

1 QUINCY KOLKER,
 2 Of lawful age, being first duly
 3 cautioned and solemnly sworn as
 4 hereinafter certified, was examined
 5 and testified as follows:
 6 (Witness' response to oath - "I do.")

6 DIRECT EXAMINATION

7 BY MR. HASAN:

8 Q. Will you please state and spell your name
 9 for the record?

10 **A. Quincy Kolker. Q-u-i-n-c-y, K-o-l-k-e-r.**

11 Q. Is it all right if I call you Quincy during
 12 this?

13 **A. Yes.**

14 Q. My name is Kamron Hasan. I am one of the
 15 attorneys for the plaintiff in this case. Feel free
 16 to call me Kamron throughout this.

17 Quincy, have you ever had your deposition
 18 taken?

19 **A. No.**

20 Q. Are you familiar with the process at all?

21 **A. I touched on it in the Woodbury County
 22 Reserves in training, but that was kind of light.**

23 Q. Okay. I will just give you a general
 24 overview then. Essentially it's a
 25 question-and-answer interview that's being recorded,

1 and you're under oath. Do you understand you're
 2 under oath today?

3 **A. Yes.**

4 Q. So it's a question-and-answer where I'll be
 5 giving you some questions and asking you to provide
 6 answers to those questions, and the purpose is to
 7 gather facts and information to prepare this lawsuit
 8 for trial. Do you understand that?

9 **A. Okay. Yes.**

10 Q. So because Julie is taking down everything,
 11 it's important that we give audible indicators. So
 12 try to avoid things like uh-huhs and huh-uhs and head
 13 nods because it's tough for her to get that down.
 14 Does that make sense?

15 **A. Yes, sir.**

16 Q. Also, I will do my best and I will ask you
 17 to do your best not to speak over one another because
 18 it's very difficult to get down what both of us are
 19 saying if we're both speaking at the same time. Will
 20 you do your best not to speak over me?

21 **A. Yes, sir.**

22 Q. I will do my best not to speak over you
 23 also. Also, if you need a break throughout this – I
 24 don't expect this to go super long today, but if you
 25 need a break at any point, please let me know. And I

1 may finish my line of questioning first, but you're
 2 entitled to a break if you need one. So please let
 3 me know.

4 **A. I'd be more worried about making sure the
 5 meter is up.**

6 Q. How much time do you have on the meter?

7 **A. Two hours.**

8 Q. Okay. I will set an alarm for you just in
 9 case.

10 **A. We all know how quick they are to ticket
 11 anything.**

12 MS. DuBOIS: Yeah, they're pretty good
 13 about...

14 MR. HASAN: You had two hours when you came
 15 in?

16 (At 1:54 p.m. an
 17 off-the-record discussion
 18 was had.)

18 Q. (By Mr. Hasan) Okay. So if you need a
 19 break for that or any other reason just let us know.
 20 Okay?

21 **A. All right.**

22 Q. If throughout this deposition I ask a
 23 question that I call a bad question, one that you
 24 don't understand or that you're confused by, please
 25 let me know, and I will do my best to rephrase it so

1 that you can better understand it. Is that fair?

2 **A. Yes.**

3 Q. If you don't ask me for clarification or let
 4 me know that you're confused, I will assume that you
 5 answer – or, you understand the question. Is that
 6 fair?

7 **A. Yes.**

8 Q. Are you being represented by the city for
 9 purposes of this deposition?

10 **A. No.**

11 Q. Okay. Well, the – nevertheless, the
 12 attorneys may raise objections to some of my
 13 questions. You know, unless you get an objection
 14 where you are explicitly instructed not to answer,
 15 you are under an obligation to answer my questions.
 16 Make sense?

17 **A. Yes.**

18 Q. Great. Anything about your physical,
 19 emotional or mental conditions that will keep you
 20 from answering my questions today?

21 **A. No.**

22 Q. Anything about your physical, emotional or
 23 mental conditions that will keep you from
 24 understanding my questions?

25 **A. No.**

1 Q. On any medication or alcohol that will
2 prevent you from understanding my questions?
3 **A. No.**
4 Q. Any medication or alcohol that will keep you
5 from answering truthfully and completely?
6 **A. No.**
7 Q. Will you let me know if any of that changes?
8 **A. Yeah.**
9 Q. Thanks. Quincy, what do you do for a
10 living?
11 **A. I am now employed by Wells Blue Bunny as
12 a – oh, sorry – production specialist.**
13 Q. What does that mean?
14 **A. I produce the products you consume, and
15 market.**
16 Q. Like Blue Bunny, like ice cream and stuff?
17 **A. Ice cream, cones, whatever, yeah.**
18 Q. Cool. Do you get, like, big discounts on
19 that?
20 **A. Oh, we get to take some sample products
21 home.**
22 Q. We should talk another time.
23 Okay. When did you start that job?
24 **A. I started a week ago.**
25 Q. Congratulations on the new job. What did

1 you do before that?
2 **A. I worked for Sioux City Animal Control.**
3 Q. When did you stop working for Sioux City
4 Animal Control?
5 **A. I'd say late October of – I believe it was
6 around the 25th.**
7 Q. Of 2017?
8 **A. Yes.**
9 Q. What did you do before that?
10 **A. I was employed at Fareway in Le Mars as a
11 butcher.**
12 Q. Okay. When did you start with Sioux City
13 Animal Control?
14 **A. It would have been January 12th, let's see,
15 almost five years ago. So...**
16 Q. About five years ago?
17 **A. Yeah.**
18 Q. So about – would that have been 2013 or
19 2012?
20 **A. It would be about 2013.**
21 Q. So you worked for about almost five years,
22 four and a half years?
23 **A. It would have been five years this
24 January 12th.**
25 Q. Man, that's the second person this morning

1 that remembers the exact start date with animal
2 control. I am blown away.
3 Okay. So how long were you with Fareway
4 prior to, you know, ending that job?
5 **A. I would say between six and ten months.**
6 Q. What did you do before that?
7 **A. I worked security as – a contract out at
8 the Tyson beef plant in Dakota City.**
9 Q. Okay. How about before that?
10 **A. I worked for 1st Class Security, which
11 patrolled the skywalk downtown here in Sioux City.**
12 Q. Anything before that?
13 **A. I worked Viking Security up in Brainerd,
14 Minnesota, basically security for Menards.**
15 Q. Okay.
16 **A. Gate guard.**
17 Q. Okay. Okay. Before that?
18 **A. Wendy's in Brainerd.**
19 Q. Anything before that?
20 **A. I worked buffet dishwasher and the Grand
21 Casino, Hinckley, Minnesota.**
22 Q. Okay. When would that put us in the
23 calendar?
24 **A. The buffet, that would be 2005, 2006.**
25 Q. Okay. We'll stop around there. What's your

1 education background?
2 **A. I have an associate's in applied science,
3 criminal justice.**
4 Q. From where?
5 **A. Central Lakes College, Brainerd, Minnesota.**
6 Q. Are you from Minnesota?
7 **A. Yes.**
8 Q. All right. What brought you down to Iowa?
9 **A. More job opportunities and kind of get sick
10 of the eight-month winters we have up there.**
11 Q. They seem pretty long here also. Do you
12 have any other certificates, anything like that?
13 **A. I went through full and complete training
14 with the Woodbury County Reserves.**
15 Q. What branch were the reserves for? Was...
16 **A. Just reserves deputies.**
17 Q. Oh, okay. For what branch of law
18 enforcement?
19 **A. The county.**
20 Q. Okay. So a reserve county sh-...
21 **A. Deputy.**
22 Q. Okay. Okay. Okay. When was that?
23 **A. We finished in mid October of 2017.**
24 Q. How long was that training?
25 **A. About ten months.**

1 Q. So are you aware of the facts and
2 circumstances surrounding this lawsuit generally?
3 **A. Yes.**
4 Q. I am going to focus today not on these other
5 jobs but on your animal control job. Is that a – do
6 you understand that?
7 **A. Yes, sir.**
8 Q. So related to that job, do you have any
9 specific training as it related to your animal
10 control job?
11 **A. I went to NACA, which stands for the**
12 **National Animal Control Association, level-one**
13 **training.**
14 Q. You did level one?
15 **A. Yes.**
16 Q. What was involved with that level-one
17 training?
18 **A. Basically it started – you know, standard**
19 **animal health, diseases, court operations, general**
20 **animal, from livestock to domesticated cats and dogs.**
21 Q. Kind of all over the board?
22 **A. Yeah.**
23 Q. Anything on dog identification?
24 **A. Not really. Just, you know, how to spot**
25 **behavioral –**

1 Q. Okay.
2 **A. – signs from aggression to friendliness.**
3 Q. So like how to handle the dogs when you
4 encounter them?
5 **A. Yeah. Yes.**
6 Q. Okay. Did you ever attend any seminars or
7 conferences related to your animal control job?
8 **A. No, I did not.**
9 Q. Any dog shows?
10 **A. No.**
11 Q. Did you receive any formal on-the-job
12 training re-...
13 **A. Clarify.**
14 Q. Yeah. When you started with animal control,
15 did your bosses provide you any specific training
16 when you started?
17 **A. It would be pretty much I did ride-alongs**
18 **when I was being looked into as an employee. And**
19 **basically I just drove around with a current**
20 **employee, an officer, and they told me and showed me**
21 **how they did things and...**
22 Q. So just, like, shadowing?
23 **A. Yes.**
24 Q. How long was the shadowing?
25 **A. It would have been on – on and off some**

1 **days October to January.**
2 Q. Okay. So a few months?
3 **A. Yes.**
4 Q. Just real generally, will you describe what
5 your job functions were as an animal control officer,
6 please?
7 **A. Patrol and respond to any calls received by**
8 **dispatch in our computer system that range from**
9 **simple at large to emergency calls, which range from**
10 **bites to welfare.**
11 Q. So generally responding to calls?
12 **A. Yes.**
13 Q. And patrolling?
14 **A. Yes, sir.**
15 Q. Okay. Aside from that NACA course and the
16 shadowing, what was your history with dogs?
17 **A. I have always owned dogs since I was born.**
18 Q. So probably a lot of dogs, but if you had to
19 estimate, how many dogs do you think you have owned
20 in your lifetime?
21 **A. We would be on our fourth German Shepherd**
22 **and one miniature Dachshund.**
23 Q. Okay. So...
24 **A. And one – sorry. Rephrase that. Also one**
25 **Husky and one black Lab.**

1 Q. Okay. So a half a dozen, maybe a couple
2 more than that, dogs that you have owned?
3 **A. Yes.**
4 Q. Did you have any other experience dealing
5 with dogs, any dog identification experience?
6 **A. Not before this job, no.**
7 Q. So coming into animal control, it was just
8 your dog ownership?
9 **A. Yes, sir.**
10 Q. With animal control, your experience for dog
11 identification consisted of that NACA course and just
12 on-the-job experience?
13 **A. Yes, sir.**
14 Q. While you were an animal control officer,
15 will you describe the hierarchy of the department,
16 like who was in charge, who you reported to, that
17 sort of thing, please?
18 **A. More or less the officers were viewed as**
19 **equal. And then there was Kenna Anderson and Chris**
20 **Wall at the front desk, and usually we'd go to them**
21 **first, and then there was Cindy, our boss, at the**
22 **top.**
23 Q. Okay. Did anyone report to you or...
24 **A. No.**
25 Q. So are you familiar with the Sioux City

1 Municipal Code?
 2 **A. Yes.**
 3 Q. In front of you there is an exhibit that's
 4 marked 101, and I will let you know that page 37 of
 5 that exhibit goes to the pit bull ban that's the
 6 subject of this lawsuit, and we'll refer to that
 7 later on, but how are you familiar with the municipal
 8 code?
 9 **A. I often read it. I always kept a binder in**
 10 **my duty bag on my passenger's seat, and I'd often**
 11 **read it for references or just read it to keep up to**
 12 **date.**
 13 Q. Was there any requirement provided to you by
 14 your bosses regarding keeping up to date with the
 15 code?
 16 **A. No.**
 17 Q. Any specific instructions on what sections
 18 to enforce?
 19 **A. No. They just kind of gave us what – a**
 20 **small section, what they call our most frequently**
 21 **used statutes, which would tend to be at large, bites**
 22 **and attacks, and city license and rabies would be an**
 23 **example.**
 24 Q. Okay. Okay. Did they give you any specific
 25 instructions regarding the pit bull ban?

1 **A. Basically, the city would release a pit bull**
 2 **registry that they'd give to Cindy and Chris, and**
 3 **they'd make copies. And it would be by address, and**
 4 **one would be by owner's name in alphabetical order.**
 5 **And, basically, if they cannot show a current city**
 6 **license or rabies, and if they did not or were not on**
 7 **the pit bull registry form, they were, in fact,**
 8 **illegal.**
 9 Q. Was that listed registry, was that like a
 10 binder that they provided to you?
 11 **A. Yes.**
 12 Q. So, you know, talking about enforcing the
 13 code, how was it that you would identify a situation
 14 in which the pit bull ban may be being violated?
 15 **A. I'd always – whenever I see a – if it was**
 16 **a pit bull or the call would state it's a pit bull**
 17 **and I got to the address, I always check my registry**
 18 **form first. And if it wasn't there, then I'd ask the**
 19 **owners if they have a current city license and**
 20 **rabies.**
 21 Q. Okay. So would it be responding to a call?
 22 That's how you'd show up with a dog..
 23 **A. Yeah. We – I have responded to some pit**
 24 **bulls that were simply running loose as well.**
 25 Q. Okay. Just while you were patrolling?

1 **A. Uh-huh.**
 2 Q. And you ran into a dog that was on the
 3 loose?
 4 **A. Yes, sir.**
 5 Q. Okay. Any other circumstances where you'd
 6 come into contact with a dog where you'd have to make
 7 this determination?
 8 **A. Generally they were called in. I'd say**
 9 **probably about ten percent of the time I have run**
 10 **into a pit bull when it's running loose.**
 11 Q. Okay. And then the other 90 percent would
 12 have been -- about 90 percent would have been when
 13 someone called in?
 14 **A. Yes, sir.**
 15 Q. Okay. Will you flip to page 37 there for
 16 me, please? Do you see the section there that's
 17 titled Definition of a Pit Bull?
 18 **A. Pit Bull Defined?**
 19 Q. Yes. Sorry. That's shorthand of mine,
 20 which I guess would be longhand because it's longer
 21 than the actual statute name. That's 7.10.010.
 22 **A. Yes.**
 23 Q. Is that the definition of a pit bull of
 24 which you're familiar?
 25 **A. Yes.**

1 Q. Were you given any specific guidance or
 2 training on how to interpret that section?
 3 **A. I was told basically if it looked like a pit**
 4 **bull, it's a pit bull.**
 5 Q. Did they tell you on if it looks like a pit
 6 bull, then it's a pit bull, how to determine if it
 7 looks like a pit bull?
 8 **A. There is several distinguishing features**
 9 **that mark them as pit bull.**
 10 Q. Okay. So is it based on visual
 11 identification?
 12 **A. Yes.**
 13 Q. You said there's several features that mark
 14 them as pit bulls. What are those features?
 15 **A. Oh, they are actually short and stout. Most**
 16 **pit bulls are actually about this tall (indicating),**
 17 **approximately.**
 18 Q. That would be what, two feet?
 19 **A. I...**
 20 Q. It's tough for Julie to write down how high
 21 your hand is.
 22 **A. Yeah. Sorry. About two and a half, three**
 23 **feet.**
 24 Q. Okay.
 25 **A. They have what we refer to as the catfish**

1 **head. Let's see...**

2 Q. Here, do you want something to hold that...

3 **A. They – their head is their most outstanding**
4 **feature. Like I said, it's kind of big and broad**
5 **like a catfish, if you ever seen one.**

6 Q. Sure.

7 **A. I guess it would be kind of like**
8 **distinguishing between a crocodile and an alligator.**
9 **A crocodile has a nice narrow mouth and an alligator**
10 **has a nice round, broad, because often we get –**
11 **people get American Bulldogs confused with pit bulls.**
12 **And they are similar, but they have a more narrow**
13 **pointed snout, while most pit bulls are nice round,**
14 **broad, wide face.**

15 Q. You say "most pit bulls." Are there
16 variances there?

17 **A. One of the most common is breeding with**
18 **American Bulldogs. That's where we get the larger**
19 **ones that tend to be about four feet in height.**

20 Q. So the taller ones?

21 **A. So – yes.**

22 Q. And when you say two to three or four feet,
23 are those just approximations?

24 **A. Approximations, yes.**

25 Q. Okay. Will you take a look at the

1 definition there for me and let me know if I am
2 accurately summarizing this? There's – in the first
3 sentence there it's defining what a, quote, pit bull
4 would be. And it lists in the first part of the
5 sentence three specific breeds, American Pit Bull
6 Terrier, American Staffordshire Terrier and
7 Staffordshire Bull Terrier; is that right?

8 **A. Yes.**

9 Q. Specifically it says if it is one of those
10 three purebreds; right?

11 **A. Yes.**

12 Q. And then it goes on to say, or – and I am
13 going to paraphrase here, but "or a dog that displays
14 the appearance and characteristics that are
15 predominant of one of those three breeds." Is that
16 right?

17 **A. Yes.**

18 Q. So, essentially, the statute says one of the
19 purebreds or a dog that looks like one of the
20 purebreds?

21 **A. Yes.**

22 Q. And the "looks like it" has to be
23 predominant?

24 **A. (Witness nods head up and down.)**

25 Q. So how is it that when you come across a dog

1 that you'd determine if it was predominantly a pit
2 bull?

3 **A. Oh, the most prominent feature would be the**
4 **head. And it – that's pretty much the number one**
5 **thing we'd go by is that big, like I said, quote,**
6 **catfish head.**

7 Q. Okay. That was, like, an outcome
8 determinative feature?

9 **A. Yeah. Yes.**

10 Q. So if it had that head, it's coming in as a
11 pit bull?

12 **A. Yes.**

13 Q. Were there any other features that were kind
14 of outcome determinative also?

15 **A. The more – like I said, the more purebreds**
16 **tend to be the short-sized ones. So generally when**
17 **they're that short size, at – and showing the**
18 **catfish head, yes, that was predominantly pit, as**
19 **we'd go by.**

20 Q. How would you determine if a dog was a
21 purebred or a mixed breed?

22 **A. I wouldn't know. The final decision on who**
23 **would deem it, I don't – we – the officers would**
24 **bring it to Cindy, and she would be the ultimate**
25 **final say.**

1 Q. Okay. I will come to that in just a minute,
2 but for the time being, since we're talking about you
3 out in the field, I kind of want to just focus when
4 you're out there enforcing. So you mentioned the
5 head shape as being outcome determinative.

6 Does that mean that if a subject dog doesn't
7 have that catfish head, then you're going to
8 determine it's not a pit bull?

9 **A. Yes.**

10 Q. So it has to have that head?

11 **A. (Witness nods head up and down.)**

12 Q. Right?

13 **A. Yes, sir. Yes.**

14 Q. Are there – so if it has that head, are
15 there other features that you take into account to
16 determine, well, it's got the head and there are
17 other features that it also has to have?

18 **A. It's just mostly the head and what we went**
19 **by. So...**

20 Q. Okay. So when you're out there enforcing,
21 it just comes down to you look at the head. If it
22 looks like what you think a pit bull looks like,
23 you're picking it up?

24 **A. Yeah. Yes.**

25 Q. And if it doesn't have that head, you're not

1 picking it up?
 2 **A. Yes.**
 3 Q. Okay. You have – that's for mixed-breed
 4 dogs?
 5 **A. Yes, sir.**
 6 Q. Quincy, did you ever read the United Kennel
 7 Club breed standards for the American Pit Bull
 8 Terrier?
 9 **A. No.**
 10 Q. Did anyone at animal control ever ask you to
 11 do that?
 12 **A. No. We had a general breed poster in the**
 13 **back that was there well before I started that's half**
 14 **torn, and that's the closest thing we came to that.**
 15 Q. Yeah. I have heard of that. A chart
 16 basically; right?
 17 **A. Yes.**
 18 Q. With a bunch of different breeds on it?
 19 **A. Yes.**
 20 Q. What was that used for?
 21 **A. When I first started, I was new, so I'd**
 22 **often – because I lived in a rural area, so I used**
 23 **that because I had no idea some of these breeds I was**
 24 **picking up until I gained more experience. So for**
 25 **me, I referenced that.**

1 Q. Were they pictures that you were
 2 referencing?
 3 **A. It would just be categorized by groups such**
 4 **as sporting, toy, herding, and just a general group**
 5 **of dogs that tend to be fit in that.**
 6 Q. Okay. So they were grouped by groups?
 7 **A. Yeah.**
 8 Q. There were pictures?
 9 **A. Yes. And would be a name of the dog below.**
 10 Q. Okay. So that's what it was is a picture of
 11 the dog, and then below it would say the purebred
 12 name?
 13 **A. Yes.**
 14 Q. And animal control provided that picture to
 15 you as a reference to compare the dogs you picked up?
 16 **A. Yes.**
 17 Q. Essentially to help determine what a breed
 18 of dog was by referring to the picture?
 19 **A. Yes.**
 20 Q. Aside from that chart, had you read any of
 21 the breed standards for any of – either of the other
 22 two purebreds?
 23 **A. No, I have not.**
 24 Q. Did anyone at animal control ever ask you to
 25 look at them?

1 **A. No.**
 2 Q. So let's say you're out in the field and you
 3 see the catfish head and you determine that's a pit
 4 bull. What do you do next?
 5 **A. Well, like I say, I double-check on the**
 6 **registry and city license because I had one incident**
 7 **where somebody called in. They had current city**
 8 **license and rabies, and they told me their previous**
 9 **address because they moved. And it checked out.**
 10 **So I double-checked my registry and the city**
 11 **license. And if they had it, I'd recommend making**
 12 **sure they let the city know their new address and be**
 13 **on my way. If it – not, I'd inform them their dog**
 14 **is illegal, it's not on the registry, and explain**
 15 **the – that part to them. And I'd tell them I'd have**
 16 **to impound it.**
 17 Q. So at that stage what if a dog owner
 18 disputed your determination that a dog was a pit
 19 bull?
 20 **A. Depend if – how friendly they are, I'd**
 21 **explain it as I can impound it. You come down to the**
 22 **shelter. You talk to the front desk and the**
 23 **higher-ups. That's what I told them. That's their**
 24 **job. And I just enforce the laws, and –**
 25 Q. Okay.

1 **A. – this is what they're telling me.**
 2 Q. So you tell them, I am picking it up and
 3 impounding it. And now, dog owner, you have to go
 4 into the shelter and deal with shelter management?
 5 **A. Yes.**
 6 Q. So if you impound the dog, what's that
 7 process like?
 8 **A. If it's aggressive, we have the owners put**
 9 **it into the truck. If – or if they're being**
 10 **cooperative, we'll, you know, show goodwill and have**
 11 **them load it up and – or we load it up. Then we**
 12 **proceed to the shelter after writing the inci –**
 13 **short-form incident report indicating we impounded**
 14 **and the owner's information.**
 15 **We'd take it to the shelter. We'd put it in**
 16 **what we call the vicious/high-risk room, which is**
 17 **behind authorized-only doors. It's more or less just**
 18 **extra kennels that aren't open to the public. Then**
 19 **I'd go up to the front desk and fill out an impound**
 20 **card which would contain – would –**
 21 **Excuse me.**
 22 Q. No, take your time.
 23 **A. – would be either blue or pink based off of**
 24 **gender. Then it would be microchip information if**
 25 **it's microchipped, owner's information, where we**

1 **picked it up, date, who picked it up, such as myself,**
 2 **and any comments, like, say, don't like men or, you**
 3 **know, just general be aware or...**

4 Q. Just, like, observations that you have
 5 noticed?

6 **A. Yes.**

7 Q. You said the – you put it in the
 8 vicious/high-risk room. Is that for all dogs you
 9 have impounded?

10 **A. We pretty much use that for dogs who are**
 11 **either court-wise deemed high risk or vicious,**
 12 **animals that are on quarantine for rabies, for bites,**
 13 **either they're facing charges themselves or just**
 14 **because they don't have rabies and they'll be**
 15 **released after quarantine, and pit bulls, because**
 16 **since they're illegal, we don't let the public in**
 17 **there.**

18 Q. Okay. So if a dog has been determined to be
 19 a pit bull, it goes in the vicious/high-risk group?

20 **A. Yes.**

21 Q. Based purely on the title of being a pit
 22 bull?

23 **A. Yes.**

24 Q. So if you have impounded the dog, were there
 25 situations where the determination of breed gets

1 called into question? Does anyone double-check the
 2 determination?

3 **A. If I have questions I will ask Cindy**
 4 **because, like I said, sometimes for me they are**
 5 **borderline, are difficult. And since Cindy's head of**
 6 **the shelter, I bring them up and I let – what do you**
 7 **think, is this pit bull, is this pit bull enough**
 8 **or – or more American Bulldog or, you know, more**
 9 **mix.**

10 Q. Okay. Because if – you said it's got that
 11 catfish head you're picking it up?

12 **A. Yes.**

13 Q. So is it fair to say that there are going to
 14 be a lot of different varying features from the neck
 15 down?

16 **A. Yes.**

17 Q. So, you know, five different dogs could have
 18 a very similar catfish head but very different other
 19 features?

20 **A. Yes.**

21 Q. Okay. So if you had a question and you
 22 asked Cindy, what would she tell you?

23 **A. She'd basically go, yes, that's a pit bull**
 24 **or pit bull mix or, no, it's not. And if it – she**
 25 **says it's not, then I put it in the regular dog room.**

1 Q. Did she explain any of her decisions?

2 **A. No.**

3 Q. Did she explain what she was pointing at to
 4 say this is or is not?

5 **A. Most of the time it's the head and facial**
 6 **features.**

7 Q. She would say the head and facial features
 8 are not?

9 **A. That's where I got the saying catfish head**
 10 **because that's the number one term she'd use and**
 11 **always reference by. So that's pretty much where we,**
 12 **as employees, picked it up.**

13 Q. Okay. So in your experience she was basing
 14 her decision on the head?

15 **A. Yeah. She'd be like, look at that big old**
 16 **catfish smile.**

17 Q. Okay. Were there situations where you
 18 disagreed with her on breed determination?

19 **A. Yes.**

20 Q. Did that happen frequently?

21 **A. I wouldn't say frequently. I'd say**
 22 **occasionally. I picked up dogs where I thought were**
 23 **awfully pit, and she's like, not enough.**

24 Q. She'd say not enough pit?

25 **A. Yes, or – and occasionally it was the**

1 **reverse. I am like, this doesn't look pit, but I**
 2 **want to double-check. She's like, it's just over the**
 3 **line.**

4 Q. Would she say why one way or the other?

5 **A. Yes, but a few of those times I cannot**
 6 **recall.**

7 Q. Okay. Can you recall any of those times?

8 **A. I believe it was a – it was a – almost**
 9 **like a black Lab pit. He had that big head, but, I**
 10 **mean, he was, like, 90 percent black Lab. I mean,**
 11 **had black Lab body and – but he had a big huge flat**
 12 **catfish head, but it looked like a Lab but had that**
 13 **huge catfish smile.**

14 Q. Okay. And so you said you thought it was,
 15 if you had to put a number on it, 90 percent black
 16 Lab?

17 **A. Yes.**

18 Q. But Cindy said, no, it's a pit bull?

19 **A. Yes.**

20 Q. And what was the ultimate determination?

21 **A. I believe it was a pit bull.**

22 Q. Did you ever have DNA tests run on anything
 23 like that?

24 **A. I believe they were doing it before I**
 25 **started. When I first started, I worked nights. I**

1 didn't work with a lot of people during the day. So
2 it could have been in the first year I had been there
3 too. Somewhere I was told that the city stopped
4 doing DNA tests because people were coming back
5 with – what I seen that were obviously pit bulls,
6 but they were coming back saying Poodles or Basset
7 Hounds.

8 Q. Okay. Meaning you think that a visual –
9 based on what you think a pit bull would look like,
10 visually you'd say that's a pit bull?

11 A. Yeah.

12 Q. But the DNA actually showed that it's not?

13 A. Yes. It would – but they're – they
14 were – one they said was hundred percent Poodle, and
15 I have picked up Poodles and they are remarkably
16 different.

17 Q. Not what you would expect a Poodle to look
18 like?

19 A. Yes. Yes.

20 Q. Okay. Okay. Well, let's talk about, again,
21 if there's, like, difference of opinion on the breed
22 of the predominant breed of one of these mixed-breed
23 dogs, what was the overall – well, talk me through
24 some more of the decision-making process.

25 A. Basically, if Cindy said it was a pit bull,

1 I put it on the card, or pit bull mix, put it in the
2 back room, and basically it's – I – everything else
3 was left to Cindy, Chris and Kenna at the front desk.

4 Q. Okay. So in your experience was it what
5 Cindy said goes?

6 A. Yes.

7 Q. Even if you thought that it was 90 percent
8 black Lab, what Cindy said goes?

9 A. Yes.

10 Q. Were there any circumstances where
11 collectively animal control made the determination
12 that it was probably a pit bull but the dog went home
13 anyway?

14 A. Yes.

15 Q. There were? How many of those situations
16 did...

17 A. This was a big one. This happened before I
18 left animal control. So I'd say maybe around
19 September –

20 Q. Okay.

21 A. – early October.

22 Q. Okay.

23 A. Me and my partner, Officer – sorry, I
24 forgot her name. Kylie was her first name. So...

25 Q. Sure. Kylie Butler?

1 A. Yes.

2 Q. Okay.

3 A. We were down to one vehicle due to
4 maintenance issues. And we got a call on her side,
5 Morningside, I forgot the exact location, said pit
6 bull running in the street. Well, we approached the
7 hill, and we're going up, and we see it. And this
8 thing is the purest pit bull I ever seen.

9 Q. What would you – what do you mean, the
10 purist pit bull you have ever seen?

11 A. I mean it fit, from what I was told what a
12 pit bull is, the characteristic, the short size, the
13 big head.

14 Q. Okay. So the indicators that Cindy would
15 have said –

16 A. Yeah.

17 Q. – these are the indicators for a pit bull?

18 A. Yes.

19 Q. It had checked those boxes in your mind?

20 A. Yes.

21 Q. Okay. Sorry for interrupting. Continue.

22 A. So we get out there and, you know, the dog's
23 playing in traffic, but it's friendly but not coming
24 to us. We're working. Some guy comes flying up,
25 starts chasing after my partner, where I had to

1 resort at pulling my baton to try to keep him back.
2 He was extremely hostile and had to result in three
3 Sioux City PD officers being called to keep him and
4 eventually the owner coming back.

5 Q. Was that the owner?

6 A. No. That was the owner's brother, but from
7 what I got after we got back to the shelter, he was
8 co-signer.

9 Q. Okay.

10 A. But...

11 Q. Sorry. You were discussing – or, you were
12 describing the dog was playing in traffic, and you
13 were trying to go after it, and then this man came
14 towards your partner, Kylie?

15 A. Yeah.

16 Q. What happened next?

17 A. I kept him at bay, calling Cindy, what's
18 going on, and getting the PD out. Eventually he was
19 forced back away from us. The owner showed up. The
20 dog wouldn't come to him, but Kylie managed to put a
21 slip leash on him.

22 And we told him, it's a pit bull. He
23 started yelling and screaming at us saying the city
24 allowed him to have it, it's not a pit bull. He was
25 given a DNA – I don't know if – he's coming with us

1 **for, one, at large. Two, he has no city license or**
 2 **rabies that you can produce at the time or on the**
 3 **dog. So we took him for those reasons as well.**
 4 **We get back to the shelter. We explain the**
 5 **situation. And Justin from city legal is who we were**
 6 **contacted by or Cindy was working with. He...**
 7 MS. DuBOIS: And I am going to object here
 8 because any information as far as correspondence with
 9 Quincy and the legal department during the term of
 10 his employment is protected information. It's
 11 attorney-client privileged.
 12 Q. (By Mr. Hasan) Without telling me what
 13 Justin said --
 14 **A. Okay.**
 15 Q. -- where does this discussion take place?
 16 **A. At the shelter.**
 17 Q. Who was present at the shelter at this time?
 18 **A. My partner and I, Chris Wall, Kenna Anderson**
 19 **and Cindy.**
 20 Q. Was the dog owner there?
 21 **A. No.**
 22 Q. Any other members of the public?
 23 **A. No.**
 24 Q. Okay. Don't tell me what Justin said right
 25 there.

1 **A. Okay.**
 2 Q. Okay?
 3 **A. All right.**
 4 Q. But without telling me what Justin said,
 5 what happened with the resolution of this dog?
 6 **A. More or less it was returned to him. No --**
 7 **all -- everything dropped.**
 8 Q. What was the determination as to the breed
 9 of the dog?
 10 **A. I can't say that because that was part of**
 11 **the discussion with them.**
 12 Q. Well, factually. I am not asking you what
 13 Justin said or what -- you know, any advice that he
 14 may have given you. Factually what did you, as a
 15 group, determine the breed of the dog was?
 16 **A. It was a pit bull.**
 17 Q. So you determined that it was a pit bull
 18 but, nevertheless, returned that dog?
 19 **A. Yes.**
 20 Q. Did Cindy Rarrat have a role in making that
 21 determination?
 22 **A. Nope.**
 23 Q. Did any animal control officers at all have
 24 a role in that?
 25 **A. Nope. In short, what he told us, that --**

1 **that was it. That was the final order. So it was --**
 2 **it was dropped. We had the owner pay the impound**
 3 **fee, and that was it, after microchipping the dog.**
 4 Q. What did you tell the owner when you
 5 returned the dog what was the owner told?
 6 **A. You're free to go. Make sure he's not**
 7 **running in the street.**
 8 Q. Did you explain the reason why they were
 9 free to go?
 10 **A. I was not privy to any more of that.**
 11 Q. Did anyone tell you the reason that was told
 12 to the owner?
 13 **A. Just said illegal and told me to let it go.**
 14 Q. Right. But, I mean, other than saying let
 15 it go?
 16 **A. Nope.**
 17 MR. HASAN: Okay. Let's take a break.
 18 (A recess was taken from
 19 2:30 p.m. to 2:36 p.m.)
 20 Q. (By Mr. Hasan) Okay. We left off, you were
 21 talking about a specific situation where animal
 22 control determined the primary breed of the dog to be
 23 pit bull and it went home anyway?
 24 **A. Yes.**
 25 Q. Were there any other circumstances where

1 that happened?
 2 **A. That's the only one I was privy to.**
 3 Q. Any other ones that you learned about?
 4 **A. Several, but I couldn't state when.**
 5 Q. Okay. But can you state the circumstances
 6 involved, even if not when, the circumstances
 7 surrounding that happening?
 8 **A. That would be we thought it was pit bull,**
 9 **but they had paperwork, DNA tests saying no from a**
 10 **local vet or a vet in the surrounding area.**
 11 Q. Okay. So you're saying that the visual
 12 determination was made by animal control that it met
 13 the definition of pit bull under the ordinance but
 14 that DNA tests disproved that?
 15 **A. Yes.**
 16 Q. And because those DNA tests disproved the
 17 visual identification the dog was permitted to go
 18 home?
 19 **A. Yes.**
 20 Q. How many times would you say that happened?
 21 **A. Oh, between half a dozen and a dozen times.**
 22 Q. Who made that call?
 23 **A. For those it would be up to Cindy because**
 24 **they came in with the paperwork and...**
 25 Q. Okay. So Cindy would have made the

1 determination –
 2 **A. Yes.**
 3 Q. – half a dozen to a dozen times that the
 4 DNA records were sufficient to trump the visual
 5 identification made by animal control?
 6 **A. Yes.**
 7 MS. DuBOIS: Objection as to form.
 8 Q. (By Mr. Hasan) I am sorry. Was your answer
 9 yes?
 10 **A. Yes.**
 11 Q. How many situations would you say you were
 12 privy to where you believed a dog met the visual –
 13 you know, the appearance and characteristics of being
 14 predominantly one of those purebreds and your
 15 determination was reversed?
 16 **A. I'd say less than – no more than five.**
 17 Q. Are you able to tell me about those?
 18 **A. The black Lab mix was one. There was a few**
 19 **I thought were predominantly American Bulldog.**
 20 Q. Okay. How about the other way, where you
 21 thought that the predominant breed was not one of
 22 those three purebreds but the determination –
 23 ultimately Cindy's determination that it was? About
 24 how many?
 25 **A. I'd say eight, ten.**

1 Q. Can you tell me about any of those
 2 specifics? And, again, I don't want you to
 3 speculate. I don't want you to guess.
 4 **A. I am sorry. I can't recall.**
 5 Q. That's 100 percent fair. 100 percent fair.
 6 So if an owner disputed – we're now at the point of
 7 impound. So if – at the point of impound if an
 8 owner disputed animal control's determination that
 9 the dog was predominantly one of these three breeds,
 10 what would happen?
 11 **A. I wouldn't – wouldn't know that because**
 12 **what I call the front desk issue would be similar to**
 13 **following the high-risk ordinances, and there was a**
 14 **bunch of laws that animals would have to follow in**
 15 **the meantime before they can be released to the**
 16 **owners. And they generally cover and deal with all**
 17 **of that.**
 18 Q. Okay. So as far as, like, the ability to
 19 challenge or appeal a determination, were you
 20 familiar with that process?
 21 **A. Not one bit.**
 22 Q. Did animal control ever tell you that dog
 23 owners had the ability to challenge or appeal?
 24 **A. I personally did not find out even for high**
 25 **risk or vicious that they could have an appeal after**

1 **court dates shortly before I left. Sometime in**
 2 **October.**
 3 Q. So as an enforcement officer you never knew
 4 that a citizen had the right to challenge?
 5 **A. No.**
 6 Q. Were you ever given any instructions related
 7 to an individual's desire to challenge not just under
 8 the pit bull ban but, let's say, under the vicious or
 9 dangerous or high risk?
 10 **A. Usually when I issue a citation I told them**
 11 **about their court date and told them the best thing**
 12 **to go is before a judge and that I'll be there,**
 13 **complainant's there. If there is someone calling in**
 14 **or if – witness statements if I didn't personally**
 15 **see the violation, and then the owner's there. And**
 16 **we all go before a judge and let him decide.**
 17 Q. As far as enforcing the pit bull ban, in
 18 your experience was it uniformly enforced?
 19 **A. I just did what I was told. I – everybody**
 20 **did everything their own slight variation, and I just**
 21 **kept to myself.**
 22 Q. So there were variations between how the
 23 ordinance was enforced depending on the officer?
 24 **A. I believe discretion did take place.**
 25 Q. Okay. So did you issue citations to owners?

1 **A. Pit bull prohibited cita- – very rarely. I**
 2 **think I probably did no more than two or three if I**
 3 **ever. The only one that stands out, they were –**
 4 **what was – I know the exact house. I just don't**
 5 **remember the street. But he was selling it online,**
 6 **and we saw it.**
 7 **So we had one of our kennel staff call him**
 8 **and say we're interested in buying, this guy who we**
 9 **already seized one illegal pit bull from. So I met**
 10 **with two PD officers on scene and the – he admitted**
 11 **he had the dog, and he did surrender it.**
 12 Q. Okay. So, you know, earlier you
 13 mentioned – and I know it wasn't hard and fast a
 14 hundred percent, but you said about 90 percent based
 15 on calls and 10 percent based on patrol. Were there
 16 other circumstances, it sounds like, where maybe
 17 you'd be looking online?
 18 **A. Yes. I – we occasionally have done that.**
 19 Q. Okay. What exactly were you looking for?
 20 **A. Just pit bulls and who their – like, pit**
 21 **bull puppies for sale here. And we had one off 11th**
 22 **Street and Floyd recently, before I left.**
 23 Q. Okay.
 24 **A. It was a Staffordshire Terrier. Owner**
 25 **admitted that it was a Staffordshire Terrier. We**

1 were going about trying to seize it. She was
2 hostile, uncooperative. The police department came
3 out. He was less than enthusiastic or even
4 contemplating in helping seize it.

5 And we seen the dog. She showed us. And I
6 tried to get Chris Wall on the phone to start trying
7 to get a warrant, but he said he wasn't. I came back
8 to the shelter to talk to him in person, but by the
9 time the owner realized I was – what I was
10 attempting to do, she did surrender him to Noah's
11 Hope, who then gave him to us.

12 Q. Okay.

13 A. Because she wanted him not with us.

14 Q. Okay. So when you're making a determination
15 on the breed of a dog, you know, you said that it's
16 the catfish head?

17 A. Uh-huh.

18 Q. Right?

19 A. Yes.

20 Q. Would you ever compare that to photographs
21 of other breeds?

22 A. Yes.

23 Q. You would?

24 A. (Witness nods head up and down.)

25 Q. You would use photographs as references to

1 try to identify the breed of a dog?

2 A. Yes.

3 Q. Yes?

4 A. Yes. Sorry.

5 Q. What kinds of photographs other than that –
6 you had that breed chart in the shelter; right?

7 A. Um...

8 Q. Other than the breed chart, what other
9 photographs would you look at?

10 A. More or less Googled them, Googled it.

11 Q. Was that an instruction from Cindy or was
12 that just your own determination?

13 A. Just our own.

14 Q. Was it – did you experience anyone else
15 doing that Google searching?

16 A. Yeah.

17 Q. Who else did that?

18 A. Several other staff members. Kenna
19 Anderson, you know, we'd talk about certain dogs and
20 just be like, you know, just take a look at them and
21 be like, you know, this is the new top dog and what
22 do you think. You know, we just kind of looked at
23 them and went – when – usually when it's kind of
24 slow and almost kind of somewhat nothing to do, just
25 kind of go over some stuff.

1 Q. So you said when it's slow and you don't
2 have anything to do you would go over stuff. Do you
3 mean that you'd be – what do you mean by that?

4 A. Oh, like I said, you know, that's usually
5 where online searching comes from too, you know –

6 Q. Would you –

7 A. – like I said.

8 Q. – do that for all breeds or pit bulls in
9 specific?

10 A. Usually we'll be – see if people are trying
11 to sell. We did find somebody selling and – a baby
12 alligator.

13 Q. Oh.

14 A. So we mostly look for pit bulls or illegal
15 more dangerous animals such as those. And that's
16 usually the front desk. And they're like, hey, this
17 is where I found this. We found it online and want
18 to go – if it's on my side or my partner's side, do
19 you want to go check it out.

20 Q. So that would be a circumstance on how you
21 show up on a call?

22 A. Sometimes it wouldn't be a call. We'd just
23 go up and be like, hey, do you have a pit bull?
24 Somebody said you have a pit bull. And some people
25 are like, no, and they'd be happy to show us.

1 Otherwise, you know, if we don't see the animal and
2 they're evasive, we start getting suspicious and
3 start monitorings at an address.

4 Q. Okay. Based on the owner's behavior?

5 A. Yes.

6 Q. Did you take pictures of the dogs?

7 A. I only normally took pictures that involved
8 cruelty cases, neglect or bites. The last time I
9 actually took two pictures of two pit bulls was a
10 case off of Omaha Street.

11 Q. Okay.

12 A. I got a call, what we call priority one,
13 meaning it's gone after several people, including
14 kids. I arrived on scene. I get two witness
15 statements, and they pointed to the address.

16 I went to the front door onto a porch and
17 knocked on the door. Nobody would answer, but the
18 dogs came up through the window, pushed through the
19 curtain, and I could see them barking. And from what
20 I get, the – what I was told that the owners are
21 very uncooperative with anyone with a badge.

22 So I took a couple of pictures as best I
23 could because they were extremely aggressive, trying
24 to get through the glass to me. And then I turned it
25 over to the front desk along with my witness

1 **statements and report for a possible warrant.**

2 Q. Okay. So I want to talk about kind of a dog
3 owner's -- you know, the ability to challenge, the
4 ability to appeal. You said you didn't know about
5 that right for a while. When did you first learn
6 about that?

7 **A. Probably about either late August or**
8 **sometime in September. It was a vicious case. A**
9 **guy's dog -- I know it -- this doesn't involve a pit**
10 **bull, but this is where I was aware of the appeals --**
11 **attacked a cross- a school crossing guard.**

12 **And this guy who wasn't all there, got a**
13 **lawyer and -- because he missed his court date. So**
14 **he -- his lawyer said -- got the appeal. And we were**
15 **told that he was appealing. And I went to Chris and**
16 **I am like, when could they appeal that? I wasn't**
17 **aware they could. He said they could. And I started**
18 **going through my statute book and actually saw the**
19 **re- -- appeal part of the pit bull statute.**

20 Q. So...

21 **A. I always thought that was more of an**
22 **administrative task.**

23 Q. What do you mean by that?

24 **A. Administrative. More Chris, Kenna, the**
25 **front desk, what I'd call them, and Cindy's job.**

1 Q. Okay. You thought the appeal part was
2 more...

3 **A. Them to notify --**

4 Q. Pardon?

5 **A. -- to notify them of it. And, like I said,**
6 **I -- like the high-risk, I generally explained to the**
7 **owners why. And I told them the front desk will tell**
8 **what you -- the laws and everything to follow by.**
9 **And that's usually where the owners found out how to**
10 **comply with the high-risk.**

11 Q. Would you always tell the owners these
12 circumstances? I mean, you mentioned high-risk.

13 **A. Yes.**

14 Q. Would you always tell them the law related
15 to high-risk?

16 **A. Yes.**

17 MR. HASAN: Would you guys give me -- this
18 is a call I have got to take real quick. Is it okay
19 if we take a break? All right. Thank you.

20 (A recess was taken from
21 2:52 p.m. to 3:01 p.m.)

22 (The previous testimony was
23 read by the court
reporter.)

24 Q. (By Mr. Hasan) Okay. So we were talking
25 about what you'd tell owners related to the

1 high-risk. So I want to talk about high-risk, the
2 pit bull ban, the dangerous animal or the vicious
3 animal. Were you ever given any instructions by any
4 of your bosses at animal control regarding what to
5 tell dog owners?

6 **A. Just the reason why we're out there.**

7 Q. Okay.

8 **A. Which would be, say, your dog went after**
9 **somebody or your dog bit somebody or, you know, they**
10 **got a complaint that, you know, you're -- you have a**
11 **pit bull or, you know, along the likes --**

12 Q. Were you ever --

13 **A. -- of that.**

14 Q. -- told not to tell a dog owner of his or
15 her rights?

16 **A. There was just one incident that happened**
17 **recently, but I happened to have been at the front**
18 **desk.**

19 Q. Okay.

20 **A. Involved the -- that vicious case with the**
21 **school guard. The guy was -- from what I've dealt**
22 **with him, and he...**

23 Q. Can I pause? Can I pause real fast?

24 **A. Yeah.**

25 Q. You said it's the school guard, vicious dog.

1 Was this the one you learned the appeal was something
2 that can happen?

3 **A. Yes. Yes.**

4 Q. Okay. Sorry for interrupting. Please
5 continue.

6 **A. They were like -- Chris and Cindy were at**
7 **the front desk. And they told me, you know, guy**
8 **missed his court date. He's not all there, and he**
9 **shouldn't have a dog, and we're not going to tell him**
10 **he can have an appeal process.**

11 **And that's when I started asking about**
12 **appeal processes and that I didn't know that they**
13 **could have those regardless. They -- to be honest,**
14 **the guy was mentally off. He -- but largely**
15 **functional.**

16 Q. Okay. So Cindy or Chris told you that they
17 were not going to tell this man about his right to
18 appeal because they didn't think he should have a
19 dog?

20 **A. Yeah. Yes.**

21 Q. Okay. In your opinion, are certain breeds
22 more aggressive than others?

23 **A. No.**

24 Q. Well, in your experience are physical
25 features predictive of a -- how a dog is going to

1 behave?
 2 **A. No.**
 3 Q. You know, like if a dog is tall it's going
 4 to be aggressive? That's what I mean.
 5 **A. No. When I first started, number one biters**
 6 **I was getting, Shih Tzus and Chihuahuas. Second year**
 7 **I was there, Labs were number two – I mean, were**
 8 **number one at that time.**
 9 And it tends to go, from what I see, what
 10 happens to be the popular breed at the time. And,
 11 like I said, first – when I first started, you know,
 12 all these little lapdogs were real popular at the
 13 time, and they accounted for most of the bites.
 14 And from what I could see, Labs the next
 15 year seemed to have been the popular breeds, and I
 16 got the most bites. And one of my worst bites
 17 happened to have been from a Lab.
 18 Q. So in your experience the frequency of dog
 19 bite is not correlated to the breed of dog?
 20 **A. No. No. Point in case, my worst bite ever**
 21 **happened was a Mastiff, and that mauled an**
 22 **eight-year-old kid bad enough to send him to a**
 23 **hospital via ambulance.**
 24 Q. That's not good.
 25 **A. Uh-huh. And I haven't really dealt with**

1 **many aggressive Mastiffs on my job. So...**
 2 Q. Do you know the circumstances on how that
 3 dog bite occurred?
 4 **A. I took the bite. A kid was riding his**
 5 **bicycle, and he was probably 50 feet from his house**
 6 **when the dog came out of nowhere, grabbed him by the**
 7 **shoulder and just obliterated his shoulder, part of**
 8 **his back and, well, almost got me too (indicating),**
 9 **but...**
 10 Q. Is that a scar on your arm?
 11 **A. Yeah. I lost my sleeve of my work jacket.**
 12 **The owner couldn't control it. The owner signed the**
 13 **dog over. He realized he was messed up, and he**
 14 **signed the dog over.**
 15 Q. Okay.
 16 **A. To be honest, that dog was nuts. It took**
 17 **20 CCs of ketamine, which is a powerful tranquilizer.**
 18 **Didn't faze it. That should have been enough to kill**
 19 **it.**
 20 Q. Wow. It's like Cujo?
 21 **A. Yeah. Bigger than Cujo.**
 22 Q. That dog seemed pretty big when I saw that
 23 movie when I was a kid.
 24 Are you familiar with the plaintiff in this
 25 case, Kali Myers?

1 **A. I heard of her. I heard the case. I**
 2 **believe it was Megan Lalk's case, but, you know,**
 3 **we – difficult cases or difficult people we've dealt**
 4 **with where, you know, we suspect problems, we often**
 5 **talk to each other and like, hey, be aware of this**
 6 **situation or – you know, but...**
 7 Q. You said that if you "suspect problems."
 8 Does that mean suspect problems as related to a dog
 9 owner?
 10 **A. Yes.**
 11 Q. And what do you mean by "suspect problems"?
 12 **A. Either just being hostile, uncooperative and**
 13 **yelling and screaming to – I actually picked up an**
 14 **illegal pit bull. This started as a police case.**
 15 **Some teens were in a stolen vehicle, saw a cop car.**
 16 **Naturally – just on patrol. Naturally, you know,**
 17 **they flee. Was kind of weather like this, you know,**
 18 **snow melt.**
 19 They lost control, got stuck up on a metal
 20 mailbox and fled on foot, left the dog. So I picked
 21 up the dog and was then like, hey, just be aware this
 22 dog came from a stolen vehicle. I went after
 23 impounding, you know, it was a slow time, so I
 24 decided to help a couple who wanted to take a dog out
 25 back and, you know, see about adopting.

1 **Same people from the vehicle, which I guess**
 2 **were from the vehicle because they had the pit bull**
 3 **and they were in the – what was supposed to be a**
 4 **locked area in the backyard trying to lift the pit**
 5 **bull over a fence. They saw me. They tried to get**
 6 **through. I stopped them.**
 7 And they're like, oh, she said we could take
 8 this dog out. And I am like, no. She – "she,"
 9 which they were trying to say is Kenna because she
 10 was the only one working up at the front desk that
 11 was female at the time, and I am like, no, she'd
 12 never tell normal people to go in the back room.
 13 And then there was two old ladies who were
 14 like – because now they're fleeing from me. The
 15 officer – I mean, two old ladies who were pulling in
 16 also saw them trying to get it and they were like,
 17 hey, they – they were trying to steal a pit bull and
 18 they fled.
 19 Q. Okay.
 20 **A. To another time a guy tried to bribe Kenna**
 21 **five – 4- or \$500 to let his pit bull out. We said**
 22 **no. And he actually successfully stole his pit bull**
 23 **outside of the shelter.**
 24 Q. I saw something recently in the newspaper
 25 about a city councilperson had, like, a Lab that was

1 picked up and in animal control and then just
 2 disappeared. Are you familiar with this?
 3 **A. It was a Shepherd mix.**
 4 Q. A Shepherd mix. Are you familiar with this?
 5 **A. Yeah. It was my case.**
 6 Q. It was your -- what happened?
 7 **A. He's a doctor. He has friends in high**
 8 **places, also known as city council, who contacted our**
 9 **friends here (indicating).**
 10 THE WITNESS: No offense.
 11 **A. And we were told, bye.**
 12 Q. (By Mr. Hasan) Okay. We've got to keep
 13 track of everything on the record here. So I have
 14 got to tell you, first, tell me, like,
 15 background-wise how did you find out about this case?
 16 **A. It came in as a priority one. A guy walking**
 17 **his dog, and this Shepherd mix was chasing him.**
 18 **And --**
 19 Q. Can I...
 20 **A. -- several other people...**
 21 Q. Can I stop you here and make sure I am on
 22 the same page with you? There was a citizen walking
 23 a dog?
 24 **A. Yes.**
 25 Q. And then the subject dog began chasing?

1 **A. Yes.**
 2 Q. Okay. So what happened after that?
 3 **A. Several other calls were called in saying,**
 4 **this dog is nuts, going after this guy. And one guy**
 5 **actually grabbed his car and had the victim jump in,**
 6 **and he drove him to his house.**
 7 I got a witness statement from him, the
 8 victim, and two other people about several blocks in
 9 length. A neighbor ended up getting the dog and was
 10 trying to return it to him. And I don't -- that
 11 dog's going to come with me. I have witness
 12 statements. The dog tried to attack somebody. They
 13 were hesitant, but they did give me the dog.
 14 Q. Okay. So after...
 15 MS. DuBOIS: Can we go off the record for a
 16 second?
 17 MR. HASAN: Sure.
 18 (At 3:11 p.m. an
 19 off-the-record discussion
 was had.)
 20 Q. (By Mr. Hasan) You were telling your story
 21 about a situation where an individual was walking his
 22 dog. The subject dog began chasing. There were
 23 witness statements received.
 24 **A. Yes.**
 25 Q. And the next-door neighbor, one of the

1 neighbors picked up the subject dog. You came to the
 2 neighbor --
 3 **A. I...**
 4 Q. -- and said, I have to -- I have to pick up
 5 this dog. What happened next?
 6 **A. They gave me the dog. The owner, the**
 7 **doctor, came racing home just going ballistic saying**
 8 **I can't take the dog, I have no right.**
 9 Q. This is the owner?
 10 **A. Uh-huh.**
 11 Q. Yes?
 12 **A. I had PD officers show up eventually. They**
 13 **told him I did everything legal. In the meantime,**
 14 **you know, waiting for police department, I locked and**
 15 **secured the box because the way he was acting I would**
 16 **almost have suspected he would try to free the dog**
 17 **from the box.**
 18 Q. When you say "locked and secured the box,"
 19 is that the vehicle?
 20 **A. We -- yes. Each kennel can individually be**
 21 **locked. And we generally do that if the dog's super**
 22 **aggressive, like that Mastiff, or the owners are**
 23 **incredibly hostile because you just turn the knob**
 24 **open, it's open. So...**
 25 Q. Okay. So you locked it because you

1 thought...
 2 **A. To secure until the police got there. And**
 3 **they told him I did seize the dog legally. Went to**
 4 **the shelter, put the dog in the vicious/high-risk**
 5 **room, wrote up citations and left them for the owner.**
 6 The owner came down to the shelter
 7 screaming, yelling, making demands. And I remember I
 8 was there. He said, I have friends in city council.
 9 And then I left after we told him we're not letting
 10 him have his dog back --
 11 Q. Okay. So...
 12 **A. -- until he gets compliant with the**
 13 **high-risk. And the next -- about the next day they**
 14 **were like, we got a call from city legal, the dog**
 15 **gets to go.**
 16 Q. Okay.
 17 **A. Because from -- that's what Cindy said. He**
 18 **said he did get in contact with his friends**
 19 **(indicating), and they told him to let the dog go.**
 20 Q. So the dog was released despite the
 21 enforcement that you...
 22 **A. It -- the multiple witness statements, yes,**
 23 **including from the victim.**
 24 Q. Are there any other circumstances that you
 25 can remember, besides the one you just described and

1 the one earlier related to the pit bull that was
2 determined to be a pit bull but, nevertheless,
3 released, where you impounded and were going to
4 enforce the animal code but, nevertheless, the dog
5 was released?

6 **A. Oh, another close one was we did get the**
7 **dogs. The pit bull and puppies were the**
8 **Staffordshire Terrier puppies from 11th Street. I**
9 **called Chris and told him, the lady is not going to**
10 **give them, we're going to need a warrant.**

11 He was dissatis- he just - he was like,
12 I am not going to do that and I - because I don't -
13 we need to contact city legal because I am not going
14 to do that. And the police officer that came out
15 here. He's like, why are you even doing this, and
16 are you really making a deal out of this? Because
17 even the police officers, if we need them, they're
18 like, why are you even enforcing this?

19 Q. So there was a situation where you saw that
20 there should be an enforcement but voluntarily didn't
21 enforce?

22 **A. Yes.**

23 Q. And when I say "voluntarily didn't enforce,"
24 you were told by Chris and the police officer not to
25 enforce the code?

1 **A. Yes.**

2 Q. Did they give you a reason why?

3 **A. With the police departments, generally it**
4 **involves animals, they don't care -**

5 Q. Okay.

6 **A. - or they don't want anything to do with it**
7 **or us. And I don't know why Chris. I actually came**
8 **back to the shelter and I told him flat out to his**
9 **face, why are we even enforcing the ban if, you know,**
10 **we have - if we know we have illegal animals here**
11 **but nobody is making anything - because I got in**
12 **trouble for calling city legal once. So I am like,**
13 **you were - you told me to go to you, then you go to**
14 **city legal. So I am like, I am not going to get**
15 **yelled at for going over your head.**

16 Q. Okay. So what did Chris respond with, why,
17 why not to enforce?

18 **A. Oh, he didn't give me a reason. And by the**
19 **time we were done arguing, we reached a deal, with**
20 **the help of Noah's Hope, and brought the dogs to the**
21 **shelter.**

22 Q. Okay. So other than these three examples,
23 again, the one with the individual who said he knew
24 someone on city council, the other where the
25 determination was made that there was a pit bull

1 under the ordinance but, nevertheless, was released,
2 and the one you just described where there were -
3 there was a dog and puppies who would have been
4 subject to the ordinance but you were told not to
5 enforce it, were there other examples of an ordinance
6 that should have been enforced but, nevertheless, was
7 not?

8 MS. DuBOIS: Objection as to form.

9 Q. (By Mr. Hasan) Please.

10 **A. I can't recall offhand.**

11 Q. Okay. I want to go back and talk about the
12 one that was determined to be a pit bull but was,
13 nevertheless, released. And I do not want you to
14 tell me that - while you were in the room talking
15 with Justin, I don't want you to tell me anything
16 that you said to him or anyone else said to him. And
17 I don't want you to tell me anything that Justin said
18 to anyone else. Okay?

19 **A. All right. All right.**

20 Q. Do you know who the owner of that dog was?

21 **A. Not off the top of my head. They knew him**
22 **because, like I said, this was on my partner's side.**
23 **So - but we originally picked it up. So, yes, we**
24 **did know it, and also because they were troublesome.**

25 Q. The owners were troublesome?

1 **A. Yes.**

2 Q. When you say "they" knew him, who was "they"
3 knew him?

4 **A. Sorry. My - the officers who work the**
5 **Morningside area. So that - more regular. That**
6 **would be Butler, Lalk, and Kenna, Chris and Cindy.**

7 Q. So the animal control officers knew the
8 owner?

9 **A. Yes.**

10 Q. Was the owner politically connected?

11 **A. I could not say.**

12 Q. Was the owner friends with the animal
13 control officers?

14 **A. That, I couldn't say, no. He - the - with**
15 **us was contempt and -**

16 Q. I am sorry?

17 **A. - with contempt and almost downright**
18 **hostile attitude at all times.**

19 Q. The owner was...

20 **A. Yes.**

21 Q. So, sorry. The owner was asking contemptful
22 and had a bad attitude at all times?

23 **A. Yes, in re - dealing with us.**

24 Q. Did the owner say anything after the dog was
25 released?

- 1 **A. No.**
 2 Q. Did you have any future run-ins with the
 3 owner?
 4 **A. I couldn't say. That was the one time due**
 5 **to being down to one vehicle.**
 6 Q. Where was this?
 7 **A. I believe it was at – I think it was that**
 8 **large hill. I want to say J Avenue. It's by the**
 9 **newer school. So it was like one of those addresses**
 10 **where I know I – I could drive you to it, but I just**
 11 **can't say the name.**
 12 Q. Can you give me some surrounding streets? I
 13 am not from here. So I am trying to think of
 14 surrounding areas, like areas near there, streets
 15 near there.
 16 **A. I couldn't – I could – I could tell you**
 17 **every in and out of the west side.**
 18 Q. Okay.
 19 **A. But not so much Morningside ever since I**
 20 **went to days.**
 21 Q. Okay. When was this?
 22 **A. It was 2017. Like I said, either around –**
 23 **between August and October. I know it was the last**
 24 **few months I worked there it happened.**
 25 Q. Did you fill out an incident report?

- 1 **A. Yes.**
 2 Q. Did you fill out an impound card?
 3 **A. Yes.**
 4 Q. What was the gender of the dog?
 5 **A. I believe it was a male.**
 6 Q. About how old would you say?
 7 **A. Oh, he'd – I'd say two to three. It was**
 8 **older, but, I mean, not that old.**
 9 Q. Was it a dog at large? Is that what you
 10 said?
 11 **A. Yes.**
 12 Q. Did you – where did you pick it up in
 13 relation to the owner's home?
 14 **A. Multiple blocks away.**
 15 Q. You knew where the owner resided, though?
 16 **A. After we pulled up – because the – well,**
 17 **it's been a few years since this was implemented.**
 18 **All dogs reclaimed by us are microchipped. So we had**
 19 **the – and we pulled up his information on our – the**
 20 **computers at the front desk that, you know, when they**
 21 **im- – also, anything is impounded, you know, it's in**
 22 **there. So we looked at last time we had it.**
 23 Q. So that dog was – is in your computer
 24 system as a registered pit bull – or, sorry. Let me
 25 rephrase that.

- 1 That dog, because you picked it up, is
 2 now – bad question.
 3 Q. Was the dog microchipped when you picked it
 4 up?
 5 **A. The first time, no. The second time we did.**
 6 Q. Sorry. So there were two times you picked
 7 it up?
 8 **A. Yes. That's how we knew the owner the**
 9 **second time is...**
 10 Q. Were you there when it was picked up the
 11 first time?
 12 **A. No.**
 13 Q. Do you know when it was picked up the first
 14 time?
 15 **A. I could not say.**
 16 Q. When dogs are released, is that information,
 17 the reason, reported?
 18 **A. Um...**
 19 Q. So, like, is there a record of when the dog
 20 goes out the door?
 21 **A. Yeah. So we call it reclaim date, or**
 22 **basically there will be what – the impound date and**
 23 **then the date it's reclaimed.**
 24 Q. Is that information recorded somewhere,
 25 though?

- 1 **A. In a computer. And it's often where I have**
 2 **issued citations for at-large owners because they're**
 3 **like, oh, this dog was just picked up last week, and**
 4 **we have it in four days again. So I am like, well,**
 5 **you obviously already have an issue. So, yes, we can**
 6 **go back and find when or a – even via owner name we**
 7 **can go back and see if we picked them up.**
 8 Q. So this dog, when it was released, would
 9 have been recorded in the system?
 10 **A. Yes.**
 11 Q. And that record would have been retained as
 12 a release date?
 13 **A. Yes.**
 14 Q. How quickly was it released versus picked
 15 up?
 16 **A. Within 24 hours.**
 17 Q. Was the reason it was released – again, I
 18 don't want you to tell me anything as far as what
 19 Justin told you or what you guys discussed with
 20 Justin. Okay?
 21 **A. Yes.**
 22 Q. Was the reason it was released based on the
 23 determination of breed?
 24 **A. Yes.**
 25 Q. The breed determination was pit bull, wasn't

1 it?

2 **A. Basically – I don't know.**

3 Q. Again, don't tell me what Justin said or

4 what you told Justin.

5 **A. No. It was a –**

6 Q. Let me ask you this way...

7 **A. – medical. It was DNA. It was omitted –**

8 **or, not omitted.**

9 Q. Okay. Was there...

10 **A. Admitted. Sorry. I get omitted and**

11 **admitted...**

12 Q. So this circumstance, was there DNA evidence

13 related to the dog?

14 **A. Yes.**

15 Q. And that DNA evidence, what did it show?

16 **A. It said American Bulldog. I believe it was**

17 **the South Sioux vet that did it.**

18 Q. So it...

19 **A. I know it was out -- I believe it was a**

20 **Nebraska vet that did it.**

21 Q. So it was a DNA test that was not ordered by

22 animal control?

23 **A. Yes.**

24 Q. Ordered by someone other than animal

25 control?

1 Q. You're talking about the DNA test was –

2 **A. Yes.**

3 Q. – after the first time it was picked up?

4 **A. Yes.**

5 Q. But before the second time it was picked up?

6 **A. Yes. And he was allowed to use that to get**

7 **his dog out.**

8 Q. What did Cindy say about the validity of the

9 DNA test?

10 **A. There was a heated argument with...**

11 Q. Again, I don't want you to tell me what

12 Justin said.

13 **A. I am just saying it was a heated argument**

14 **between the two and among us because from – like I**

15 **said, from what I was told from the beginning, DNA**

16 **tests were first used, but people were abusing and**

17 **cheating the system. And that's why I was told those**

18 **are no longer admitted and – but we started having**

19 **the beef with why all of a sudden this person was**

20 **allowed.**

21 Q. Okay. And I don't want you to get into the

22 discussion between Cindy and Justin, but I want to

23 ask you...

24 **A. And that's – and I don't know, per se, but**

25 **I know it was heated and...**

1 **A. Yes.**

2 Q. And the DNA test that was ordered by someone

3 other than animal control showed that it was not

4 predominantly one of the three breeds in the

5 ordinance?

6 **A. Yes. It – the owner was allowed to take it**

7 **to a vet of his choice by himself to get said test**

8 **done.**

9 Q. The owner was allowed to remove the dog and

10 take it to a vet of the owner's choice?

11 **A. Yes.**

12 Q. And the vet of the owner's choice performed

13 the DNA test?

14 **A. Yes.**

15 Q. And the DNA test results showed that the dog

16 was not predominantly one of the three identified

17 breeds?

18 **A. Yes.**

19 Q. The dog was then released by animal control?

20 **A. Yes.**

21 Q. Despite animal control's visual

22 determination that the dog was – fit the definition

23 of the ordinance?

24 **A. Yes. From what I gathered, this DNA test**

25 **came before we picked it up a second time. It...**

1 Q. Okay. Okay. Quincy, what did you do to

2 prepare for today?

3 **A. Oh, nothing.**

4 Q. Did you review any documents, anything like

5 that?

6 **A. Just glanced through my old statute book,**

7 **which it was just a copy of statutes I made of –**

8 **that I didn't throw away when I left.**

9 Q. Are you talking about the Sioux City

10 Municipal Code?

11 **A. Yeah. Just the animal section. Yes. And**

12 **after I got – to be honest, after I got the summons**

13 **and I realized what it was about, I just went back**

14 **through and I went, huh, it did say appeals. So...**

15 Q. Speaking of which, I am going to hand you

16 here another subpoena.

17 MR. HASAN: And I explained it to Justin

18 earlier about my e-mail scrubbing. Sorry about that.

19 It's the same as what I think Audrey e-mailed you for

20 the other two individuals earlier. I will explain

21 that in just a second there.

22 Q. (By Mr. Hasan) But have you had any

23 communications with any city employees or animal

24 control officers related to the pit bull ban or this

25 case since you ended your employment?

1 **A. No.**
 2 Q. Any text messages, e-mails, anything like
 3 that?
 4 **A. I severed any and all ties with them.**
 5 Q. Okay. With everyone? Didn't you say you
 6 had a friend on animal control?
 7 **A. Just partner. And, I mean, I severed – I**
 8 **do not want anything to do with them.**
 9 Q. Okay.
 10 **A. So...**
 11 Q. Then the subpoena is asking for any written
 12 communications with those individuals. And it sounds
 13 like there are none. If there are none, just, you
 14 know, write me a letter or something like that just
 15 saying that there are none and we'll, you know, copy
 16 the city on that so that they know that there are
 17 none.
 18 If you do – it turns out you do have text
 19 messages, e-mails, letters with any of the
 20 individuals listed in that subpoena, please provide
 21 them to us, and we'll get a copy over to the city.
 22 Okay?
 23 **A. Yes.**
 24 Q. That's what that subpoena is in front of
 25 you.

1 **A. So I don't have to be down here at this**
 2 **date?**
 3 Q. No.
 4 **A. Oh, okay.**
 5 Q. That's when we'd like you to get the
 6 records, if there are any.
 7 **A. Okay.**
 8 Q. If there are not any records, then just send
 9 me a letter saying there are no records.
 10 **A. No. I – job related, something big on that**
 11 **date, and I am like, I can't miss that date. Okay.**
 12 **Good.**
 13 Q. Okay. I will not make you miss that date.
 14 I will not make you miss that date.
 15 So did you speak to anyone, any animal
 16 control officers, anyone to prepare for this
 17 deposition?
 18 **A. No.**
 19 Q. Okay.
 20 **A. To be honest, I was surprised the deputy was**
 21 **at my door with a subpoena. So...**
 22 Q. There's a reason we had to subpoena you.
 23 **A. Yeah.**
 24 Q. But – sorry if that gave you any pause or
 25 hesitation.

1 Okay. So I want to ask you just generally,
 2 not related to pit bulls – because you said for pit
 3 bulls it's outcome determinative, the catfish head;
 4 right?
 5 **A. Yes.**
 6 Q. So related to all breeds, if you have to
 7 identify the breed of a dog, it's based on visual
 8 characteristics?
 9 **A. Yes.**
 10 Q. Regardless of the breed of dog?
 11 **A. Yes.**
 12 Q. So I want to run through a list just to hear
 13 what – when you were enforcing – when you were
 14 picking up a dog and you had to write down this breed
 15 is a Great Dane, the physical features and
 16 characteristics that a dog might display that you
 17 would take in consideration. Is that fair?
 18 **A. Yes.**
 19 Q. So basically I – I will ask you a trait,
 20 and you let me know whether that was something that
 21 you would consider. Fair?
 22 **A. Yes.**
 23 Q. Okay. The color of a dog?
 24 **A. Yes.**
 25 Q. The color pattern, like if it's spotted or

1 brindle?
 2 **A. Yes.**
 3 Q. Yes?
 4 **A. Yes.**
 5 Q. How about the texture?
 6 **A. Yes.**
 7 Q. Would you physically go up and touch the
 8 dogs when you pick them up?
 9 **A. Yes.**
 10 Q. The length of the coat?
 11 **A. Yes.**
 12 Q. The body size?
 13 **A. Yes.**
 14 Q. The type and shape of the body?
 15 **A. Yes.**
 16 Q. The length of the body?
 17 **A. Yes.**
 18 Q. The weight?
 19 **A. No. We – never regarding weight other**
 20 **than, you know, if it's a larger animal, sometimes we**
 21 **required help to load it.**
 22 Q. Okay. One of those miniature horse dogs,
 23 those huge dogs?
 24 **A. Surprisingly, no hernias.**
 25 Q. Okay. So generally not weight?

1 **A. Yes.**
 2 Q. I am sure that if there was a situation
 3 where there was a dog that had kind of like an
 4 hourglassy figure, I -- that was overweight...
 5 **A. Yeah. We'd point out, you know, I believe**
 6 **more like what are you feeding them and, you know,**
 7 **might want to try better food.**
 8 Q. Okay. Okay.
 9 **A. You know, some -- because that affects**
 10 **weight and health.**
 11 Q. Yeah. Okay.
 12 **A. But...**
 13 Q. How about muscle mass, how bulky the dog is?
 14 **A. Generally, no.**
 15 Q. Okay. What about chest size?
 16 **A. Not that I was aware of.**
 17 Q. Okay.
 18 **A. I never used that.**
 19 Q. How about the topline angle, the angle from
 20 the shoulders back to the hips?
 21 **A. Not really. I mean, the -- more stood out**
 22 **to me that the dog might have been in shows.**
 23 Q. Okay.
 24 **A. Like, I have run into some German Shepherds**
 25 **that have that show stance. And I am like -- and**

1 **they were in shows. So -- but that's about it.**
 2 Q. Yeah. I got topline angle, and the example
 3 that I saw was German Shepherds because they have
 4 that slanted back.
 5 Okay. How about the height or the length of
 6 the legs, how tall the legs are?
 7 **A. No. Just generally go with the whole --**
 8 **depending on the breed.**
 9 Q. Okay.
 10 **A. That's just...**
 11 Q. So like earlier when you were describing pit
 12 bulls being two to three off the ground, you're
 13 talking about from the ground up to the top of the
 14 body?
 15 **A. Yeah.**
 16 Q. Okay. I know that you mentioned catfish
 17 head. So overall shape of the head?
 18 **A. Yes.**
 19 Q. How about the length of the head?
 20 **A. Regards to pickups, yes.**
 21 Q. Or in general? I am talking about just if
 22 you were considering...
 23 **A. In general, no.**
 24 Q. All of these that I am talking about right
 25 now, are these features that you would consider when

1 trying to determine what the predominant breed of a
 2 dog is?
 3 **A. No.**
 4 Q. You would not consider length?
 5 Okay. How about the width of the head?
 6 **A. No.**
 7 Q. The muzzle shape?
 8 **A. Yes, we would.**
 9 Q. Yeah?
 10 **A. Mostly Bulldog, Boxers tend to have rather**
 11 **similar muzzle shapes. So, you know...**
 12 Q. Okay. I mean, different breeds generally
 13 have -- I am obviously going through all of these
 14 characteristics, but different breeds will exhibit
 15 similar characteristics; right?
 16 **A. Yes.**
 17 Q. Have you ever looked into just genetically
 18 how a dog will exhibit a certain characteristic?
 19 **A. No.**
 20 Q. Like if you have two different purebred dogs
 21 that mate how its offspring will look? Have you ever
 22 looked into genetically how that happens?
 23 **A. No. To be honest, the most outstanding in**
 24 **regards to that are cats, to be honest.**
 25 Q. Okay.

1 **A. They -- I know genetically they are -- they**
 2 **retain the DNA of past mates. So I have had a**
 3 **Siamese cat with a tabby kitten, Siamese, an orange**
 4 **tabby, a black cat.**
 5 Q. Okay. Is it your understanding that's
 6 different than how dogs wind up getting their traits?
 7 **A. I -- it's more predominant in cats is what I**
 8 **am saying, from what I notice. We don't get too many**
 9 **full litters of moms with puppies, but the last**
 10 **that -- that last batch of pit bull puppies we had,**
 11 **the one from 11th Street, they were about -- they**
 12 **look all the same, just slight brown and white color**
 13 **variations. One was all white. That was probably**
 14 **the most outstanding one.**
 15 Q. Okay. All right. Just I am curious. So
 16 talking about traits and characteristics, do you
 17 consider the eye color?
 18 **A. No.**
 19 Q. How about the ear shape?
 20 **A. Yes.**
 21 Q. The ear size?
 22 **A. No.**
 23 Q. The neck?
 24 **A. The neck, I can't really say.**
 25 Q. Okay.

- 1 **A. I personally never involved the neck.**
 2 Q. Okay. Yeah. I am just looking to see what
 3 you would consider when making a determination of
 4 breed. How about the teeth?
 5 **A. No.**
 6 Q. No?
 7 **A. Well, I shouldn't say that. Mostly we use**
 8 **the teeth to gauge age.**
 9 Q. So does age factor in?
 10 **A. Yeah. Generally, like, younger dogs will**
 11 **have, you know, much whiter, much, you know, cleaner**
 12 **teeth, while older dogs tend to have more rotted to**
 13 **yellowing teeth.**
 14 Q. Yeah. A lifetime of drinking coffee?
 15 **A. Yeah.**
 16 Q. What about jawline? Do you look at the
 17 dog's jawline?
 18 **A. Mostly the jowls, you know.**
 19 Q. Okay. So the jowls?
 20 **A. Yeah.**
 21 Q. All right. Do you ever look at the tongue
 22 color?
 23 **A. No. They're pretty much uniform except for**
 24 **Chows, which are black.**
 25 Q. Yeah. Chows and giraffes; right?

- 1 **A. Yeah.**
 2 Q. The tail shape?
 3 **A. The only time we really note tail is a**
 4 **determining between Husky and Mala- -- I can't say**
 5 **it -- Malamute.**
 6 Q. Okay.
 7 **A. They're -- they look similar. It's a size**
 8 **difference. But Malamutes have a curved tail.**
 9 **Huskies are straight too. But the most noted time we**
 10 **really deal anything with tails is note if it's**
 11 **docked or, you know, cut off.**
 12 Q. Okay.
 13 **A. Which you mostly see in Dobermans,**
 14 **Rottweilers. Pit bulls are -- and American Bulldogs**
 15 **are in -- and did I say all Boxers tend to be**
 16 **breeds -- tend to be most popular for docked tails.**
 17 Q. Yeah. I had a friend growing up who had
 18 show Boxers, and had their tails docked.
 19 **A. I guess with ears, we do make note if**
 20 **they're cropped.**
 21 Q. Okay.
 22 **A. I guess I should mention that since the**
 23 **tail...**
 24 Q. Would that factor into what breed a dog may
 25 be?

- 1 **A. No. But we tend to see it mostly done on**
 2 **pit bulls because from what I get it's -- people**
 3 **think they look tougher, but...**
 4 Q. So would that mean that if you saw a dog
 5 with cropped ears it would make it more likely to be
 6 a pit bull, in your mind?
 7 **A. Generally, yes. I really haven't seen**
 8 **cropped ears predominant in any other breed.**
 9 Q. Is that based on the owner's decision to
 10 crop the ears?
 11 **A. Yes. Yes. Same with docked tails. I've**
 12 **seen plenty of other dogs but the same breed with no**
 13 **docked tails.**
 14 Q. Sure. Okay. So you -- that was tail shape.
 15 What about like the size of the tail, like if it's
 16 fluffy or if it's wiry? Does that factor in?
 17 **A. Very rarely. Like I said, mostly like --**
 18 **mostly Husky and Malamutes.**
 19 Q. Okay. In making the determination, do you
 20 look at how it moves around, like its gait, how it
 21 walks?
 22 **A. (Witness shakes head side to side.)**
 23 Q. No?
 24 **A. No.**
 25 Q. How agile it is?

- 1 **A. No, other than gauging how big of a pain in**
 2 **the butt it is to catch.**
 3 Q. If it's really agile, you have trouble
 4 catching it?
 5 **A. Yeah.**
 6 Q. How about does behavior factor into how you
 7 determine what the breed of the dog is?
 8 **A. No. If it involves a bite and, you know,**
 9 **they're like, it's a Great Dane then, you know, it**
 10 **takes a -- how we're going to handle it differently.**
 11 **If it's really aggressive, then I will get my partner**
 12 **out there because it's a large dog to -- or, you**
 13 **know, like an extremely aggressive Chihuahua where I**
 14 **am like -- I kind of scoot them in with my boot into**
 15 **a small pet carrier.**
 16 Q. Okay. So stepping outside the realm of the
 17 pit bulls for a second here because you already
 18 indicated that the catfish head is outcome
 19 determinative, so I get that, but if you're going to
 20 make a determination as to the predominant breed of
 21 another dog, how do you weigh all of those different
 22 traits to figure out what the predominant breed is?
 23 **A. Oh, just out of experience, what I -- what I**
 24 **see mostly standing out.**
 25 Q. So based on what your experience tells you,

1 like, that's a black Lab because I've seen black Labs
 2 before and I know that's a black Lab?
 3 **A. Yes.**
 4 Q. I...
 5 **A. Example, I picked up a little German**
 6 **Shepherd/Husky puppy. It was just barely off its**
 7 **mom. It looked exactly like a German Shepherd. Had**
 8 **the same floppy German Shepherd ears and the same**
 9 **muscle, but had a huge poofy coat of a Husky, a thick**
 10 **double coat and – but yet it was mostly German**
 11 **Shepherd.**
 12 Q. Did you – how did you know it was mostly
 13 German Shepherd?
 14 **A. From what I could see out of personal**
 15 **experience, that I grew up with Shepherds, but...**
 16 Q. Okay. So, you know, looking at all of these
 17 different characteristics and factors, is it fair to
 18 say it's more subjective than objective on finding
 19 out what the predominant breed is?
 20 **A. Yes.**
 21 Q. Kind of a you know it when you see it?
 22 **A. There's – there's other times where I ask**
 23 **my partner or others, and I am like, what do you call**
 24 **this? I don't know. I have picked up what I'd have**
 25 **to put in my report as mixes because I couldn't say**

1 **what they were.**
 2 Q. Okay.
 3 **A. And sometimes we'd impound them as mix.**
 4 Q. Just mix?
 5 **A. Yes.**
 6 Q. Would you ever impound a dog that could be a
 7 pit bull as just a mix or was it always pit bull mix?
 8 **A. It was always pit bull or pit bull mix.**
 9 Q. Is that because of the ordinance?
 10 **A. That's what I was told, yes.**
 11 Q. Who told you to do that?
 12 **A. When I was going through all my training.**
 13 **So...**
 14 Q. Okay. So when you were starting out,
 15 someone said that if it looks like a pit bull, write
 16 down pit bull mix or pit bull?
 17 **A. Yes. That's when I – what I was told.**
 18 **When I – if it looks like a pit bull, it's a pit**
 19 **bull.**
 20 Q. Okay. And when they told you if it looks
 21 like a pit bull it's a pit bull, they didn't give you
 22 a specific training manual on, here's what the pit
 23 bull is?
 24 **A. No. They – no.**
 25 Q. They didn't even provide you with the breed

1 standards at that time?
 2 **A. No. All I had was a copy of the ordinance,**
 3 **just...**
 4 Q. So when you started as an animal control
 5 officer, they gave you the copy of the ordinance and
 6 told you if it looks like a pit bull it's a pit bull?
 7 **A. Yes.**
 8 Q. But there was no other training they
 9 provided at that time?
 10 **A. No.**
 11 Q. And so when you were out there enforcing, it
 12 was up to you to determine if the dog was a pit bull?
 13 **A. Yes. One example was I get a call, pit bull**
 14 **puppy at large. I get out to where the address is,**
 15 **and I see the dog. It's a full-grown Jack Russell**
 16 **Terrier.**
 17 Q. Okay. So in your experience are people who
 18 call in, do they make opinions as to what they think
 19 the predominant breed of a dog is?
 20 **A. When they call in it's usually just what**
 21 **they think it is, yes.**
 22 Q. And you said that specific example was you
 23 saw the dog and you disagreed with what the owner
 24 said...
 25 **A. Yes. Yes. Like, I knew what a Jack Russell**

1 **Terrier – and this thing was a full-grown adult. It**
 2 **was no puppy either.**
 3 Q. Okay. So this is an example where the
 4 caller said, there's a pit bull on the loose, and you
 5 saw it, and you said, no, that's a Jack Russell
 6 Terrier?
 7 **A. Yes.**
 8 Q. Okay.
 9 **A. Common – well, it's very common to...**
 10 (Brief interruption and
 11 off-the-record discussion.)
 12 Q. (By Mr. Hasan) Oh, okay. I am almost done.
 13 **A. What time is it?**
 14 Q. It's 3:45.
 15 **A. The – what I seen when I get calls up for,**
 16 **say, pit bull at loose or regarding pit bull, it was**
 17 **very common for the caller to mistaken American**
 18 **Bulldogs. Those were the number one dogs they were**
 19 **mixed with.**
 20 **And, to be honest, when I first started, I**
 21 **couldn't tell the difference until I started asking,**
 22 **you know, what dog is this and you – going through**
 23 **the back room and looking at the ones we have myself.**
 24 **And I'd be like, oh, that's what they look like.**
 25 Q. So when you went through the back room to

1 determine that's what they looked like, was it –
2 what was the process there? Was it that you looked
3 in a specific kennel and then there was a card above
4 it?

5 **A. Yes.**

6 Q. So on the card was there anything to tell
7 you "this is a pit bull" other than someone else
8 saying this is a pit bull?

9 **A. It just said date brought in, vaccinations,
10 gender and, you know, it would just say, breed, pit
11 bull, pit bull mix, Mastiff, whatever. And I'd just
12 go and look.**

13 Q. Okay. So you'd walk into this – the room
14 where they kept the dogs they deemed to be pit bulls
15 and kind of put that in your database of what you
16 think pit bulls look like?

17 **A. Yes.**

18 Q. So it was doing that, and then your
19 experience over the years where you developed what
20 you believe a pit bull – the characteristics a pit
21 bull exhibits are?

22 **A. Yes.**

23 Q. On those cards did they have detailed
24 explanations of the characteristics that made that
25 dog a pit bull?

1 **A. No.**

2 Q. Did they have any of the DNA results for any
3 of those dogs?

4 **A. No.**

5 Q. Did they have any of the ownership paperwork
6 for those dogs showing parentage?

7 **A. No.**

8 Q. Any way to determine whether they were
9 purebreds?

10 **A. No. If there were that stuff, it would have
11 been between the front desk. They wouldn't have told
12 us and...**

13 Q. Okay. But for purposes of how you, you
14 know, gathered your experience to determine what pit
15 bulls looked like, that stuff wasn't there when you
16 were looking at them?

17 **A. No.**

18 MR. HASAN: Okay. Quincy, I don't believe
19 I have any more questions for you today.

20 THE WITNESS: Okay.

21 MR. HASAN: I think Nicole has some for
22 you, I think.

23 CROSS-EXAMINATION

24 BY MS. DuBOIS:

25 Q. Quincy, I introduced myself before, but,

1 again, just for the record, I am Nicole DuBois. I am
2 the City Attorney for Sioux City, and I just have a
3 few brief questions to ask you.

4 Now, Kamron had asked whether or not you
5 talked to anyone from the city or animal control
6 about this case, which you had indicated you have
7 not.

8 **A. Yes.**

9 Q. Have you talked to anyone else outside the
10 city organization regarding this case?

11 **A. Just when I got the summons for the pit
12 bull, I had called them to see if the – that's what
13 this was about, in regards to what I needed to do.**

14 Q. Who did you speak with at that time?

15 **A. It was a male. I couldn't say.**

16 Q. All right. And it was someone from...

17 **A. Husch and Blackwell.**

18 Q. Okay.

19 MR. HASAN: Are you talking – so can I --
20 do you want me to clarify or do you want me to go
21 back and...

22 MS. DuBOIS: No. That's okay.

23 MR. HASAN: Okay. Okay.

24 MS. DuBOIS: I will ask questions.

25 MR. HASAN: Yeah.

1 Q. (By Ms. DuBois) Approximately when was
2 that?

3 **A. After I got the summons.**

4 Q. Okay. And about how long was that
5 conversation?

6 **A. I think like ten minutes.**

7 Q. Okay. Can you tell me the different topics
8 of what were discussed during the conversation?

9 **A. I asked if this was the pit bull case
10 because I knew it was coming, I had expected it to
11 actually be soon, and what I needed to do and –
12 because I've never been to a deposition. And he just
13 told me what the proceedings were and what would
14 happen.**

15 Q. Okay. Did he cover any types of questions
16 that you may be asked?

17 **A. Just cases that I have worked on and if I
18 can identify dogs by pictures.**

19 Q. Okay. Any specific information that you
20 shared regarding those questions?

21 **A. No.**

22 Q. Okay. So, for example, they asked if you
23 could identify pit bulls by photographs. What did
24 you tell them in response to that question?

25 **A. I wouldn't.**

1 Q. Okay. Were any specifics asked about your
2 time working for animal control?
3 **A. No.**
4 Q. Okay. Anything else you can share with me
5 regarding the content of that conversation?
6 **A. That's about it.**
7 Q. Okay. Any questions related to your
8 employment term with the city?
9 **A. What do you mean by that?**
10 Q. Just any questions about the nature of your
11 employment with the city?
12 **A. No.**
13 Q. Okay. Did you volunteer any information
14 outside of the questions that were asked regarding
15 your employment with the city?
16 **A. No.**
17 Q. Okay.
18 **A. Or, I guess I should – what does that mean?**
19 **I am sorry.**
20 Q. Okay.
21 **A. Clarify again.**
22 Q. Sure. I am asking kind of generally, and
23 then if there are specifics I will come back around
24 to that. Did you share any information regarding how
25 your employment ended with the city or with -- when I

1 say city, I am talking about Sioux City Animal
2 Control?
3 **A. No.**
4 Q. Okay. Were you asked questions related to
5 that?
6 **A. No.**
7 Q. Okay. Were you asked questions regarding
8 enforcement related to the pit bull ban?
9 **A. No.**
10 Q. Okay. So your representation to me here
11 today is that you were asked whether or not you could
12 identify dogs from photographs; is that accurate?
13 **A. Yes.**
14 MR. HASAN: Object to form.
15 Q. (By Ms. DuBois) Outside of that question,
16 what other questions were you asked?
17 **A. If I can be there at that time, and that's**
18 **about it.**
19 Q. Okay. Outside of that one conversation
20 regarding the subpoena and your deposition here
21 today, who have you discussed this case with in
22 any -- in any form or fashion?
23 **A. I just told my new employer that there**
24 **probably will be court dates I will have to miss.**
25 **I – that's about it. But I'll be – like, I will**

1 **let you know if and when.**
2 Q. Okay. Have you been contacted by anyone
3 from the Animal Farm Foundation?
4 **A. It's – animal control? I've never heard of**
5 **that. So...**
6 Q. Okay. So to your knowledge you haven't
7 talked with anyone else outside of the brief contact
8 with Husch Blackwell regarding this case?
9 **A. Yes.**
10 Q. Okay.
11 **A. I was going to say, don't tell me there's**
12 **some crazy group like PETA.**
13 Q. Well, I can't express opinions as to the
14 nature of anything like that. I...
15 **A. I am sorry. They sound like another PETA**
16 **nut job group to me.**
17 Q. Okay.
18 **A. They want to set up a memorial for a truck**
19 **rollover that killed turkeys on Gordon Drive. So**
20 **that's...**
21 MS. DuBOIS: Okay. If you'll allow me one
22 second here.
23 Okay. I have no further questions, Quincy.
24 Thank you.
25

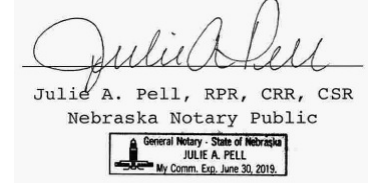
1 REDIRECT EXAMINATION
2 BY MR. HASAN:
3 Q. Okay. I have a follow-up. That phone
4 conversation you're talking about, that individual
5 with Husch Blackwell, that was me; right?
6 **A. I believe so.**
7 Q. Okay. I...
8 **A. I am sorry. I am not good with names at**
9 **times.**
10 Q. That's fine. Who initiated that call?
11 **A. I did.**
12 Q. Was it related to your receipt of the
13 subpoena?
14 **A. Yes.**
15 Q. Were you...
16 MR. HASAN: That's it. So you have the
17 right under the rules to read and sign the transcript
18 from today. So essentially what that would be is
19 we'd send you a copy of the questions that I asked
20 and the answers that you provided, and you have the
21 chance to make any revisions or edits that you want
22 to.
23 You have the ability to waive that right.
24 So essentially if you don't want to go back and look
25 at what your answers were to my questions, you can

1 waive that right right now, and we won't send you a
 2 copy. If you'd like to see a copy, completely within
 3 your...
 4 THE WITNESS: I am good. I am confident in
 5 what I said.
 6 MR. HASAN: You want to waive that right?
 7 THE WITNESS: Yes.
 8 MR. HASAN: Okay. Then that's it. Thank
 9 you.
 10 (The deposition concluded at 3:53 p.m.)
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C E R T I F I C A T E

1
 2 I, Julie A. Pell, RPR, CRR, CSR, CRC, duly
 3 commissioned, qualified, and acting under a general
 4 notarial commission within and for the State of
 5 Nebraska, do hereby certify that:
 6 QUINCY KOLKER
 7 was by me first duly sworn to tell the truth, the
 8 whole truth, and nothing but the truth; that the
 9 foregoing deposition was taken by me at the time and
 10 place herein specified and in accordance with the
 11 within stipulations; that I am not counsel, attorney,
 12 or relative of either party or otherwise interested
 13 in the event of this suit.

14 IN TESTIMONY WHEREOF, I have hereunto set my
 15 hand officially and attached my notarial seal at
 16 Lincoln, Nebraska, this 9th day of February, 2018.



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