

# KATZ ON DOGS

*Make sure the dog is properly confined or you will pay!*

By Janyce C. Katz

**D**oggone it, what's a person named Katz, an avowed horse/cat fan, doing writing about dogs?

When a huge dog with big teeth ran just a little too close to me while I was in a park, I was encouraged to look into dog confinement law. I wanted to know where that dog's rights ended and mine begin.

Since a dog is not a cat, an obvious statement to be sure, this Katz will not discuss laws of cat confinement or any due process or equal protection suits by dog owners based upon a failure to confine a cat under dog confinement laws.

Dog confinement or leash laws are common to many states. The Michigan State University College of Law: Animal Legal and Historical Web Center ([www.animal.law.info](http://www.animal.law.info)) offers an overview of these laws as well as the state dog impounding laws throughout the U.S.A. and an overview of other animal laws as well.

These laws are a subset of the laws regulating the control and conduct of animals. They have been designed to prevent animals from interfering with the safety and the activities of people.



Protection of people and their property from acts of animals is not a new concept. But, the manner in which laws were applied to animals and to their owners has changed throughout the years.

The punishment in the Middle Ages seemed to be based upon an animal having the intent to commit a crime. Dogs, like other animals, could be subject to either civil or ecclesiastic courts.

Jen Girgen, in *The Historical and Contemporary Prosecution and Punishment of Animals* (2003), writes of an Austrian dog who bit the leg of a member of the municipal council being tried and sentenced to the same iron cage in the market place which also was used to punish "evil-livers" or blasphemers (people, not dogs). While being caged in the center of town for a year could not have been pleasant for the dog or the people, the dog's punishment was less severe than that of the pig who, in 1266 was tried and executed in Fontenay-aux-Roses, France for chewing up a person.

Today's dog confinement laws as a means of protecting people and property seem more sensible than trying and punishing the animal after the fact for its "crime" as if the "intent" to commit such crime could thereby be quashed.

The law in Ohio is set forth in R.C. 955.22(C) which says that unless the dog is "lawfully engaged in hunting and accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of any dog shall fail at any time to do either of the following:

1. Keep the dog physically confined or restrained upon the premises of the owner, keeper or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;
2. Keep the dog under the reasonable control of some person."

There is strict liability under R.C. 955.22(C). *State v. Squires* (1996), 108 Ohio App.3d 716. This means that the



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owner is liable for a loose dog even if the dog accidentally runs out when a door is open or walks through an electric fence. The penalty for violating R.C. 955.22(C) is set forth in R.C. 955.99(E). A first offense for loose dog should result in a penalty of no less than \$25 and no more than \$100. The amount of \$150 for a first offense violates R.C. 955.99(E)(1). *State of Ohio v. Byrd* (May 27, 2005), 2005 Ohio 2720. On a second offense, the fine is to be no less than \$75 and no more than \$250, and a violator may be imprisoned for not more than 30 days.

The fine can be avoided if the animal is turned in and destroyed. In addition to the above penalties, a court may order the dog to complete an obedience course or to be supervised by the individual who own, harbors or keeps it.

"Reasonable control of the owner" as mandated by R.C. 955.22 (C) does not mean that the ordinary dog must constantly be on a leash when not confined on the property. (Dogs classified as "vicious" have to be controlled in a much stricter manner than do other dogs. R.C. 955.22(D).

Local municipalities may adopt their own laws to control dogs as long as the resolutions or ordinances are not otherwise in conflict with any other provision of the Ohio Revised Code. R.C. 955.221. Such an ordinance or restriction can mandate all dogs be on leashes



been designed to permit the free movement of the animal within a confined area.

Recently, Westerville set aside 1.25 acres of Brooksedge Park to allow dogs to run off leash – one acre for large dogs and .75 acre for small dogs. Several proposals for dog parks have been in front of Columbus’s city council, but, as of the date this article is written, no proposal has been adopted.

While people need the protection from loose dogs, the confinement of the animal should be reasonable. R.C. 959.13 forbids cruelty to animals. For example, leashing a dog so that it can not reach its water and food without endangering itself has been found to be an abuse of the animal. A trial court can order the confiscation of an animal following a conviction of its owner or keeper for cruelty to the animal. R.C. 1717.09.

So, now we know that the dog with the big teeth in the park was in violation of R.C. 955.22 (C), and I can stop barking up this tree.

except in confined areas or in specifically designated “dog parks” in which the dog can run freely. Or, it could up the penalty for loose dog to a first degree misdemeanor. *Village of Gate Mills v. Welsh* (2001), 146 Ohio App. 3d 368.

Throughout the United States many “dog leash law study committees” still struggle with the concept of “to leash or not to leash,” especially when talking about beaches, parks or even neighborhoods. Also common have been suits between those who think dogs should have the right to run freely at least in some part of a park or beach and those who want to see dogs leashed.

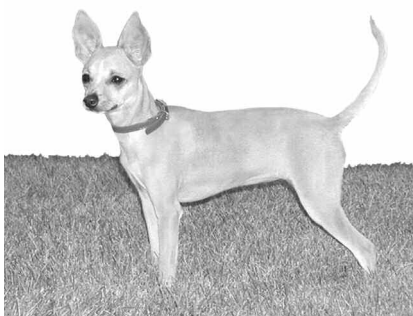
According to the *Columbus Dispatch*, the Columbus City Council has been considering a form of leash law which would permit voice controlled dogs to be off leash while other dogs would be leashed. The *Dispatch* noted there had been no action on this provision because leash laws of any kind are controversial.

The “dog parks,” fenced areas in which dogs can run, walk or whatever off leash seem to be the best compromise between those who want their animals to run freely and those prefer to not have strange dogs running toward them. Existing dog parks have

<sup>1</sup> But, the punishment of several Italian moles, excommunicated in the 9th century, may have been less or more severe, depending upon one’s view of the impact on the moles of the Church’s exclusion of them from its ecclesiastic community. Jen Girgen, *The Historical and Contemporary Prosecution and Punishment of Animals* (2003), 9 Animal L. 9 has more such stories about animal trials.



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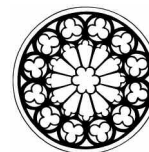
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