toledo v. Tellings* held that equal protection laws were not violated in a breed-specific ordinance because regulation of the ownership of dangerous animals promoted the safety of the public.²⁵⁴ As data has since proven that this theory is incorrect, this reasoning is flawed as there is no longer a rational basis for denying pit bulls owners the same rights that other dog owners enjoy. Responsible pit bulls

²⁴⁹ *Am. Dog Owners Ass’n v. City of Lynn*, 533 N.E.2d 642, 644 (Mass. 1989).

²⁵⁰ *Id.*

²⁵¹ *Dog Fed’n of Wisc., Inc. v. City of S. Milwaukee*, 504 N.W.2d 375, 378 (Wisc. Ct. App. 1993).

²⁵² Burstein, *supra* note 11, at 315.

²⁵³ *State v. Peters*, 534 So. 2d 760, 764 (Fla. Dist. Ct. App. 1988).

²⁵⁴ *City of Toledo v. Tellings*, 871 N.E.2d 1152, 1158 (Ohio 2007).

owners are unjustly burdened merely for their choice in companion. They are prevented from living in certain areas if they wish to keep their beloved pet, and are often denied the opportunity to own a house because they are unable to get home owners insurance.²⁵⁵ Breed-specific legislation has led many insurance companies to deny policies for owners of pit bulls because they have been labeled as a “dangerous breed.”²⁵⁶ Miami-Dade County even removed a man’s service dog in 2013 and fined the man over \$10,000 because the dog was a pit bull.²⁵⁷ All responsible dog owners should be granted equal rights in the ownership of their animals.

B. Proposals for Reform

Breed-specific laws have proven to be a completely ineffective way of dealing with dog attacks. Legislation needs to take a different route in order to address the real issues behind this problem. Rather than discriminate against dogs on the basis of their breed, legislation needs to focus on punishing the human behavior that leads to dog aggression. It should balance public safety against dogs who are actually dangerous while still “respecting the rights of responsible owners.”²⁵⁸ Harsher criminal punishment for irresponsible dog ownership and dangerous dog laws allow innocent dogs and their owners to enjoy a companion relationship without unfair and unsupported restrictions.

1. Dangerous Dog Laws

Dangerous dog laws more effectively address the dog bite problem “by objectively examining a dog’s prior conduct rather than making subjective evaluations of viciousness based solely on breed.”²⁵⁹ These laws place regulations on owners of dogs that have been deemed

²⁵⁵ Hussain, *supra* note 8, at 2850.

²⁵⁶ *Id.*

²⁵⁷ Barbara A. Besteni, *Pit bull owner challenges Miami-Dade County’s ban*, <http://www.local10.com/news/pit-bull-owner-challenges-miami-dade-countys-ban> (Nov. 13, 2013).

²⁵⁸ Hussain, *supra* note 8, at 2883.

²⁵⁹ *Id.* at 2848.

dangerous because of prior instances of unprovoked attacks. While some believe these laws are ineffective because they do not go into effect until the dog acts out, the laws can be fashioned in a way to put restrictions on the animals before any serious injury is caused. If a dog acts in an unprovoked, aggressive manner, then regulations can be applied, such as requiring a leash at all times while outside, rather than immediately attempting to destroy the animal. Dangerous dog laws also allow the owner an opportunity to contest the determination that their dog is dangerous.²⁶⁰ Florida currently has a dangerous dog law in place;²⁶¹ therefore, the only change that needs to be made to the Florida statute is to remove the exception that grandfathers in previously adopted breed-specific ordinances. Just as people are not arrested before they commit a crime, dogs should not be punished before they have done anything wrong.

2. Owner Liability

While dog fighting has become illegal in all fifty states, harsher penalties need to be imposed on humans for irresponsible ownership of their dogs. Florida Statute 767 makes it a third-degree felony to continue ownership of a previously determined dangerous dog. Section 767.10 of Florida's dangerous dog law cites the problem of unprovoked dog attacks are attributable in part to the owners of these animals.²⁶² Florida is on the right track in placing criminal liability on the owners for subjecting the animals to abuse, neglect, and poor ownership. Michigan takes dangerous dog liability even further by imposing involuntary manslaughter against dog owners if the dog was previously determined to be dangerous and fatally attacks a person.²⁶³ These laws focus on owner responsibility and are a much better deterrent to irresponsible owners than just punishing the animal.

²⁶⁰ *Id.* at 2855-56.

²⁶¹ FLA. STAT. §767 (2015).

²⁶² §767.10.

²⁶³ Hussain, *supra* note 8, at 2877-78.

Education is also important for owners who do not maliciously lack responsibility in their ownership, but that who lack the training to understand how to properly raise their animal. Education and training would be an effective requirement for first-time offenses, to guide both owners and animals against tendencies that can lead to aggressive behavior and to reduce the chance of repeat offenses.

Conclusion

Miami-Dade County's breed-specific ordinance banning pit bulls should be invalidated. Breed-specific legislation is a completely ineffective way to combat dog related attacks, and its laws lack the requisite clarity and definitiveness to survive Fourteenth Amendment scrutiny. Pit bull breeds are not inherently dangerous animals, and placing restrictions on them based on that assumption is unfair and unconstitutional. The focus needs to instead be placed at the other end of the leash. Placing responsibility on the owners of these animals is a much more effective way to combat the dog bite problem. Dangerous dog laws more accurately address dogs that need to be restricted in order to keep the public safe, and put the necessary amount of responsibility on the dog owners to raise and train their dogs correctly. Ownership of a domestic companion is a right that all humans should have equal opportunity to enjoy, and restricting animals based on their physical features associated with a bad stereotype is taking that right away from innocent, responsible owners. Dogs are sentient beings, and it is unconstitutional to subject such beings to confinement and death for the way that they look. Many municipalities have recognized that breed-specific laws are ineffective, and have rejected and repealed this form of legislation. It is essential to thousands of pit bull lives that Miami-Dade County joins this realization and repeals its pit bull ban.