

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF IOWA
 3 WESTERN DIVISION
 4 KALI MYERS,) Case No. 5:16-cv-04107-LRR
 5 an individual,)
 6 Plaintiff,)
 7 vs.)
 8 THE CITY OF SIOUX CITY,)
 9 IOWA; ROBERT PADMORE, in)
 10 his official capacity;)
 11 and CINDY RARRAT, in her)
 12 official capacity,)
 13 Defendants.)

14 DEPOSITION OF
 15 CINDY RARRAT

16
 17
 18
 19 DATE: Wednesday, January 17, 2018
 20 LOCATION: Sioux City City Hall
 21 Legal Division, Suite 511
 22 405 Douglas Street
 23 Sioux City, Iowa
 24 (712) 279-6318
 25
 26 TIME COMMENCED: 9:17 a.m.
 27 TIME CONCLUDED: 11:35 a.m.

A P P E A R A N C E S

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S T I P U L A T I O N S

1 It is stipulated and agreed by and between the
 2 parties hereto:
 3
 4 1. That the deposition of CINDY RARRAT may be
 5 taken before Julie A. Pell, Registered Professional
 6 Reporter, Certified Realtime Reporter, Certified
 7 Shorthand Reporter, Certified Court Reporter, General
 8 Notary Public, at the time and place set forth on the
 9 title page hereof.
 10 2. That the deposition is taken pursuant to
 11 notice.
 12 3. That the original deposition will be
 13 delivered to Mr. Kamron Hasan, attorney for the
 14 Plaintiff.
 15 4. That all objections except as to form and
 16 foundation are reserved until time of trial.
 17 5. That the required elements of Federal
 18 Rules of Civil Procedure Rule 30(b)(5)(A) and (C)
 19 will be set forth within this transcript and,
 20 therefore, do not need to be stated aloud on the
 21 record by the court reporter.
 22 6. That the testimony of the witness may be
 23 transcribed outside the presence of the witness.
 24 7. That the signature of the witness to the
 25 transcribed copy of the deposition is not waived.

1 CINDY RARRAT,
 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 -
 7 "Yes, I will, so help me God.")
 8 DIRECT EXAMINATION
 9 BY MR. HASAN:
 10 Q. Hi. Can I call you Cindy?
 11 A. **Sure.**
 12 Q. Okay. How do you pronounce your last name?
 13 A. **Rarrat, R-a-r-r-a-t.**
 14 Q. Rarrat. Okay. Good. I never knew because
 15 I haven't spoken to you.
 16 A. **Uh-huh.**
 17 Q. My name is Kamron Hasan. I am one of the
 18 attorneys for the plaintiff in this case, Kali Myers.
 19 A. **Okay.**
 20 Q. First off, would you spell your name just
 21 for the record?
 22 A. **It's C-i-n-d-y, R-a-r-r-a-t.**
 23 Q. Thanks. Cindy, have you ever been deposed?
 24 A. **Yes.**
 25 Q. So that's helpful because I don't have to go
 through all of the different familiarity parts. I do
 want to go over just some ground rules and cover some

1 preliminary matters with you. Do you understand that
 2 you are under oath today?
 3 A. **Yes.**
 4 Q. So because you're under oath, will you
 5 answer truthfully and fully?
 6 A. **Sure.**
 7 Q. You are familiar with this because you have
 8 been through it before, but it's important that you
 9 give audible answers. So that way if I ask a
 10 question, instead of head nodding, it's yeses or nos.
 11 Will you do your best to give audible answers? And I
 12 will do my best too.
 13 A. **Yes.**
 14 Q. Okay. Thank you. Also important that we
 15 try our best, even though this is a conversation, not
 16 to talk over each other. I know that's hard
 17 sometimes because conversations, obviously people
 18 interrupt, but since this is all being recorded, it's
 19 important that we try not to speak over each other.
 20 And I will do my best. Will you do your best too?
 21 A. **Yes.**
 22 Q. Okay. Thank you. Also, invariably, I will
 23 probably ask a few bad questions, ones that maybe are
 24 confusing or maybe I just didn't state them properly.
 25 So if I ask a question that you don't fully

1 understand, will you do your best to let me know?
 2 A. **Yes.**
 3 Q. And I will do my best to rephrase it for
 4 you.
 5 A. **Yes.**
 6 Q. If you don't ask, I will assume that you
 7 understand my question. Is that fair?
 8 A. **Yes.**
 9 Q. You are – if you ever need to take a
 10 break – I hope this doesn't go very long. I don't
 11 expect it will go too long, but if you do need a
 12 break for anything, please just ask me. If it's in
 13 the middle of a line a questions, I may ask you to
 14 see if we can finish that line of questions before we
 15 take the break, but please just let me know if you
 16 need to take one. Okay?
 17 A. **Okay.**
 18 Q. Also, your attorney, Justin, may lodge
 19 objections to some of my questions. A lot of the
 20 time it may be if – maybe if I ask a bad question.
 21 If he does lodge an objection, you're still under a
 22 duty to answer unless he affirmatively tells you not
 23 to answer. Do you understand that?
 24 A. **Yes.**
 25 Q. Questions that I love asking, but I have to

1 do. Is there anything about your physical, emotional
 2 or mental condition today that will prevent you from
 3 understanding my questions?
 4 A. **No.**
 5 Q. Will you let me know if that changes?
 6 A. **Yes.**
 7 Q. Anything that will keep you from giving
 8 truthful and complete answers to my questions?
 9 A. **No.**
 10 Q. Will you let me know if that changes?
 11 A. **Yes.**
 12 Q. Are you on any medication or alcohol that
 13 will prevent you from understanding my questions?
 14 A. **No. Just some cold medicine.**
 15 Q. Everyone's got a cold right now. Everyone
 16 has a cold. I hope you get better. If that changes,
 17 if you start feeling poorly and you feel like you
 18 can't answer my questions, please just let me know.
 19 All right. Now that we've got that out of
 20 the way, let's get going. So, Cindy, what do you do
 21 for a living?
 22 A. **I am the contractor, private contractor, for**
 23 **the City of Sioux City to provide animal control**
 24 **services for them.**
 25 Q. When did you start that position?

- 1 **A. As a private contractor, I started that**
 2 **about 22 years ago, approximately 22 years ago, but I**
 3 **have been in animal control for 40 – 33 years.**
 4 Q. Do anything before that?
 5 **A. Showed dogs.**
 6 Q. All right. Will you tell me about that,
 7 please?
 8 **A. Oh, I obedience trained dogs for the Sioux**
 9 **Valley Kennel Club, which I still do, and I trained**
 10 **for PetSmart Charities, also just privately trained**
 11 **dogs, showed my own dogs for the American Kennel**
 12 **Club, and I have just been in dogs since I was**
 13 **probably a small child.**
 14 Q. You must enjoy it.
 15 **A. I love what I do.**
 16 Q. Okay. What's your education background,
 17 history?
 18 **A. I am a graduate of West High School. I have**
 19 **also a – completed training – additional training**
 20 **through the National Animal Control Association, also**
 21 **the American Humane Association for large animal**
 22 **neglect cases.**
 23 Q. You said the American Humane Association?
 24 **A. Yes.**
 25 Q. Do you have any – I don't know if there are

- 1 any in this field, but do you have any
 2 certifications, anything of that sort in the realm of
 3 dogs or animal control?
 4 **A. Certification through PetSmart Charities to**
 5 **be a dog trainer.**
 6 Q. So what exactly does that entail?
 7 **A. Went to school up in Minneapolis for dog**
 8 **training classes. Even though I had already trained**
 9 **for the kennel club, the Sioux Valley Kennel Club, I**
 10 **went up to Minnesota and got additional training to**
 11 **be able to train for PetSmart Charities.**
 12 Q. Is that like obedience?
 13 **A. Obedience training.**
 14 Q. Anything else?
 15 **A. No.**
 16 Q. Okay. Have you attended any seminars or
 17 conferences related to your job?
 18 **A. Over the years I probably have. I just**
 19 **can't think of any right now.**
 20 Q. Okay. That's fair. Any additional training
 21 you can think of related to your job?
 22 **A. Offhand, no. Just 40 years of experience.**
 23 Q. Sure. You mentioned the National Animal
 24 Control Association. What was that training?
 25 **A. That was for animal control officer**

- 1 **training. And they have level one, two, three and**
 2 **four. And it just pertains to different types of**
 3 **animal control issues, from identifying dogs to all**
 4 **the way to animal control procedures and policies,**
 5 **how to handle animals and things like that.**
 6 Q. Let's talk a little more about that. You
 7 mentioned there were different levels. What level
 8 did you go through?
 9 **A. I don't remember exactly all of them, but I**
 10 **did go there for several of them. I just don't**
 11 **remember which one it was. This goes...**
 12 Q. When was that?
 13 **A. I don't know. Many years ago.**
 14 Q. It's – I don't want to hold you down to a
 15 specific year, but let's try to get, like, a range.
 16 Over five years?
 17 **A. I don't know. I couldn't tell you the year.**
 18 **I don't know.**
 19 Q. If you had to guess, do you think it would
 20 be less than five years ago?
 21 **A. No. It wasn't less than five years, but**
 22 **I...**
 23 Q. Do you think less than ten maybe?
 24 **A. I don't know.**
 25 Q. Okay.

- 1 **A. I don't know exactly. I don't – I don't**
 2 **want to give you an answer that I am not positive of.**
 3 Q. So sometime over five years ago?
 4 **A. Yes.**
 5 Q. Where was that?
 6 **A. Kansas City. There was one in Minnesota.**
 7 Q. You went to multiple of these?
 8 **A. Yes. Or, no. It was – I take that back.**
 9 **It was Columbia, Missouri. I think there was one in**
 10 **Kansas City, and I think there was one in Minnesota.**
 11 **But, again, that's been so many years ago, I don't**
 12 **remember.**
 13 Q. So, okay, but maybe Columbia, Kansas City
 14 and Minnesota?
 15 **A. Uh-huh.**
 16 Q. That's a yes?
 17 **A. Yes.**
 18 Q. That's going to happen during this. It's
 19 just...
 20 So what kind of training did they provide?
 21 **A. Like I said, it's all different types of**
 22 **training. There's level one through four, depending**
 23 **on which seminar that you go to, or once – which**
 24 **school that you go to depends on what it is. It**
 25 **could be chemical immobilization. It can be about**

1 **animal control officers. It can be on animal**
 2 **identification. It could be on report writing. They**
 3 **have a whole realm of different things that it covers**
 4 **depending on which one you go to.**

5 Q. So maybe it was a bad question. I guess
 6 more along the lines of, is it a hands-on training?
 7 It is it a training manual? Is it...

8 **A. Both.**

9 Q. Both of them. So let's talk more about dog
 10 identification. What kind of training was it for dog
 11 identification?

12 **A. Oh, you're making me think back to many,**
 13 **many years ago. I don't recall. Couldn't tell you.**

14 Q. Do you have any ongoing or continuing
 15 training in this area, dog identification?

16 **A. Just that I belong to the kennel club, and I**
 17 **regularly attend dog shows, American Kennel Club dog**
 18 **shows.**

19 Q. How regularly?

20 **A. There for a while -- my dogs are old now,**
 21 **but, oh, probably as much as five years ago every**
 22 **other weekend I would go and do dog shows.**

23 Q. What kind of dogs do you have?

24 **A. German Shepherds**

25 Q. My neighbors have German Shepherds. They

1 are very nice. And my neighbors' dogs are very loud,
 2 very loud, but that's neither here nor there.

3 When you go visit the dog shows, when it --
 4 well, I guess in the past year how many do you think
 5 you have attended?

6 **A. In the past year, probably two.**

7 Q. When you're a member of the American Kennel
 8 Club, do they require any sort of training or
 9 certifications to maintain a membership, or is it
 10 payment? How does that work?

11 **A. Typically if you have a dog that is a**
 12 **registered dog through the American Kennel Club you**
 13 **can show in either obedience or in confirmation. I**
 14 **showed in both. I had dogs that could do both. They**
 15 **could do confirmation and obedience.**

16 **And once they're in confirmation, you get to**
 17 **see a whole gamut of the dogs because you're in a dog**
 18 **show. So you get to know the dogs quite readily and**
 19 **their breeds.**

20 Q. Okay.

21 **A. As well as I have shown dogs for other**
 22 **people.**

23 Q. Sure. So I want to make sure we cover
 24 everything as far as your training and your
 25 experience and/or expertise in identifying dogs.

1 Aside from those formal training classes from the
 2 National Animal Control Association and the American
 3 Humane Association, is it fair to say that your
 4 expertise is based on your experience in viewing
 5 dogs?

6 **A. It's 40 years of experience in dogs and as**
 7 **well as showing dogs, training dogs and obedience**
 8 **training dogs.**

9 Q. Okay. So -- right. Your 40 years of
 10 hands-on experience with dogs?

11 **A. Correct.**

12 Q. Plus those training seminars?

13 **A. Yes.**

14 Q. Will you please tell me about your -- just
 15 your job functions, what you do in your role?

16 **A. I am the private contractor for the City of**
 17 **Sioux City. So I make sure that all of the aspects**
 18 **of the contract that I have with them are being met**
 19 **as well as the day-to-day activities that are at the**
 20 **shelter.**

21 Q. Do you have a team that you direct? Are you
 22 in charge of a group of individuals?

23 **A. I am the overseer of the animal control**
 24 **contract, yes, and the shelter.**

25 Q. Okay. Who do you communicate with on the

1 other side of the contract? Do you take directions
 2 from anyone? Do you...

3 **A. "The other side of the contract."**

4 Q. Yeah. So the city -- you said you're the
 5 private...

6 **A. I am in -- I am in close contact with the**
 7 **city. My overseer is Captain Claeys, Lisa Claeys,**
 8 **with the Sioux City Police Department. That changes**
 9 **on a regular basis because they do rotate positions**
 10 **on a regular basis.**

11 **I am also in contact with the city legal**
 12 **department on a regular basis, as well as the police**
 13 **department as well. And the overseer of my contract**
 14 **would be the city council. So if there are any**
 15 **issues, I have to answer to the city council as well.**

16 Q. So is there any specific hierarchy within --
 17 well, first off, what is the name of your -- of your
 18 organization?

19 **A. I am Hannah, Incorporated, doing business as**
 20 **Sioux City Animal Adoption and Rescue Center.**

21 Q. Is there any hierarchy within that? You
 22 explained that you were in charge of it, but is there
 23 any formal hierarchy there?

24 **A. I am the president of Hannah, Incorporated,**
 25 **and then I also have to answer to these individuals**

1 **that I have just stated, as well as overseeing the**
 2 **day-to-day operations at the shelter.**
 3 Q. Okay. Will you tell me about the day-to-day
 4 operations of the shelter, please?
 5 **A. In what respect?**
 6 Q. A general day. What kind of work does the
 7 shelter engage in? I know that might be a broad
 8 question, but let's...
 9 **A. The animal control unit basically is what it**
 10 **is. The Animal Adoption and Rescue is animal**
 11 **control. They provide the animal control services**
 12 **for the City of Sioux City. They enforce all of the**
 13 **animal ordinances pertaining to the animal control**
 14 **services. And so that's what we do every day is**
 15 **enforce those ordinances.**
 16 Q. How many animal control officers are there?
 17 **A. Six, seven.**
 18 Q. About six or seven?
 19 **A. I am not sure. Yeah.**
 20 Q. Something like that?
 21 **A. Something like that.**
 22 Q. I am jumping a little bit ahead now, and I
 23 am going to come back to where we are right now, but
 24 in the answers to the interrogatories in this case
 25 there is a mention of a pit bull enforcement team.

1 What is that? Are those animal control officers all
 2 on that team?
 3 **A. I have no idea.**
 4 Q. Okay. Jumping back to the animal control
 5 officers, is there anyone else in between as far as a
 6 hierarchy between you and the individual animal
 7 control officers?
 8 **A. Between me and the animal control officers?**
 9 Q. Yes.
 10 **A. Well, there's an assistant manager, who**
 11 **would be my husband, Chris.**
 12 Q. Oh, okay.
 13 **A. You know, just the police department,**
 14 **myself, my husband. The animal control officers know**
 15 **their duties. There's office staff. There's kennel**
 16 **help.**
 17 Q. What are the animal control officers'
 18 duties?
 19 **A. They perform the -- they go out and enforce**
 20 **the ordinances pertaining to the animal control. All**
 21 **of the ordinances that the city has set forth for**
 22 **animal control, they go out and enforce all those**
 23 **ordinances.**
 24 Q. Are there any additional directions or
 25 instructions in regards to enforcing those

1 ordinances?
 2 **A. Any other instructions?**
 3 Q. Yeah. I mean...
 4 **A. They follow the law, what the law states**
 5 **pertaining to those ordinances.**
 6 Q. So how do you communicate, how do you tell
 7 them, here is what the law is?
 8 **A. They're given a copy of the laws when they**
 9 **start. They are told that that's their Bible,**
 10 **basically. And they have to study that ordinance and**
 11 **enforce the law pertaining to those ordinances.**
 12 Q. Do you have any tests, quizzes, any...
 13 **A. Each vehicle has a -- a set of those**
 14 **ordinances in each vehicle. They all know the**
 15 **ordinances. They read the ordinances. And there's**
 16 **always people there, as well as myself, to help them**
 17 **if they're ever in a situation that they're unsure**
 18 **of.**
 19 Q. All right. Do they receive any training,
 20 anything like that prior to...
 21 **A. They also receive training through the**
 22 **National Animal Control Association.**
 23 Q. Do you mandate that training?
 24 **A. They do -- they have six months when they're**
 25 **started before we send them off to school because I**

1 **don't want them to start, send them to school the**
 2 **first month, and then have them quit or find another**
 3 **job. So we have them on for six months at least**
 4 **before they get sent to the academy.**
 5 Q. You mentioned with that National Animal
 6 Control Association that there's different levels of
 7 training?
 8 **A. There is.**
 9 Q. So what do you send the animal control
 10 officers to train on?
 11 **A. Depends on what level of school there is and**
 12 **where at the time.**
 13 Q. So related to...
 14 **A. They not necessarily would take level one.**
 15 **They might take level three, depending on what**
 16 **those -- because NACA does not have -- they jump**
 17 **around with different locations where they hold their**
 18 **schools. And so it depends on where they're at. You**
 19 **don't have to take one, two, three, four. You could**
 20 **take four, three, two, one. They don't always have**
 21 **to go in order.**
 22 Q. Do they always take all four of them?
 23 **A. No.**
 24 Q. Is there any requirement with how many of
 25 those courses they're required to take?

- 1 **A. One.**
 2 Q. At least one of those?
 3 **A. Uh-huh.**
 4 Q. That's a yes?
 5 **A. Yes.**
 6 Q. In your experience with that NACA training,
 7 do each one of the levels incorporate animal
 8 identification?
 9 **A. I have no idea. That's something that you'd**
 10 **have to ask each individual person. I don't know.**
 11 Q. So is it possible that individual animal
 12 control officers may take one of those training
 13 courses and that training course would not involve
 14 animal identification?
 15 **A. I have no idea.**
 16 Q. So do you think that's possible then?
 17 **A. I don't know.**
 18 Q. Okay. Any other training that you put the
 19 animal control officers through prior to going out
 20 and enforcing the code?
 21 **A. Basically they're on the job re- -- they're**
 22 **on the job training for at least two weeks before**
 23 **they are on the street by themselves. And we do have**
 24 **a chart that's in our back area that will help them**
 25 **identify any dogs that do come into the shelter that**

- 1 **they're not familiar with.**
 2 Q. You wouldn't happen to have a copy of that
 3 chart with you, do you?
 4 **A. I don't, no.**
 5 MR. HASAN: Okay. Justin, just for -- I
 6 will ask for this formally, but we'll want to get a
 7 copy of that chart, to the extent we haven't already
 8 received it in discovery. And I will make a note of
 9 that.
 10 MR. VONDRAK: Okay.
 11 Q. (By Mr. Hasan) What's the chart basically
 12 entail?
 13 **A. The American Kennel Club -- it's through the**
 14 **American Kennel Club.**
 15 Q. What's on the chart? Is it exemplar?
 16 **A. The breeds -- the breeds of the -- that are**
 17 **listed with the American Kennel Club and their**
 18 **photograph.**
 19 Q. How many are there?
 20 **A. Well, there's new breeds now that were just**
 21 **added. So I don't know the exact -- they're adding**
 22 **two more this year. So I don't know the exact total**
 23 **of those breeds.**
 24 Q. Do you have an estimate?
 25 **A. I don't.**

- 1 Q. Like, is it over 50?
 2 **A. Couldn't tell you.**
 3 Q. Over 20?
 4 **A. Over 20, yeah.**
 5 Q. And it's a picture of each breed?
 6 **A. Yes.**
 7 Q. So if there were -- assuming that -- we
 8 don't know exactly how many there are, but if there
 9 were a hundred different breeds with the American
 10 Kennel Club, it's essentially a poster with a hundred
 11 different names and a hundred different pictures?
 12 **A. Uh-huh.**
 13 Q. It's -- that's what it is?
 14 **A. Yes.**
 15 Q. Any tips or instructions on what to look for
 16 with these breeds?
 17 **A. I have not read it myself, so I don't know.**
 18 **I just know that it -- that's what we have.**
 19 Q. Okay. Based on what we were just talking
 20 about, is it fair to say that the animal control
 21 officers who were in the field are the ones who are
 22 re- -- the first line of individuals who are
 23 responsible for enforcing the animal control code?
 24 **A. Yes. They receive the call, and they go out**
 25 **and -- yes.**

- 1 Q. What's your role with enforcing that code?
 2 **A. What's my role?**
 3 Q. Sure.
 4 **A. They go out, and they enforce the ordinance**
 5 **per the city ordinance. They pick up the animal.**
 6 **They bring the animal in. I have no involvement in**
 7 **it once they pick them up.**
 8 Q. You don't have any involvement. So they go
 9 out and pick up an animal, and then you don't have
 10 any involvement after that?
 11 **A. Not me personally, no. I am -- I don't deal**
 12 **with every single solitary dog that comes in.**
 13 **Usually it's the front-end staff and the kennel staff**
 14 **that take care of them. So it usually doesn't**
 15 **involve me on every single animal that they pick up,**
 16 **no.**
 17 Q. Are you involved with any of the animals
 18 that they pick up?
 19 **A. Oh, yes.**
 20 Q. Under what circumstances might that occur?
 21 **A. Depends on what the circumstance -- they**
 22 **pick up a lot of dogs every day. And they might not**
 23 **need to tell me about every single solitary animal**
 24 **that they pick up. If they find -- they think that**
 25 **there's an issue, then they will come and talk to me**

1 **about it.**
 2 Q. What kind of issues have you encountered?
 3 **A. With owners, with the dog being injured,**
 4 **with them being sick or something like that. They'll**
 5 **bring that to my attention.**
 6 Q. Okay. So related to the code, first off,
 7 are you familiar with the lawsuit that we're here on
 8 today?
 9 **A. Yes.**
 10 Q. So I am sure you're aware it relates to the
 11 pit bulls prohibited portion of the code. You
 12 understand that?
 13 **A. Yes.**
 14 Q. So let's talk a little bit about the code.
 15 First, elsewhere in the code is the dangerous animal
 16 definition. Are you familiar with that definition?
 17 **A. I'd have to look it up to make sure.**
 18 Q. If you have got a reference of it, I have
 19 got one also, but feel free.
 20 **A. Yeah. Is dangerous in here? This is -- no,**
 21 **I don't have that one.**
 22 Q. Well, I guess before giving you the
 23 definitions, is there any requirement for you to have
 24 any of these definitions memorized, know what they
 25 are off the top of your head?

1 **A. I could, yes.**
 2 Q. Is there a requirement in your job to have
 3 that...
 4 **A. Not to have it memorized.**
 5 Q. Okay. How about for the individual animal
 6 control officers?
 7 **A. They have it with them, and they know the**
 8 **law.**
 9 Q. Okay. Is it one of those things where
 10 they'd have to refer back to what the...
 11 **A. Some -- sometimes they may have to refer**
 12 **back to it if they don't have it memorized. I don't**
 13 **have it memorized verbatim.**
 14 Q. I am going to hand you three different
 15 pieces of paper. We won't mark these as exhibits,
 16 but they're just for refreshing your recollection.
 17 And I will represent to you that I just did a
 18 copy/paste off of the city website for the definition
 19 of dangerous animal, high-risk animal and vicious
 20 animal. And I will just ask you to review these and
 21 see if they comport with what your memory is of these
 22 definitions. Take your time.
 23 **A. Go ahead. I know them. Go ahead.**
 24 Q. So is it fair to say that under these three
 25 definitions there are mechanisms within the municipal

1 code to govern what the city has deemed dangerous,
 2 high-risk or vicious animals?
 3 **A. I guess I don't -- I don't understand what**
 4 **you're trying to say.**
 5 Q. Sure. Well, each of these -- let's take
 6 them one by one. The dangerous animal.
 7 **A. The definition?**
 8 Q. Sure.
 9 **A. Okay.**
 10 Q. What is -- what is that code section telling
 11 you?
 12 **A. Seven -- well, it's 7.01.010 [sic]. It**
 13 **gives us the definitions of what a dangerous animal**
 14 **means.**
 15 Q. Okay. So there -- my question, I guess, for
 16 this specific section is whether the code provides
 17 for what the city defines as -- a dangerous animal
 18 as.
 19 **A. I guess I don't -- still don't get what**
 20 **you're saying.**
 21 Q. Sure. It just...
 22 **A. Does it define what a dangerous animal is?**
 23 Q. Right.
 24 **A. Yes.**
 25 Q. And is it -- the same question for high-risk

1 animals.
 2 **A. Does it describe what a dangerous animal is?**
 3 Q. A high-risk animal.
 4 **A. Or, a high-risk animal is? That's what**
 5 **you're asking me; correct?**
 6 Q. Yes.
 7 **A. Is does this describe what a high-risk**
 8 **animal is?**
 9 Q. Right.
 10 **A. Is this going to match exactly what's on**
 11 **our -- on our...**
 12 MR. VONDRAK: I have no idea.
 13 Q. (By Mr. Hasan) I will represent to you that
 14 it's a copy/paste, and that to the extent that it's
 15 changed at all since I printed that, that's a
 16 printout of what...
 17 **A. I am not comfortable saying yes because I am**
 18 **not -- I -- it hasn't come from -- this -- I -- so I**
 19 **am going to refrain from that, from answering that.**
 20 Q. So not tying you down to the specific
 21 language that's on the page --
 22 **A. Right. Right.**
 23 Q. -- if it's going to -- again, if it's
 24 changed at all since I have printed it from the
 25 website, since I copied and pasted it, is it fair to

1 say that as long as the city defines high-risk animal
2 similarly or at all compared to what you're holding,
3 is it fair that the city has provided a definition
4 for a what a high-risk animal is?

5 MR. VONDRAK: I am going to object just to
6 the – maybe try – you can answer it if you can, but
7 you lost me.

8 Q. (By Mr. Hasan) I will see if I can – yeah,
9 I will see if I can clean that up.

10 A. **That's...**

11 Q. I will see if I can clean that up. How
12 about we said it just like this? If the code has a
13 definition for high-risk animal, would you agree that
14 the city has defined what a high-risk animal is?

15 Even if you set aside those exhibits, if the
16 code does have a definition, is it fair to say that
17 the city has defined high-risk animal?

18 A. **They have defined high-risk animal, but I am
19 not going to say that these are – these are it.**

20 Q. Yeah. That's fine.

21 A. **Because I don't have the exact ordinance
22 section.**

23 Q. Yeah. That's fine.

24 A. **So I don't – I can't say honestly that – I
25 don't know where that came from. So...**

1 Q. That's fine. If you wanted to...

2 A. **I can't – I can't say for sure.**

3 Q. Honestly, I am not going to ask you about
4 the specific language.

5 A. **Right. Right.**

6 Q. But if it's in the code, you'd agree that
7 they've defined it?

8 A. **They have defined high-risk and vicious
9 animals, yes.**

10 Q. Great. Let's turn to the – do you have the
11 definition of a pit bull? Do you have that off the
12 top of your head?

13 A. **It's 7.01.010 [sic]. And, yeah, I can – I
14 can cite it for you.**

15 Q. Oh, great. You have got it?

16 A. **I do.**

17 Q. I have got them quoted also.

18 A. **Do you need me to read that or...**

19 Q. Sure.

20 A. **Or do you – you have got the section there.
21 You just want to refer to that since we both are on
22 the same page?**

23 Q. Yeah. Why don't you just go ahead and read
24 it so that we've got on it on the record.

25 A. **Okay. It's 7.10.010, which is pit bull**

1 **defined. "A pit bull is defined as any dog that is
2 an American Pit Bull Terrier, American Staffordshire
3 Terrier, Staffordshire Bull Terrier, or any dog which
4 has the appearance and characteristics of being
5 predominantly of the breeds Staffordshire Bull
6 Terrier, American Pit Bull Terrier or American
7 Staffordshire Terrier as set forth in the standards
8 established by the American Kennel Club or the United
9 Kennel Club for any of the aforementioned breeds."**

10 Q. Thank you. Were you in your current role or
11 position when this law was passed?

12 A. **Yes, I was.**

13 Q. So when it was passed, what did you do to
14 begin its enforcement?

15 A. **I don't remember. It's been seven, eight
16 years ago. So I don't – I don't remember what
17 exactly we did.**

18 Q. Probably I think maybe 2008, 2009? Does
19 that sound about right?

20 A. **Yep. Yes. I don't remember exactly what we
21 did right away to prepare for that or what we did. I
22 don't remember.**

23 Q. Do you remember if there was any additional
24 training?

25 A. **I don't remember.**

1 Q. Okay. So let's focus on this – on this
2 part of the code.

3 A. **I...**

4 Q. And if you want to have the reference in
5 front of you, by all means.

6 A. **Okay.**

7 Q. Also, I think I printed out – if you don't
8 have them there, I think I printed out a couple more
9 of the code sections if you need to cross-reference.
10 I am not planning on asking you about any of those in
11 particular, but if you want them, I think I have got
12 them. The ones on prohibited pit bulls, exceptions,
13 impoundment, I have got all that if you want it.
14 Okay?

15 So you mentioned earlier that it's the
16 animal control officers who are in the field
17 enforcing the code; is that right?

18 A. **Correct.**

19 Q. So how does an individual animal control
20 officer identify a situation where the pit bull
21 ban – is it fair for me to refer to it as the pit
22 bull ban? Or if you would like to refer to it a
23 different way, that's fine by me. I just want to
24 have it shorthand instead of...

25 A. **That's fine.**

1 Q. Okay. So I can call it the pit bull ban?
2 When the -- how do you identify a situation or how
3 does an animal control officer identify a situation
4 when that code section may be in violation?

5 **A. That's something you'd have to ask them.**
6 **They're the ones out in the field.**

7 Q. Do you give them any instruction on how to
8 do that?

9 **A. I am not -- I am not out in the field with**
10 **them on every call that they get. They get probably**
11 **3,000 calls a year. So I am not out there with them**
12 **on every call.**

13 Q. Are you out there with them on any calls?

14 **A. Sometimes.**

15 Q. Okay. So in that situation, how do you and
16 the animal control officer identify a situation where
17 the pit bull ban may be in violation?

18 **A. Through experience, through knowing my**
19 **breeds and knowing the dogs.**

20 Q. I mean more particularly. How do you come
21 across those dogs? Is it by phone call? Do you
22 get -- how does that happen?

23 **A. Typically the animal control officers**
24 **receive calls in through the records department at**
25 **the police station. They take those calls, and they**

1 **respond to the calls.**

2 **It doesn't matter to them what breed of dog**
3 **it is. If it's at large, it's a dog at large. If**
4 **it's a welfare case, it's a welfare case. We**
5 **typically don't go, it's a pit bull. Some people**
6 **will call in and specifically say, the neighbor's got**
7 **a pit bull. But typically the animal control**
8 **officer, he has a respons- -- a responsibility to**
9 **respond to every call. So it doesn't matter to him**
10 **what breed of dog it is at the time that he gets the**
11 **call.**

12 Q. Okay. And we'll come back to your specific
13 experience when you're in the field with the animal
14 control officers, but first I want to ask do you give
15 any instruction or mandate to your animal control
16 officers with regard to how to identify -- let's say
17 there's a dog at large -- how to identify that dog at
18 large on whether it...

19 **A. (Witness shakes head side to side.)**

20 Q. No instructions?

21 **A. No. They've got experience. I have got 40**
22 **years' experience, plus they have got all the -- many**
23 **years of experience themselves. No. I am not out**
24 **there on every single call, no. And I don't -- I**
25 **don't give them advice on every single call, no.**

1 (At 9:49 a.m.
2 Mr. Christopherson entered
3 the conference room.)

4 MR. HASAN: Justin, can we go off the
5 record real quick?

6 MR. VONDRAK: You bet.

7 (At 9:50 a.m. an
8 off-the-record discussion
9 was had.)

10 Q. (By Mr. Hasan) Okay. We're back on the
11 record. When we left off you were talking about
12 instructions that were given or not given to animal
13 control officers with regard to enforcing the pit
14 bull ban.

15 I want to get back to your specific
16 experience responding to calls of a dog at large or
17 encountering a dog in the field. Okay? When you
18 encounter a dog in the field, how is it that you
19 identify what breed of dog it is?

20 **A. Again, I am not in the field that often.**
21 **Those are animal control officers that are out in the**
22 **field.**

23 Q. That's fair. But when you are out in the
24 field, how do you identify what breed of dog it is?

25 **A. By my experience, my knowledge.**

Q. I guess I am more asking -- I understand
that it's your experience and your knowledge, but is

1 it a visual identification?

2 **A. Of course you have to visually see it in**
3 **order to make that determination.**

4 Q. Right. So is it based on the appearance of
5 the dog?

6 **A. The appearance and the characteristics of**
7 **that dog, yes.**

8 Q. When you say "characteristics," what do you
9 mean by that?

10 **A. The characteristics that meet the**
11 **requirements that have -- like the ordinance states,**
12 **it states -- it says, has the physical appearance and**
13 **characteristics. That's what I base it on.**

14 Q. I guess I mean, like, when you say
15 characteristics, what do you mean by characteristics?
16 What are the characteristics?

17 **A. The characteristics. It's -- that's subject**
18 **to a lot of different things. I base it on the**
19 **physical appearance and characteristics.**

20 Q. So physical appearance and
21 characteristics --

22 **A. And characteristics.**

23 Q. -- does that include coloring?

24 **A. Not necessarily, no.**

25 Q. Could it include coloring?

1 **A. No. It has nothing to do with the color.**
 2 Q. Same thing with color pattern?
 3 **A. Nope.**
 4 Q. Coat texture?
 5 **A. Yes.**
 6 Q. So how does coat texture factor in?
 7 **A. Well, if you read the – we have the**
 8 **specifics on what – how a pit bull is described if**
 9 **you need that information.**
 10 Q. No. I just mean more...
 11 **A. That's what I base it on.**
 12 Q. So there's a...
 13 **A. I base it on the – what the – the breed**
 14 **specifics are based on the AKC and the United Kennel**
 15 **Club. I base it on the characteristics that is set**
 16 **forth by those standards by those organizations.**
 17 Q. So for coat texture, do you physically go up
 18 to the dog and check the coat texture?
 19 **A. Absolutely. I have to look at them. I have**
 20 **to see them.**
 21 Q. And how about coat length?
 22 **A. Well, yes. Yes.**
 23 Q. All right.
 24 **A. You have to physically observe the dog's**
 25 **characteristics and appearance.**

1 Q. Okay. I want to go through those
 2 characteristics and appearance, and if you can think
 3 of anything else, ask – when I am – just feel free
 4 to jump in and say, this also or this also.
 5 But coat length is included in that?
 6 **A. Yes.**
 7 Q. How about overall body size?
 8 **A. Body size and type.**
 9 Q. Are there different definitions for type of
 10 body under the...
 11 **A. Not under the section, but if you go to the**
 12 **requirements by the AKC and the United Kennel Club,**
 13 **if you look up the breed specifics on those dogs,**
 14 **those are exactly what we look for.**
 15 Q. Okay. That includes the length of the body?
 16 **A. I am not going to go over all those. If you**
 17 **go into the AKC and you look up the standards for the**
 18 **breed types for American Staffordshires, American Pit**
 19 **Bull under the United Kennel Club you will see those**
 20 **breed specifics. Those breed specifics are what we**
 21 **apply to that specific dog that we're looking at.**
 22 Q. Do you have those memorized?
 23 **A. Pretty much.**
 24 Q. Why don't you tell me what they are.
 25 **A. Nope.**

1 Q. Respectfully, I am – under – under oath...
 2 **A. And, respectfully, I am telling you that**
 3 **it – those – those are listed with the American**
 4 **Kennel Club and the United Kennel Club if you'd like**
 5 **to look for those breed specifics.**
 6 Q. Cindy, I have to tell you that the way the
 7 depositions work – you have been through them –
 8 **A. Uh-huh.**
 9 Q. – is I am entitled to ask a question.
 10 **A. You are.**
 11 Q. And you are required to answer it.
 12 **A. Correct.**
 13 Q. And you are under oath.
 14 **A. Absolutely.**
 15 Q. So...
 16 **A. I base my opinion on those breeds by what**
 17 **the American Kennel Club sets for their standards and**
 18 **the United Kennel Club sets for their standards. And**
 19 **you can...**
 20 MR. VONDRAK: Cindy, why don't – why
 21 don't – can you let him ask the question, and you do
 22 your best to answer? Because it – we're not...
 23 THE WITNESS: Because I don't – I don't –
 24 I don't want to – to go against what those breed
 25 standards are.

1 MR. VONDRAK: Okay.
 2 THE WITNESS: I want to make sure those are
 3 exactly correct.
 4 MR. VONDRAK: Yeah. If you can't answer
 5 his question, you can't answer his question. You...
 6 THE WITNESS: So I want to make sure that
 7 those – those are correct.
 8 MR. VONDRAK: I am advising you, just let
 9 him ask a question. You answer the question. If
 10 you – if you can't, you can't.
 11 THE WITNESS: I – respectfully, I just
 12 want to make sure that those breed specifics are
 13 exactly what those breed specifics say. I am not
 14 going to give you any speculation on what I feel, on
 15 what I think. I base my opinions by what those
 16 standards are set forth by those two kennel clubs.
 17 Q. (By Mr. Hasan) Okay. So do you know those
 18 standards off the top of your head? When you're out
 19 in the field enforcing a pit bull – the pit bull
 20 ban, do you know those standards off...
 21 **A. Yes, I do.**
 22 Q. What are those standards?
 23 **A. Well, by the American Kennel Club, I can –**
 24 **I can – like I said, I can dig them out for you and**
 25 **I can make sure that those are exactly correct.**

1 Q. I can understand you can dig them out. Do
 2 you dig out the piece of paper when you're out –
 3 **A. Yes.**
 4 Q. – there in the field?
 5 **A. No.**
 6 Q. Do you pull up the piece of paper to look?
 7 **A. No. No. Because I have the 40 years'**
 8 **experience to tell the difference between the two**
 9 **different breeds.**
 10 Q. Okay. So why don't you tell me what you
 11 look for specifically? I mean...
 12 **A. Go ahead and ask the rest of your**
 13 **question –**
 14 Q. Well, I –
 15 **A. – and I will answer the question.**
 16 Q. – I'd like to ask this question. You say
 17 that you rely on the AKC or UKC breed descriptions.
 18 **A. Uh-huh.**
 19 Q. And you say that you have those memorized or
 20 at least you're familiar enough...
 21 **A. I am – I am familiar with them, yes. I**
 22 **wouldn't say they're memorized.**
 23 Q. You're familiar enough to be able to
 24 identify what those standards are?
 25 **A. Uh-huh.**

1 Q. Tell me what those standards are.
 2 **A. For the American Pit Bull, or which breed**
 3 **are you looking at?**
 4 Q. Well, let's start with one of them. Let's
 5 start with the – without referring to the piece of
 6 paper because I am asking...
 7 **A. No. I am looking at the ordinance here –**
 8 Q. Oh.
 9 **A. – so we can make sure we get the right dogs**
 10 **for the right...**
 11 Q. Sure. Let's start with the American Pit
 12 Bull Terrier.
 13 **A. Okay. The American Pit Bull Terrier first**
 14 **off is not in the AKC line. Okay? It's not**
 15 **recognized by the American Kennel Club. That is a**
 16 **mixed-breed dog that is registered by the United**
 17 **Kennel Club.**
 18 **The classifications for them are a little**
 19 **different than it would be the American Staffordshire**
 20 **Terrier, which is an AKC breed, which is American**
 21 **Kennel Club breed, and then you have the**
 22 **Staffordshire Bull Terrier, which is also an American**
 23 **Kennel Club breed. Two different organizations. Two**
 24 **different types of standards for those dogs.**
 25 **So and then it's got the – so I can tell**

1 **you that the American Pit Bull Terrier is a mix breed**
 2 **of a terrier and a – and they gave it the name of**
 3 **pit bull, but it is not a recognized breed by the**
 4 **American Kennel Club.**
 5 **All of their characteristics are roughly the**
 6 **same with a little bit of differences but, again, it**
 7 **depends on if you're looking at the American Kennel**
 8 **Club or you're looking at the United Kennel Club.**
 9 **Both have the similar characteristics of all three**
 10 **breeds, but they are different because of the**
 11 **different organizations that they belong to.**
 12 Q. Okay. All that understood, when you're out
 13 in the field –
 14 **A. Okay.**
 15 Q. – and you encounter a dog –
 16 **A. Okay.**
 17 Q. – what are the characteristics that you
 18 look for to determine whether or not that dog is...
 19 **A. Well, a – roughly an American...**
 20 MR. VONDRAK: Well, wait. I am going to
 21 object. That dog is what? Because I don't – I
 22 don't understand that question.
 23 MR. HASAN: I am happy to – no. I am
 24 happy to finish the question.
 25 Q. (By Mr. Hasan) When you're out in the

1 field, what are the characteristics that you look for
 2 at a subject dog to determine if it is – if it fits
 3 within the statutory definition that you're reading
 4 right now, the statutory definition under the pit
 5 bull ban?
 6 **A. What do I look for?**
 7 Q. Right. You said that it's based off
 8 visual...
 9 **A. If it meets any of the characteristics...**
 10 Q. Let me – actually, let me finish my
 11 question there. Sorry for interrupting, but it's
 12 hard for Julie to keep track of question and answer.
 13 So when you're enforcing the pit bull ban,
 14 pursuant to the definition of pit bull, you mentioned
 15 earlier that it's based on a visual identification.
 16 So what are the visual characteristics or traits that
 17 you look for to identify whether or not it is one of
 18 the prohibited breeds under the statute?
 19 **A. That depends on what breed you're looking at**
 20 **here.**
 21 Q. Any one of those. What are the
 22 characteristics –
 23 **A. Size.**
 24 Q. – you're looking for?
 25 **A. Size, stature, overall general appearance of**

- 1 **that animal.**
- 2 Q. "Overall general appearance." Well, I want
- 3 to get a good read of it because...
- 4 **A. You said coat. Short. Go ahead with your**
- 5 **list and I will...**
- 6 Q. Yeah. Let's go through. And if you can
- 7 think of anything else, I'd like to know. Coat
- 8 length. You said short?
- 9 **A. Yes.**
- 10 Q. How about overall body size?
- 11 **A. Body type, yes.**
- 12 Q. Okay. Type. Does that include the length?
- 13 **A. The height, the length. Yes.**
- 14 Q. The weight also?
- 15 **A. Yes.**
- 16 Q. How about muscle mass?
- 17 **A. Yes. The – that's – that's type, body**
- 18 **type.**
- 19 Q. That's included in type?
- 20 **A. Uh-huh.**
- 21 Q. How about the size of the chest?
- 22 **A. We don't measure it, but it – that tak –**
- 23 **that is into the consideration of it. Yes.**
- 24 Q. So you look at it and you estimate...
- 25 **A. Again, that's body type. That's breed type,**

- 1 **typing.**
- 2 Q. How about the topline angle?
- 3 **A. If you were doing a Shepherd, I'd say**
- 4 **absolutely, but in a – in a pit bull, you mean the**
- 5 **back? How it conforms? How tall it is, are you**
- 6 **asking, or what are you – what are you – what are**
- 7 **you saying? The – straight or angled, or what are**
- 8 **you – what are you trying to say?**
- 9 Q. I am asking that, the angle from the
- 10 shoulders down to the hips.
- 11 **A. The withers to the...**
- 12 Q. Is it – do you look at the angle, whether
- 13 it's straight or if it's a downward angle?
- 14 **A. You look at the dog, his overall appearance**
- 15 **and how he presents himself as per the standard of**
- 16 **the breed.**
- 17 Q. Well, I understand.
- 18 **A. So the pit bulls are not angled. They're**
- 19 **not a low rider like a German Shepherd would be.**
- 20 Q. Would you agree with me that overall
- 21 appearance factors in specific parts of –
- 22 **A. Over...**
- 23 Q. – the appearance?
- 24 **A. Overall appearance and characteristics of**
- 25 **the breed type.**

- 1 Q. So the overall appearance and
- 2 characteristics of a breed type incorporate specific
- 3 aspects of that?
- 4 **A. Yes.**
- 5 Q. Would you also agree that the definitions
- 6 that AKC and UKC have set forth specifically set
- 7 forth individual characteristics?
- 8 **A. Yes, they do.**
- 9 Q. And those individual characteristics include
- 10 the categories that I am going through right now?
- 11 **A. Yes.**
- 12 Q. I am going to keep going through. Do you
- 13 look at the leg length?
- 14 **A. Yes.**
- 15 Q. The head shape?
- 16 **A. Yes.**
- 17 Q. The head length?
- 18 **A. Yes.**
- 19 Q. Head width?
- 20 **A. Yes.**
- 21 Q. The muzzle shape?
- 22 **A. Yes.**
- 23 Q. Eye color?
- 24 **A. Yes.**
- 25 Q. Ear shape?

- 1 **A. Yes.**
- 2 Q. The ear size?
- 3 **A. Yes.**
- 4 Q. The neck?
- 5 **A. Yes.**
- 6 Q. Do you look at teeth or jaws?
- 7 **A. Yes.**
- 8 Q. How about the tongue? Do you ever look at
- 9 tongue color?
- 10 **A. Yes.**
- 11 Q. Tail shape?
- 12 **A. Yes.**
- 13 Q. Tail type?
- 14 **A. Yes.**
- 15 Q. Tail size?
- 16 **A. Yes.**
- 17 Q. Do you look at its gait?
- 18 **A. Yes.**
- 19 Q. Do you ever check agility?
- 20 **A. No. That we don't test, no.**
- 21 Q. How about behavior?
- 22 **A. Yes.**
- 23 Q. Do you ever check DNA?
- 24 **A. We have before, yes.**
- 25 Q. Under what circumstances?

1 **A. Some dogs that we had impounded at the**
2 **shelter.**

3 Q. But I mean specifically can you use one of
4 those dogs as an example? What made you do a DNA
5 test?

6 **A. These dogs were originally registered as**
7 **American – as pit bulls within the city. Then the**
8 **pit bull came into effect and – the pit bull ban**
9 **became into effect, and he didn't get his dogs**
10 **licensed in time.**

11 **So we went out and had a DNA test done.**
12 **They came back as Irish Setters, where he had**
13 **originally licensed them as pit bulls. They came**
14 **back at Irish setters. They were Irish Setters.**

15 Q. Was it your department or the city that
16 performed that DNA test?

17 **A. We did.**

18 Q. Do you offer that service to all citizens?

19 **A. If they would like it. The reason for that**
20 **is we do that for them so that there is no**
21 **discrepancy as to how that results would come back**
22 **because you could take it and you could test your**
23 **Chihuahua and send it in and get the results, and we**
24 **did not see you DNA test that dog.**

25 **So we tell people, if you're going to DNA**

1 **test them, bring them to us. We will swab the mouth.**
2 **We will send it in, and you will get the test**
3 **results. Once you get the test results, then you can**
4 **provide them to us, and then we will come go from**
5 **there. But we will do that for you if you would**
6 **like. Some people don't want to do that. Then**
7 **it's – becomes subject to scrutiny as to which dog**
8 **you actually did it on.**

9 Q. Who pays for that?

10 **A. The people. The people buy the DNA test and**
11 **have that done.**

12 Q. So do you only DNA test if the citizen is
13 willing to do it and pay for it?

14 **A. Yes. If they would like that done, yes. I**
15 **think we've had – I have to take that back because**
16 **I – we may have done a couple where we have done it,**
17 **but I don't remember for sure. That's been a while**
18 **ago.**

19 Q. If that happened, what were the
20 circumstances that led to that?

21 **A. I don't remember. I don't remember for**
22 **sure.**

23 Q. So when you're in the field – it sounds
24 like you have to send away for those DNA tests.

25 **A. Yes.**

1 Q. DNA doesn't factor in when you're in the
2 field?

3 **A. No.**

4 Q. It's just visual characteristics that –
5 when you're in the field?

6 **A. Yes. And, quite frankly, a DNA test does**
7 **not provide for the American Pit Bull Terrier because**
8 **there's no such breed as the pit bull – American Pit**
9 **Bull Terrier in American Kennel Club.**

10 **So when you're testing for a pit bull, it's**
11 **not going to come back as a pit bull because there is**
12 **no pit bull listed in the American Kennel Club. It**
13 **could come back as American Staffordshire Terrier,**
14 **which is one of the dogs that are on the ban, but it**
15 **will not come back as American Pit Bull because**
16 **that's not part of the AKC.**

17 **Most of the DNA tests that you do are done**
18 **as American Kennel Club DNA test kits, and it's based**
19 **on the American Kennel Club dogs, because a lot of**
20 **the United Kennel Club dogs are mixed.**

21 Q. Okay. So...

22 THE WITNESS: I am sorry. Am I going too
23 fast for you?

24 THE COURT REPORTER: No.

25 THE WITNESS: Okay.

1 THE COURT REPORTER: Not as long as you're
2 not talking over him.

3 THE WITNESS: Okay.

4 MR. HASAN: Julie's pretty good.

5 Q. (By Mr. Hasan) When you are out in the
6 field and you encounter a dog, how soon – how
7 quickly do you make the determination of what breed
8 that dog is?

9 **A. Okay. You have to understand. It's very**
10 **rare that I ever go out on calls. If I do go out on**
11 **calls, it's usually a hoarder house or it's usually a**
12 **neglect case or something like that.**

13 Q. Okay.

14 **A. So it's very rarely that I go out on the**
15 **streets any more –**

16 Q. Okay.

17 **A. – with the animal control officers. So**
18 **from the last time I have picked up a dog, I can't**
19 **even tell when it – when that's been because I**
20 **typically do not go out for dogs at large, barking**
21 **dogs and things like that. I go out on the more**
22 **important cases that they have.**

23 Q. So when you do go out, how quick is it that
24 you make a determination on the breed of dog?

25 **A. You know, I can't tell you that I have**

1 actually been out in the streets myself and actually
2 picked up a pit bull –

3 Q. How about when you're back at the office?

4 A. – because I am not...

5 Q. If you have to identify the breed of a dog,
6 how quickly do you make that determination?

7 A. Usually once the animal control officer
8 brings the dog in it's a consensus of everyone. A
9 lot of different parties bring it up, and we discuss
10 it. We go over it. We look at the dog. And it's a
11 lot of us that make that decision, not just one
12 person.

13 Q. So tell me about that. Who all is involved
14 in that decision-making process?

15 A. It depends on how many people – there's
16 office staff. There's kennel help. There's – might
17 be a rescue that's there. It may be a number of
18 different – myself, my – the assistant manager. It
19 may come from a lot of different sources. It depends
20 on who's there at the time that the dog was brought
21 in.

22 Q. What happens if there's disagreements?

23 A. Then we discuss it. We talk about it. We
24 look at the dog. We go over the dog. And if we have
25 to err on the side of anything, we err on the side of

1 the owners and we let them take the dog home. But if
2 it's something that's blatant and it fits the
3 ordinance, which says it meets the predominant
4 characteristics of a pit bull, then it is a pit bull.

5 Q. So how do you make the ultimate
6 determination when you're debating? If there's --
7 you said that there's -- you might err on the side of
8 going to the city, but how do you make the ultimate
9 determination if there's a dispute whether or not you
10 think the dog falls under one of those definitions?

11 A. We get more – we get more people in to ask.
12 We get everybody's opinions to see what – we take a
13 consensus of a lot of different people that have dog
14 experience to say what they think it is.

15 Q. So what's the ultimate decision, though? Is
16 it, you know, majority rules? Is it – how does that
17 work?

18 A. Typically, if it meets the breed
19 characteristics, we go over the dog, and we talk
20 about it. We all – it's a consensus of everybody's
21 opinion that it comes to.

22 Q. When you say "consensus," does that mean
23 everyone has to agree that it's a pit bull?

24 A. Pretty much everybody, yeah, because
25 otherwise you're going to have the one guy that says,

1 no, I don't think it is. And then we discuss it and
2 say, this is why we think that it is. And then that
3 one person will say, oh, okay. Well, yes. All
4 right. I guess you're right. That's it.

5 Q. So when you say pretty much everyone, is it
6 everyone...

7 A. I can't say a hundred percent every single
8 time that every pit bull comes in is a hundred
9 percent. I don't know. We take a consensus of the
10 people that have the experience, knowledge. And they
11 will look at the animal and make their opinion as to
12 whether it is or isn't.

13 Q. For that consensus, is that consensus
14 subject to change for different dogs? You know, is
15 there one dissenter saying, no, I don't think that's
16 a pit bull in some cases and then in other cases
17 there may be two people saying, no, I don't think
18 that's a pit bull, or do you have an established
19 mechanism in place?

20 A. I guess it depends on the dog and who is
21 there at the time that the decision is made.

22 Q. So there's no mechanism as far as, like,
23 this is exactly how we determine whether or not the
24 dog...

25 A. Well, they all know what the breed standards

1 are. They all have enough animal experience that
2 they know exactly what those standards are. It's
3 just that sometimes they meet the breed
4 characteristics.

5 Like I said, if it looks like a duck, acts
6 like a duck, it's a duck. If it meets those breed
7 characteristics and appearance of a pit bull, then
8 that's what it is. And sometimes they come in and
9 they may have blue eyes, which is a Husky. Usually
10 they get that from a Husky, so you know that the dog
11 has been mixed with a Husky. But what does it have
12 the predominant characteristics of? And that's what
13 you have to decide. And so that's done by a group of
14 people that look at the animal and give their
15 opinions.

16 Q. So because -- I think this was implied in
17 your answer, but I want to make sure that I am not
18 making any assumptions. There can be differences of
19 opinion between you and members of your staff as to
20 whether or not the dog fits the definition of a pit
21 bull under the statute?

22 A. There can be, but most of the time the
23 ending decision is the same. We all get a consensus,
24 and we all talk about it, and we come to the same
25 conclusion.

1 Q. Okay. But there can be disagreements as to
2 whether or not...

3 **A. Typically not. They all agree that – we'll**
4 **all get in agreement one way or another, whether the**
5 **good side or to the bad side, but we all come into**
6 **agreement with what that dog is.**

7 Q. That's fair. I understand that you're
8 saying that you guys debate it and ultimately –

9 **A. Right.**

10 Q. – typically come to –

11 **A. Right.**

12 Q. – the same decision.

13 **A. Right.**

14 Q. Either early in that process or in the
15 atypical example, there are situations where members
16 of your staff and you may disagree as to whether or
17 not a dog fits under the definition of the pit bull
18 ban?

19 **A. Possibly.**

20 Q. Well, I want to make sure that we say
21 possibly versus is it always, every single time,
22 everyone on your team agrees one way or the other, or
23 are there times when some people...

24 **A. At the ending result, yes.**

25 Q. I am not talking about the ending result. I

1 am talking about...

2 **A. When they first come in?**

3 Q. Sure.

4 **A. Yes.**

5 Q. Yes, there are times when people disagree as
6 to whether or not a dog satisfies the definition?

7 **A. If an animal control officer brings in it,**
8 **he believes it's a pit bull, then we all get together**
9 **and we discuss it, and we talk about it, and we come**
10 **to the same conclusion.**

11 Q. So...

12 **A. But if he brings it in initially, or kennel**
13 **staff or anybody, yeah, I suppose at first, until we**
14 **can talk about it and come to a conclusion, yeah.**

15 Q. So then it is fair to say that there are
16 differences in opinion when you look – visually look
17 at a dog to see whether or not you – someone's
18 opinion...

19 **A. No. When they – when they initially bring**
20 **the dog in, it might be as – the animal control**
21 **officer say – may say this is a pit bull. Then we**
22 **all consensus and put together a – what we think it**
23 **is.**

24 Q. So that determination may change? It may
25 begin as, yes, it is a pit bull, and turn into, no,

1 it's not a pit bull, or it may be, no, it's not a pit
2 bull, and then turns into, yes, it is a pit bull?

3 **A. I don't know. I suppose. Be possible.**

4 Q. So you mentioned the way you determine these
5 is based on the AKC, UKC standards; is that right?

6 **A. Yes.**

7 Q. When you debate whether or not a dog
8 satisfies the definition of pit bull under the
9 statute, do you have those standards in front of you?

10 **A. Do I debate what?**

11 Q. If – okay. Let's go through a hypothetical
12 situation here where an animal control officer brings
13 in a dog that may or may not be subject to the pit
14 bull ban under the city code definition. Are you
15 with me? Are you on the same page as me right now?

16 **A. Okay. Well, typically, they won't just take**
17 **somebody's dog for being a pit bull.**

18 Q. No. But let's say...

19 **A. If a dog's running loose, he...**

20 Q. Okay. So let's start over this
21 hypothetical. There's an animal control officer who
22 picks up a dog at large –

23 **A. Uh-huh.**

24 Q. – brings it back, and you're going to make
25 the group determination you were just talking about

1 as to whether or not this dog fits the definition of
2 pit bull under the ordinance.

3 **A. He would bring it in and say what he thinks**
4 **it could possibly be.**

5 Q. Okay.

6 **A. I think this dog has got pit bull. I think**
7 **this could be a pit bull.**

8 Q. So let me...

9 **A. And then we all...**

10 Q. Let me start the hypothetical over. You
11 have got the animal control officer who picks up a
12 dog at large, has a belief as to whether, yes, it is
13 a pit bull or, no, it's not a pit bull. Brings it
14 in.

15 **A. Uh-huh.**

16 Q. Then you have got your group of individuals
17 who discuss and debate whether or not this dog is a
18 pit bull under the definition in the statute.

19 **A. Uh-huh.**

20 Q. Are you with me?

21 **A. Meets the – meets the – yeah.**

22 Q. Okay. So when you have that debate as to
23 whether or not it meets the definition under the
24 statute, do you have those AKC, UKC standards in
25 front of you when you're having that debate?

1 **A. No.**
 2 Q. So does everyone have those standards
 3 memorized?
 4 **A. You'd have to ask them.**
 5 Q. Okay. So for you, when you are a member of
 6 this team debating, what characteristics are you
 7 looking for? And I know we went through that big
 8 list about potential characteristics, but I want to
 9 talk about specifically if you're looking at a dog,
 10 what are the indicators that you look for to
 11 determine whether or not that is one of those dogs
 12 prohibited by statute?
 13 **A. Well, it's – like I said, it's a lot of**
 14 **different things. It's body type. It's body**
 15 **structure, the characteristics, the appearance, the**
 16 **temperament. There's a lot of things that enter**
 17 **into, and you can't just say there's one thing that**
 18 **we look at.**
 19 **We look at the head, and if the head meets**
 20 **it. No. We look at the whole structure of that dog.**
 21 **We go over him from head to tail and see if he meets**
 22 **the breed req- – the appearance and characteristics**
 23 **of that breed.**
 24 **We also will check to see if that dog has**
 25 **been previously licensed. If that dog has been**

1 **previously licensed as a pit bull, it's a pit bull.**
 2 **If the dog has never been previously licensed, then**
 3 **we wait for the owners to come forward to say, what**
 4 **is your dog.**
 5 **If it meets the bully characteristics and**
 6 **they say it's a Chihuahua, well, we have a problem.**
 7 **Okay. So it – there's a number of different factors**
 8 **that enter into that. So not just the breed**
 9 **characteristics or its appearance, but also with the**
 10 **information that we gather from the owner on what**
 11 **they believe that their dog is.**
 12 Q. Are there any disqualifying characteristics
 13 that a dog may have?
 14 **A. Faults, you mean?**
 15 Q. No. I mean more that the dog's picked up
 16 and there's a trait. You mentioned a lot of them,
 17 body type, temperament. Is there...
 18 **A. If it – if...**
 19 Q. Sorry. Let me finish my question –
 20 **A. Okay.**
 21 Q. – so Julie gets it.
 22 **A. Okay.**
 23 Q. You mentioned all of these different
 24 characteristics. Is there a specific characteristic
 25 that if a dog possesses that characteristic it's

1 default not going to fit under the definition?
 2 **A. It depends on what the predominant**
 3 **characteristic of that dog is. If I have a – if I**
 4 **have a dog that came in that has blue eyes, it – you**
 5 **can definitely say it's got Husky within it, but it**
 6 **still could have the characteristics of the Am Staff**
 7 **or the pit bull, depending on what the ma- – the**
 8 **majority of that characteristic is.**
 9 **You could have a blue-eyed pit bull. It**
 10 **meets – if it has all the characteristics of that Am**
 11 **Staff or the pit bull but it has blue eyes, you know**
 12 **it's a mix, but its predominant characteristics are**
 13 **that as a pit bull. So it becomes – then it is a**
 14 **pit bull.**
 15 **But then there's been other ones that have**
 16 **come in that have a longer snout, the blue eyes, and**
 17 **they might have some of the structure of the pit**
 18 **bull, but it doesn't meet the requirements of the**
 19 **ordinance that says it meets those characteristics;**
 20 **so, therefore, it goes – it may have pit bull in it,**
 21 **but it still can go home because it doesn't meet**
 22 **those characteristics.**
 23 Q. So you had a couple of points in there that
 24 I want to hit on, one of which I don't think we've
 25 covered so far. So you mentioned that the way you

1 determine is based on the standards set forth by the
 2 AKC and UKC. And that's right?
 3 **A. Uh-huh.**
 4 Q. That is right; right?
 5 **A. Yes.**
 6 Q. And would you agree with me that those are
 7 for purebred dogs?
 8 **A. Well, the AKC would be yes for purebred**
 9 **dogs. The United Kennel Club is not necessarily**
 10 **because they make up of different dogs, but they**
 11 **still – you can show them in United Kennel Club.**
 12 Q. Right. So under the UKC definition of
 13 American Pit Bull Terrier –
 14 **A. Uh-huh.**
 15 Q. – that is, under the UKC, a purebred
 16 American Pit Bull Terrier?
 17 **A. Yes.**
 18 Q. So...
 19 **A. Is what they say it is, but the American**
 20 **Kennel Club does not recognize it –**
 21 Q. Okay.
 22 **A. – because it is a mix.**
 23 Q. But the UKC does?
 24 **A. The UKC does.**
 25 Q. So all of those definitions that you're

1 talking about under the standards, with the caveat
 2 that the UKC is the UKC and the AKC is the AKC --
 3 **A. Right.**
 4 Q. -- those are for purebred, those dogs,
 5 again, with that caveat with the UKC?
 6 **A. It -- yeah. The UKC -- yeah. The UKC is**
 7 **going to be different than what the American Kennel**
 8 **Club could be. Yes.**
 9 Q. Right.
 10 **A. They're just different.**
 11 Q. In fact, each one of these dogs will have
 12 different characteristics?
 13 **A. Yes. Yes.**
 14 Q. And we are talking about pure breeds.
 15 American Pit Bull Terrier, American Staffordshire
 16 Terrier and Staffordshire Bull Terrier are purebreds?
 17 **A. American Pit Bull -- or, no. Wait.**
 18 **American Staffordshire Terrier, yes. Yes. But the**
 19 **American Pit Bull is a UKC breed.**
 20 Q. Correct.
 21 **A. Uh-huh.**
 22 Q. So those standards are for purebred
 23 standards?
 24 **A. It's what they look for in their kennel club**
 25 **as their standards for those dogs.**

1 Q. And you rely on what they look for when...
 2 **A. I wouldn't say they're purebreds because**
 3 **they're not purebreds. American Pit Bull Terrier is**
 4 **not a purebred.**
 5 Q. A...
 6 **A. It's their standard --**
 7 Q. It's their standard for that --
 8 **A. -- for that club.**
 9 Q. -- group of dogs. Right.
 10 **A. For their club. Yes.**
 11 Q. For their club --
 12 **A. Yes.**
 13 Q. -- for that breed of dog?
 14 **A. Yes.**
 15 Q. And you said it's those standards that you
 16 rely on to determine whether or not a dog that is
 17 picked up fits one of these breeds?
 18 **A. Yes. But, again, with the UKC, that pit**
 19 **bull is a mixed-breed dog.**
 20 Q. I understand that.
 21 **A. Okay.**
 22 Q. But those standards that are articulated on
 23 the UKC's definition --
 24 **A. Right.**
 25 Q. -- for American Pit Bull Terrier --

1 **A. Right.**
 2 Q. -- those are the standards for an American
 3 Pit Bull Terrier?
 4 **A. For an American Pit Bull Terrier. Yes.**
 5 Q. Right. So all of those definitions, they
 6 have to do with purebreds as defined by those
 7 organizations?
 8 **A. Right. But those also can vary because**
 9 **their standards -- your standards can vary. You can**
 10 **still have a pit bull, but it might not meet those**
 11 **standards perfect. Even when we show our Shepherds,**
 12 **there are Shepherds that are roach backs and there's**
 13 **Shepherds that are angled. They're both Shepherds.**
 14 **They're both show dogs, but they have -- they're**
 15 **different.**
 16 Q. Let's talk about that. And let's not talk
 17 about how there are not just differences amongst
 18 individual dogs. What about mixed-breed dogs? Are
 19 you familiar with how mixed-breed dogs will exhibit
 20 characteristics, its physical characteristics?
 21 **A. Yes.**
 22 Q. How?
 23 **A. It depends on which parent they pulled it**
 24 **from.**
 25 Q. So...

1 **A. Which parent they have the predominant**
 2 **characteristics of. Just like with people. Depends**
 3 **on what characteristics you get pulled from, your**
 4 **mother or your father.**
 5 Q. So for dogs, if there's a purebred dog and a
 6 purebred dog mixed together...
 7 **A. Doesn't necessarily mean -- I have -- and**
 8 **I've seen that happen where you have got two purebred**
 9 **dogs together and you end up with a mutt. And that's**
 10 **why a lot of breeders will have pet quality and**
 11 **they'll have show quality because pet quality are**
 12 **ones that just didn't meet the standards. They just**
 13 **didn't make it.**
 14 **And then all of a sudden you'll have one**
 15 **that's totally different that you wonder where the**
 16 **heck that came from. So it just depends on what your**
 17 **bloodline is and what you're breeding.**
 18 Q. Okay. So you can have two purebred dogs --
 19 **A. Sure.**
 20 Q. -- that have an offspring that looks nothing
 21 like the purebred dog?
 22 **A. No, I wouldn't say nothing like it. It's**
 23 **just the standards of that dog are completely off.**
 24 Q. So you could have two purebred dogs whose
 25 offspring doesn't meet the standards for that

1 purebred?
 2 **A. Correct. Yes.**
 3 Q. In your experience can you have two
 4 mixed-breed dogs that will exhibit the physical
 5 traits of a purebred dog?
 6 **A. Taking two mixed-breed dog – I guess it**
 7 **depends on what their lineage was, what their parents**
 8 **were. You have to look past their parents. I've**
 9 **seen dogs that are – the people come in and say it's**
 10 **a Chihuahua and the parents come from a wien – a**
 11 **Dachshund and a Shih Tzu. I mean, you just don't**
 12 **know what those – the lineage was, the heritage was**
 13 **of those dogs because anything can pop through later**
 14 **on.**
 15 Q. So the –
 16 **A. Especially with a mixed-breed dog.**
 17 Q. – physical characteristics may not be
 18 indicative of what the actual bloodline lineage is?
 19 **A. The bloodline lineage is different than**
 20 **appearance and characteristics.**
 21 Q. Okay.
 22 **A. If it meets the appearance and**
 23 **characteristics of a Chihuahua, it's a Chihuahua. So**
 24 **it's the fiscal characteristics that we're looking**
 25 **at, the appearance and the physical characteristics**

1 **of that dog, if it is that it looks like a Chihuahua,**
 2 **acts like a Chihuahua, it's a Chihuahua.**
 3 Q. So you're saying that the physical
 4 characteristics are what define the type of dog, not
 5 the DNA?
 6 **A. The DNA would – yes, in the American Kennel**
 7 **Club it would give you a specific DNA on that dog.**
 8 **On an American Staffordshire Terrier – or, no.**
 9 **American Staffordshire Terrier, it would give you the**
 10 **physical characteristics of that dog and it would**
 11 **give you the makeup of that dog and maybe what its –**
 12 **it has in its background. It should come back as**
 13 **solid American – American Staffordshire Terrier, but**
 14 **the American Pit Bull won't because they've crossed**
 15 **breeds to get that breed.**
 16 Q. Okay. So let's talk about your example of
 17 an American Staffordshire Terrier. And you're
 18 looking at a dog that you believe visually is an
 19 American Staffordshire Terrier.
 20 **A. I have showed against many of them.**
 21 Q. Okay. So is it your opinion that the visual
 22 characteristics are what define whether that dog is a
 23 purebred?
 24 **A. It would have to – if you're looking at a**
 25 **purebred American Staffordshire Terrier?**

1 Q. Yes.
 2 **A. Is that what you're saying?**
 3 Q. I am asking you how you define whether it's
 4 purebred or not.
 5 **A. It – so you bring an American Staffordshire**
 6 **Terrier in here and you...**
 7 Q. I am bringing a dog in here and...
 8 **A. A dog or an American Staffordshire Terrier?**
 9 Q. I am – a dog that fits the definition –
 10 let me start over because I think we've got this
 11 question broken up a little bit.
 12 I bring in a dog that fits the AKC standards
 13 word for word of the characteristics for an American
 14 Staffordshire Terrier.
 15 **A. Staffordshire Terrier. Okay.**
 16 Q. Is it your opinion that that dog that I
 17 bring in here is an American Staffordshire Terrier
 18 regardless of what the DNA for that dog shows?
 19 **A. You can test it and see if it does come back**
 20 **as American Staffordshire Terrier, and it should if**
 21 **it is a purebred American Staffordshire Terrier.**
 22 Q. Setting aside whether it's a purebred –
 23 **A. It should.**
 24 Q. – I think I asked the question...
 25 MR. HASAN: Well, Julie, would you mind

1 reading it back?
 2 (The requested question was
 3 read by the court
 4 reporter.)
 5 Q. (By Mr. Hasan) That's my question. So
 6 regardless of what the DNA test is, is it your
 7 opinion that because the physical characteristics
 8 meet the physical characteristics set forth by the
 9 AKC standards, that is a purebred dog?
 10 **A. So are you trying to say that the DNA is**
 11 **going to supersede what the physical characteristics**
 12 **and appearances are?**
 13 Q. I am asking you whether that's your opinion,
 14 whether the DNA is subordinate to the physical
 15 characteristics or if the DNA is actually the – the
 16 more important indicator.
 17 **A. Both. We use them both. I mean, you can**
 18 **certainly take a swab out of the dog and find out**
 19 **what the dog is, especially if you bring that dog in**
 20 **here and I say, that's an American Staffordshire**
 21 **Terrier, and you say, no, I want to swab it. Okay.**
 22 **Let's swab it and see what it comes back as.**
 23 Q. Maybe if we get out of the context of dog
 24 shows because that's where I was going to transition
 25 to. The same question that we just had with regard
 to a show dog, but talk about a bring – being

1 brought into a kennel. You -- I bring in a dog into
2 the kennel that has 100 percent word match-to-match
3 characteristics for the AKC standards for an American
4 Staffordshire Terrier.

5 **A. Okay.**

6 Q. Physical characteristics match every single
7 standard --

8 **A. Okay.**

9 Q. -- that is listed on that --

10 **A. Okay.**

11 Q. -- that AKC standard.

12 **A. Okay.**

13 Q. Are you on the same page as me?

14 **A. Right.**

15 Q. You obviously have that in the kennel, and
16 you're basing it on physical characteristics.

17 **A. Right.**

18 Q. If it turns out the DNA of that dog shows it
19 is not an American Staffordshire Terrier, is it still
20 your opinion that that dog, based on the physical
21 characteristics, is an American Staffordshire
22 Terrier?

23 **A. It's based on the physical and the -- the
24 physical characteristics of that dog.**

25 Q. So if that dog that's brought into the

1 kennel, if the owner pays for a DNA test --

2 **A. We...**

3 Q. -- and that DNA test shows that, in fact...

4 **A. Or they come in with the AKC paperwork.**

5 Q. Let me -- let me finish here.

6 **A. Okay.**

7 Q. So that dog that comes in and meets the
8 standards word for word for a purebred American
9 Staffordshire Terrier, if that owner pays for a DNA
10 test --

11 **A. Uh-huh.**

12 Q. -- and that DNA test comes back showing
13 that, in fact, it is only 12 percent American
14 Staffordshire Terrier, what is your determination as
15 to whether or not that dog is an American
16 Staffordshire Terrier?

17 **A. It still meets the breed characteristics
18 of -- appearance and characteristics of an American
19 Staffordshire Terrier.**

20 Q. So it would be your opinion that under the
21 statute -- that under the ordinance, the pit bull
22 ban --

23 **A. Uh-huh.**

24 Q. -- that dog would still be a prohibited pit
25 bull even though the DNA said that it was only 12 and

1 a half percent American Staffordshire Terrier?

2 **A. Yes. It would -- if it still has the breed
3 characteristics and the appearance of a pit bull,
4 it's a pit bull.**

5 Q. Regardless of the DNA?

6 **A. If they came forward, if the owners came
7 forward with AKC paperwork that says we have an
8 American Staffordshire Terrier, absolutely, because
9 that's been recognized by the American Kennel Club
10 that it is exactly what it is.**

11 Q. I understand...

12 **A. But there's too much -- there's too much
13 openings with those DNAs. There's just -- it's not a
14 proven -- proven reliable way of determining the
15 breed of a dog.**

16 Q. And I want to circle back because I want to
17 make sure you understand my question because you're
18 bringing up -- you keep bringing up the owner
19 bringing in AKC paperwork. That's not the
20 hypothetical I am posing to you.

21 **A. Okay.**

22 Q. The hypothetical that I am posing to you is
23 a dog at large is picked up.

24 **A. Uh-huh.**

25 Q. It comes in --

1 **A. Uh-huh.**

2 Q. -- and you make the visual identification --

3 **A. Uh-huh.**

4 Q. -- that that thing meets word for word the
5 standards --

6 **A. Uh-huh.**

7 Q. -- that the AKC has set forth for American
8 Staffordshire Terrier. That owner then gets the
9 DNA -- pays for the DNA test and that DNA test comes
10 back 12 percent American Staffordshire Terrier and
11 78 percent something else...

12 **A. And the rest of it is pit bull.**

13 Q. No. No. No. That's not my hypothetical.

14 **A. Okay.**

15 Q. It's something that does not fit one of
16 these statutory definitions.

17 **A. Okay.**

18 Q. It does not fit under American Pit Bull
19 Terrier, Staffordshire...

20 **A. Then that's something that we would have to
21 discuss.**

22 THE COURT REPORTER: You cannot talk at the
23 same time, though.

24 THE WITNESS: Okay.

25 Q. (By Mr. Hasan) Now...

1 **A. That's open. We would have to discuss that**
2 **at that time.**

3 Q. So I want to discuss it right now because if
4 you have got that dog that meets the --

5 **A. Uh-huh.**

6 Q. -- visual identifiers for an AKC American
7 Staffordshire Terrier --

8 **A. Uh-huh.**

9 Q. -- but the DNA results show that it is
10 not -- it is 12 and a half percent, and it is not
11 50 percent --

12 **A. Uh-huh.**

13 Q. -- American Staffordshire Terrier --

14 **A. Uh-huh.**

15 Q. -- do you think that that is still a
16 prohibited pit bull under the stat- -- under the
17 ordinance?

18 **A. That's something I'd have to discuss with**
19 **the legal team.**

20 Q. I'd actually ask you because you're the one
21 who makes the initial determination. You said...

22 **A. I already determi- -- determined it. You**
23 **brought it in. I said it's American Staffordshire**
24 **Terrier. We then did the DNA test. Comes back 12**
25 **percent. I would refer to the head of the legal**

1 **department to say at this point what do we legally --**
2 **what are we legally supposed to do.**

3 Q. So in your opinion, setting aside the
4 legal...

5 **A. I -- that doesn't pertain to my opinion. My**
6 **opinion, I already said that if it looks like a pit**
7 **bull, acts like a pit bull, it's a pit bull. By the**
8 **appearance and characteristics of the dog you**
9 **presented before me, that would be a pit bull.**

10 Q. Well, I am asking -- so your opinion is that
11 it is based on the visual characteristics, not the
12 DNA test?

13 **A. The appearance -- the appearance and**
14 **characteristics. The DNA test can be -- can --**
15 **they're not a hundred percent. So, yes, it would be**
16 **the physical appearance and characteristics of that**
17 **dog.**

18 Q. Okay. Visual, not DNA?

19 **A. It may be both. I would -- like I said, I**
20 **would have to consult with the legal team to find out**
21 **exactly what our legal rights would be.**

22 Q. Without consulting with the legal team,
23 without talking about legal rights, I am asking you
24 that if you were trying to make, in your 40-plus
25 years of experience...

1 **A. I already did. I already did.**

2 Q. Let me finish my question, please, Cindy.

3 **A. Okay.**

4 Q. If you were trying to make the determination
5 of your opinion, is this dog an American
6 Staffordshire Terrier or not, and you were presented
7 with the physical characteristics and you were at the
8 same time presented with the DNA test, is it your
9 opinion that it is an American Staffordshire Terrier
10 or not?

11 **A. If it -- it is.**

12 Q. It is?

13 **A. Yeah.**

14 Q. Based on the visual appearance?

15 **A. Yes. We -- and the 12 percent that said**
16 **that it's something else. And it would depend on**
17 **what that something else is.**

18 Q. So visual characteristics over DNA tests
19 then, in your opinion?

20 **A. On this case.**

21 Q. Right. In your opinion, visual over DNA
22 test?

23 **A. I think I would have to take them into both**
24 **consideration, but...**

25 Q. Okay. But if you took them both into

1 consideration...

2 **A. I already told you. If it came into the**
3 **room, visually I would say it was a pit bull or an**
4 **American Staffordshire Terrier.**

5 Q. And you have the same DNA test presented at
6 the same time, would your opinion remain the same?

7 **A. I don't know.**

8 Q. Well, right now, if this is your
9 hypothetical, what would you say?

10 **A. I would say I would need to contact the city**
11 **legal department to find out what our -- what our...**

12 Q. So you wouldn't make a determination. You
13 wouldn't say, I think it is a pit bull or I think
14 it's not a pit bull?

15 **A. I would discuss it with them first and let**
16 **them know what my determination is, that I feel that**
17 **this dog is a pit bull --**

18 Q. And I...

19 **A. -- and also what the...**

20 Q. So it's that that I am looking for.

21 MR. VONDRAK: I think the -- the -- it's
22 the same thing. You -- you're -- I am trying to
23 listen to his question. You're cutting her off.
24 She's cutting you off.

25 MR. HASAN: So I...

1 MR. VONDRAK: At some point --
 2 MR. HASAN: I understand. I am sorry,
 3 Justin. Yeah.
 4 MR. VONDRAK: -- rein this in.
 5 MR. HASAN: And I -- I just want -- I am
 6 trying to get to...
 7 MR. VONDRAK: It's getting confusing for
 8 probably Julie as well.
 9 Q. (By Mr. Hasan) Yeah. Sorry about that. I
 10 am trying to just get to one point here, Cindy, and I
 11 know you want to keep on talking about going to
 12 legal, but I am asking you a pretty simple question
 13 here.
 14 **A. And I -- and I just told you.**
 15 Q. So I am asking you, if you have got the
 16 visual characteristics and the DNA at the same time,
 17 are you going -- in your opinion on breed, are you
 18 going to defer to the visual characteristics?
 19 **A. Yes.**
 20 Q. Thank you. Now, you mentioned the 12 and a
 21 half percent versus whatever the rest is. The
 22 wording of the statute -- do you have it in front of
 23 you? Well, pull it up so that way we can make sure
 24 we're on the same page. It lists the three
 25 purebreds, and then says what?

1 **A. Are -- which has the appearance and**
 2 **characteristics of being predominantly of the breeds**
 3 **of Staffordshire Bull, blah-blah-blah,**
 4 **blah-blah-blah.**
 5 Q. Okay. So --
 6 **A. Yeah.**
 7 Q. -- the appearance and characteristics of
 8 being predominantly those purebreds?
 9 **A. Right. Right.**
 10 Q. How do you determine what's predominant?
 11 **A. The appearance and characteristics of each**
 12 **dog.**
 13 Q. No. I understand that. But how do you
 14 identify whether the appearance and characteristics
 15 predominate? What do you look for as the -- what
 16 predominates?
 17 **A. We went through all of this.**
 18 Q. No. I understand that there are different
 19 characteristics of dogs, but let's use a couple of
 20 examples. Let's create a finite world here instead
 21 of the multiple characteristics on a dog. Let's talk
 22 about just head size, body type and ear type. Are
 23 those three fair indicators for characteristics and
 24 appearance of a dog?
 25 **A. Sure.**

1 Q. Can you -- do you want to use different
 2 examples? I am happy to use different examples.
 3 **A. No. That's fine.**
 4 Q. So you have three right there. And how do
 5 you determine that those three aren't all compliant
 6 with the standards of one of these breed types? How
 7 do you determine whether or not that dog is
 8 predominantly one of these breed types?
 9 **A. I guess you lost me.**
 10 Q. Okay. Let me see if I can phrase it a
 11 different way. You have got a mixed-breed dog that
 12 comes in.
 13 **A. Okay.**
 14 Q. That mixed-breed dog, because it is not a
 15 purebred, will display different physical
 16 characteristics from its heritage, is that right, its
 17 lineage?
 18 **A. If it's a mixed breed, yeah.**
 19 Q. Right. So it's not going to only show the
 20 American Staffordshire...
 21 **A. But it's the predominant features of that**
 22 **dog that will give you the characteristics too.**
 23 Q. That's what I am asking you for. What makes
 24 something predominant? How do you determine whether
 25 something is predominant?

1 **A. By looking at it.**
 2 Q. I understand. But looking at it, how do you
 3 decide? How do you actually make the decision? Is
 4 it just kind of look at it and, well, that seems to
 5 me to be an American Staffordshire Terrier, or do you
 6 take specific factors in?
 7 **A. Specific factors like what?**
 8 Q. Yeah. Do you go, okay, this thing has the
 9 ears of an American Staffordshire Terrier?
 10 **A. Yeah. We went over that. We...**
 11 Q. We went over a long list; right?
 12 **A. Right. Right.**
 13 Q. I mean, we went over...
 14 **A. So we take all of the -- right. We take all**
 15 **of those into consideration.**
 16 Q. Do you have, like, a piece of paper that has
 17 all of these characteristics and you go through and
 18 you check off?
 19 **A. No.**
 20 Q. So --
 21 **A. No.**
 22 Q. -- I have listed -- let's see here, I had A
 23 through Z in different indicators that you said you
 24 take into account. Sorry. No. It would be C
 25 through Z because you said color does not factor in.

1 So that's – what is that? – 24 different factors
2 that we went over that you agreed could factor in to
3 the characteristics of a dog.

4 **A. Uh-huh.**

5 Q. And that wasn't an exhaustive list. Those
6 were 24 examples that we went over; right?

7 **A. Right.**

8 Q. So if we have got 24 different examples of
9 characteristics for the physical appearance of a dog,
10 if you – how do you determine what is predominant?
11 Is it 12 out of those 24 characteristics?

12 **A. There is no set number. You could tell by
13 looking at them whether they've got those specific
14 characteristics because you have done it for so long.
15 You don't have to have a checklist of, oh, now did
16 we – oh, do we – you just know because you have
17 been around dogs enough to know.**

18 Q. So, in theory, then...

19 **A. If I tell you what a Chihuahua is, are you
20 going to know what a Chihuahua is?**

21 Q. I am not qualified to have that, and
22 actually...

23 **A. You couldn't tell me what a Chihuahua looks
24 like?**

25 Q. I – actually, I have a question for you.

1 Are you –

2 **A. And how do you know it's a, you know...**

3 Q. – familiar with the current science related
4 to an individual's ability to identify a dog's
5 predominant breed based on visual information?

6 **A. No.**

7 Q. Have you – you haven't looked at any
8 studies or anything of that nature?

9 **A. No.**

10 Q. So if I told you that the current science
11 says that an individual – a trained individual with
12 decades of experience is wrong 60 percent of the
13 time, would that surprise you?

14 **A. No, not when it comes to shelter dogs
15 because they're all pretty much mixed.**

16 Q. So it wouldn't surprise you that if you try
17 to visually identify a shelter dog, 60 percent of the
18 time that visual identification would be wrong?

19 **A. That – that wouldn't – that wouldn't
20 surprise me because they're all mixed breeds.**

21 Q. So because they're mixed breeds, you can't
22 accurately say, based on visual identification,
23 whether that dog is predominantly...

24 **A. You could get a pretty – you could
25 predominantly say what it is. You don't know his**

1 **lineage or his background, but you can – looking at
2 the dog you – can give you a pretty good idea.**

3 **As an – I am using a Chihuahua as an
4 example. You can look at that dog and you can tell
5 it's a Chihuahua. You – how are you going to know?
6 You just know because it's a Chihuahua. Is it a
7 purebred? I doubt it. But in – there might be
8 different mixed breeds in with it.**

9 **There's no way to realistically know what
10 the lineage or the background of that dog is, but the
11 predominant characteristics of that dog meets the
12 standards of what has been set forth by the AKC or
13 UKC that that is a Chihuahua.**

14 Q. So the word – phrase you used, I think,
15 was, you just know. That – you said that; right?

16 **A. Forty years of experience tells me I know.**

17 Q. Okay. So if I told you, going back to what
18 I mentioned earlier, that the current state of the
19 science behind visual identification says that
20 individuals with the same experience and training as
21 you have had –

22 **A. Uh-huh. Uh-huh.**

23 Q. – are wrong 60 percent of the time based on
24 the predominant breed, they're wrong 60 percent of
25 the time on identifying the predominant breed of a

1 dog..

2 **A. Oh, predominant breed? No. Probably not on
3 the predominant breed. I thought you meant looking
4 at the breed.**

5 Q. So if you were to – again, I am going to go
6 back and rephrase my question. If I were to tell you
7 that the current state of the science says that an
8 individual with similar training and experience to
9 you is wrong 60 percent of the time in visually
10 identifying the predominant breed of a dog, would
11 that surprise you?

12 **A. Yes, it would. Yes, it would.**

13 Q. So you...

14 **A. Originally I said no because there's a lot
15 of people that don't know dogs, but for the people
16 that I know that know dogs, they would be able to
17 tell you the predominant characteristics. They might
18 not be able to tell you exactly what that dog is, but
19 they would be able to tell you the predominant
20 characteristics of that dog, what it looks like.**

21 Q. No. I understand that you haven't read the
22 science, so I am not going to – I am not going to
23 ask you to opine on whether or not the science is
24 correct, but if you assume that the science is
25 correct here, I want you to assume that that study –

1 **A. Okay.**
 2 Q. – those studies out there are correct, that
 3 60 percent of the time individuals with your skill
 4 level and experience are wrong –
 5 I want you to assume that's true, okay?
 6 **A. Okay.**
 7 Q. – would that change your thought process as
 8 to how you determine whether or not a dog is
 9 predominantly a specific breed?
 10 **A. No.**
 11 Q. You would still operate the same way?
 12 **A. Yes.**
 13 Q. Why?
 14 **A. Because I know the breeds –**
 15 Q. If I were to tell you...
 16 **A. – of all the dogs. Well, I don't know what**
 17 **that study is.**
 18 Q. Sure. So, I mean...
 19 **A. I don't know what people that they took to**
 20 **identify these dogs. Were they people off the**
 21 **street? Absolutely, they wouldn't be able to**
 22 **identify them.**
 23 Q. I understand. So I am not going to...
 24 **A. Take dog show people, take people that know**
 25 **dogs, and they may be able to tell you. It may be**

1 **different.**
 2 Q. So I want to...
 3 **A. But I don't know what that statistic is.**
 4 **So...**
 5 Q. I won't dwell on this too long –
 6 **A. Okay.**
 7 Q. – because I am not going to ask you to
 8 agree with the science, but I want you to assume the
 9 science is true because if – assume that this –
 10 these studies show...
 11 **A. But...**
 12 Q. Let me finish.
 13 **A. Okay.**
 14 Q. Assume that these studies show that
 15 individuals just like you – just like you, dog show
 16 people, animal control officers, judges in dog
 17 shows – are wrong on visual identifications
 18 60 percent of the time, assume that is true. And I
 19 will represent to you that there are studies out
 20 there that say this.
 21 **A. Okay. Okay.**
 22 Q. You don't have to agree with them.
 23 **A. Okay.**
 24 Q. But I am going to tell you that they are out
 25 there, and assume that is true. Would that change

1 the way that you identify what – how a dog fits into
 2 the pit bull ban?
 3 **A. No, because I use my knowledge along with**
 4 **what it states in the ordinance to make my decision.**
 5 Q. So even...
 6 **A. I am not going to give an opinion one way or**
 7 **another of the study that you did or the people**
 8 **that – or what's in that study. I know based on my**
 9 **own opinion. That's – that's what I base it on.**
 10 Q. Okay. Okay. Is there anything – other
 11 than referring to your interpretation of the
 12 standards for the AKC and UKC characteristics for
 13 these specific breeds, is there anything else that
 14 you do to determine whether or not a subject dog, a
 15 dog that's brought in, is predominantly one of the
 16 prohibited breeds?
 17 **A. I just – I want to see them. I want to**
 18 **physically see them. I don't go by what's in a**
 19 **picture or anything like that. I physically want to**
 20 **see them and put my hands on them. So I want to**
 21 **physically see them first.**
 22 Q. Do you ever compare that dog with photos of
 23 other dogs?
 24 **A. Sometimes. Sometimes we have. I don't**
 25 **remember if it was a court case we had, but I think**

1 **we have. I think we've done pictures just to show**
 2 **the judge the differences in the dogs or something**
 3 **like that.**
 4 Q. Do you ever compare them side by side with
 5 other dogs?
 6 **A. You mean put the two dogs side by side?**
 7 Q. Yeah.
 8 **A. No.**
 9 Q. No. Anything else you can think of?
 10 **A. Nope.**
 11 Q. You said that you went through the National
 12 Animal Control Association training. That's right,
 13 isn't it?
 14 **A. Uh-huh. Yes.**
 15 Q. Are you familiar that the current training
 16 manual for the National Animal Control Association
 17 states that it's – that visually identifying the
 18 heritage of a mixed-breed dog is nearly impossible?
 19 **A. Nope. Didn't know that.**
 20 Q. Okay. Let's go forward. So you have made
 21 the determination that a dog is a pit bull under the
 22 ordinance. What do you do next?
 23 **A. Well, then it depends on – typically we –**
 24 **the owners are contacted. Again – well, let me back**
 25 **up. We first off check to see if they have a**

1 microchip. We also check to see if they have been
2 previously registered with the city as a pit bull
3 because if they have been they can go home.

4 If they haven't been, then we contact the –
5 we still contact the owners or sometimes the owners
6 will call us within a couple of days. We, of course,
7 have to hold them seven days to give the owners a
8 chance to claim them. Then the owners will come
9 forward.

10 If they come forward and they say, yes, you
11 have got my pit bull, okay. Great. Then what we
12 have to do is you – since we have a ban in our city,
13 you're going to have to sign the dog out of the city
14 limits to where there's a place that we – you can
15 have this. We need the identification from the
16 person that's going to take the dog, and you will
17 have to sign that dog over to them and so then they
18 can take the dog out, but it can never be returned.

19 If it's ever found in the city after that –
20 and we do microchip it before it leaves. If it's
21 ever found in the city after that, then – then it's
22 a question as to whether they will get the dog back
23 or not. But we do use rescues, and we do send the
24 dogs out to rescues of the ones that we get that are
25 able to be adopted.

1 Q. Do you issue citations?

2 A. Yes.

3 Q. Under what circumstances?

4 A. Oh, gosh, you're asking me – usually if
5 it's a pit bull or a dog that – usually if they're
6 running loose or they've caused some problems, they
7 do issue a ticket for, oh, gosh, duty of owner, I
8 believe, and then illegal – illegal – I don't know
9 the section number.

10 Q. Yeah. I won't hold you to the exact
11 wording.

12 A. So they do – they do issue tickets.

13 Q. Is it always issuing tickets?

14 A. Sometimes they do, and sometimes they don't.
15 Depends on the situation. If it's just somebody that
16 says, yeah, you got my pit bull, you got me, I had
17 him here in town and, yeah, you got me. Okay. I am
18 going to give him to Joe blow here and he's going to
19 take him out of town.

20 We microchip him, take their picture before
21 they leave so that if they ever do come back in the
22 city we know, and then they don't get them back. We
23 send them out to rescue. What was the question
24 again? Sorry.

25 Q. If you always issue citations or...

1 A. Oh, so sometimes they're issued citations,
2 but sometimes they're not. If it's just a pit bull
3 that was – passed through and they're taking it out
4 of town and – sometimes we don't. Sometimes we
5 don't. Just depends on the circumstances.

6 Q. If you don't, is there a warning given?
7 What happens if you don't issue the citation?

8 A. Well, like I said, they have to sign a big
9 form that basically says they understand that they
10 have to take the dog out, can't come back. So it's
11 kind of like a warning letter. And we explain it to
12 them, let them know that the dog can't come back in
13 and that type of thing.

14 Q. Do you take pictures of dogs that are
15 impounded?

16 A. Yes. Yes.

17 Q. Always?

18 A. You know, I do the cats. My husband does
19 the dogs. He does, I think, the dogs, like, three
20 times a week because there's such an influx of dogs.
21 And I do the cats. So he pretty much tries to keep
22 up on it, but to say every dog gets a picture, no,
23 not on an everyday basis, but he does the best he can
24 taking pictures.

25 Q. I will ask him about that. He's in next;

1 right?

2 A. Yes.

3 Q. I will ask him about that, but do you know
4 if there's a procedure or a process in place about
5 when or when not to take pictures of a dog that's
6 been picked up?

7 A. No.

8 Q. There's not one of those processes or
9 procedures in place?

10 A. Of when not to take pictures?

11 Q. When to or when not to, either way.

12 A. No. Every dog that's impounded we try and
13 get on our website so that people can see that
14 they're there. So we try to always take their
15 pictures unless they have bitten somebody, unless
16 they're a dog that has actually bitten somebody.

17 Those don't go on the website because those
18 aren't available for adoption, or a dog that's there
19 under quarantine does not get his picture taken
20 because he's under quarantine and he belongs to
21 somebody, basically.

22 Q. Okay. So every dog that's picked up...

23 A. Is not necessarily pictured.

24 Q. How about every dog that's picked up under
25 the pit bull ban that hasn't bitten someone? Would

1 every one of those dogs be pictured?
 2 **A. Those do. Those do. Yep. Yep.**
 3 **Q. Okay.**
 4 **A. Unless we know it's somebody's dog. If we**
 5 **know that it's somebody's dog, then we typically**
 6 **don't because they know that it's there and they're**
 7 **going to be coming to get it.**
 8 **Q. Do you mean when you know it's someone's**
 9 **dog, you know it's someone's dog when you pick it up**
 10 **or...**
 11 **A. Sometimes they do, whether they have tags on**
 12 **or they've got the microchip or something like that.**
 13 **Then we know it's somebody's dog. So we don't**
 14 **necessarily put that on.**
 15 **Q. See, the – the reason I am asking is I went**
 16 **through a lot of the hundreds and hundreds of pages**
 17 **of enforcement records of the pit bull ban, and there**
 18 **weren't very many pictures. Do you guys keep those**
 19 **pictures?**
 20 **A. Of?**
 21 **Q. The dogs that have been subject to the pit**
 22 **bull ban enforcement actions.**
 23 **A. Usually they keep those pictures in with the**
 24 **files, with their file, so that if they ever come in**
 25 **we've got their microchip, but we also have a picture**

1 **of them to help identify the dog.**
 2 **Q. Okay.**
 3 **A. So, in other words, if the dog has been**
 4 **banned and kicked out, we microchip them so that if**
 5 **he's ever picked up running in the city, we microchip**
 6 **them, and we'll know it's that dog, but then we also**
 7 **have a picture to back it up.**
 8 **Q. And you keep that some...**
 9 **A. They should have that there, yes. That**
 10 **would be the office. That's something you're going**
 11 **to have to ask the office staff or Chris about. He**
 12 **takes the pictures of them.**
 13 **Q. Okay. When the dogs are picked up, assuming**
 14 **you get in touch with the owner, what do you tell**
 15 **them that their rights are?**
 16 **A. A lot of those might be on computer also**
 17 **that you didn't find, might be on computer files.**
 18 **Q. In your system?**
 19 **A. In our – in, yeah, his system. Yeah.**
 20 **Q. In his system?**
 21 **A. Yeah.**
 22 **Q. In Chris' system?**
 23 **A. Yeah. Yeah.**
 24 **Q. Okay.**
 25 **A. Sorry. Go...**

1 **Q. No. Thank you. I appreciate that**
 2 **knowledge.**
 3 **A. Chris would – now, I mean, I don't know.**
 4 **That's something you might want to ask him. But a**
 5 **lot of them I have seen on the computer system rather**
 6 **than printing them out because our printer is not the**
 7 **greatest printer, so we have them on our computer.**
 8 **Q. Thanks. Assuming you can get in touch with**
 9 **the dog's owner, what do you tell that owner with**
 10 **regard to his or her rights related to the dog?**
 11 **A. If the dog comes in and it has a microchip**
 12 **and we contact the owner through the microchip – we**
 13 **also check to see if it's licensed previously because**
 14 **there are many of the dogs that were licensed before**
 15 **the ban that are still allowed to be here.**
 16 **So we check the – we have a list of names**
 17 **of dogs that are still on that list. We**
 18 **cross-reference it with that to make sure that it's a**
 19 **legal one. If it's a legal one, then, of course, it**
 20 **can come go home.**
 21 **If it's not legal, then we contact the**
 22 **owners and tell them of their – of the requirements**
 23 **of how they're going to be able to get their dog back**
 24 **and what they have to comply with.**
 25 **Q. Okay. So if you have made the**

1 **determination – when I say "you," I mean you and the**
 2 **department.**
 3 **A. Right.**
 4 **Q. If you have had made the determination that**
 5 **the dog is a pit bull, when you...**
 6 **A. A lot of the times the owners will speak up**
 7 **for themselves and say – when they call and – or,**
 8 **we'll call them and say, you know, your dog's here.**
 9 **You know, what kind of dog is he? Well, he's a pit**
 10 **bull. Oh, okay. Well – you know, so they'll admit**
 11 **it themselves a lot of times.**
 12 **Q. What happens if the owner disputes it?**
 13 **A. Well, then that's what we've had just a few**
 14 **since the ban where people have disputed what their**
 15 **dog actually is.**
 16 **Q. If the person disputes it, what do you tell**
 17 **them in response?**
 18 **A. They have a right to an appeals process, and**
 19 **they can have it re – appealed by the city manager.**
 20 **Q. Do you always tell them about those rights**
 21 **when...**
 22 **A. Oh, yes. And it's the – we have a paper**
 23 **that they have to sign, and then we also tell them.**
 24 **Q. Is that the same for the other statute, the**
 25 **other definitions for dangerous dogs?**

1 **A. Uh-huh. If the – if a dog is – if we've**
 2 **deemed it high risk or vicious, yes, there's a letter**
 3 **there also that tells them what their requirements**
 4 **are if they have a high-risk dog. If they have a**
 5 **vicious dog, then, of course, it can't stay in the**
 6 **city limits.**

7 Q. Sure. I understand. So you always tell the
 8 owner of their right to appeal?

9 **A. Oh, absolutely. They're – they're**
 10 **instructed of everything that they need to do.**

11 Q. Okay. What's your involvement or knowledge
 12 of the appeal process?

13 **A. I don't do a whole lot of them, to be honest**
 14 **with you. It's mostly my husband, Chris, or the**
 15 **outer office staff. They deal with all the paperwork**
 16 **stuff.**

17 Q. Okay.

18 **A. And so they file all the papers. They**
 19 **contact Caleb in city legal, and they do all their**
 20 **paperwork and stuff like that through them. I don't**
 21 **get involved in all the citations and all that kind**
 22 **of stuff.**

23 Q. Do you know how the determination is made at
 24 an appeal of whether the dog is predominantly one of
 25 these breeds or not?

1 **A. I have no idea.**

2 Q. Is that a question better served for Chris?

3 **A. That's – yeah. That's something that you'd**
 4 **want to ask, I guess, the guy that does the appeals.**

5 Q. Do you give any other options to owners who
 6 have their dogs that are picked up under the pit bull
 7 ban? Do you give them...

8 **A. We give them options of removing them from**
 9 **the city limits, and that's why they – we tell them**
 10 **you have to have somebody that comes in with you that**
 11 **has a valid ID from a different state or wherever**
 12 **there's no ban, and you have to have a valid ID.**

13 **We also tell them that we work with a pit**
 14 **bull rescue. So if they can't find a place, that**
 15 **doesn't necessarily mean that the dog is going to be**
 16 **euthanized. If the dog has – is nasty, then we have**
 17 **to reevaluate that dog and really put him through**
 18 **some different evaluations to see if we can place**
 19 **him. But if he's a nice dog, we've placed a lot of**
 20 **them with a local rescue in South Dakota.**

21 Q. So is it dependent on the behavior of the
 22 dog, the temperament?

23 **A. Of what? Of whether they take them or not?**

24 Q. Well, what you wind up – the options you
 25 end up providing.

1 **A. We tell them the whole thing. It just**
 2 **depends on – and the rescue will come down, and they**
 3 **will look at them. And they evaluate them as well.**
 4 **We let them make that determination because it's**
 5 **their rescue that they are going into. And we don't**
 6 **want to say, oh, this dog is bomb proof, it's ready**
 7 **to go, it's good, and get up there and tear up their**
 8 **dogs. So they come down, and they do their different**
 9 **tests that they have to have done with them before**
 10 **they take them.**

11 Q. Do you ever give the owner of the dog the
 12 option to keep it in the city limits?

13 **A. They can't by the ban. They can't keep it**
 14 **in the city limits unless it's been previously**
 15 **registered.**

16 Q. I understand that, but are there ever
 17 exceptions that you guys give, any, you know, rap on
 18 the knuckles, just take it home and keep it inside?
 19 Does that ever happen?

20 **A. I don't think so, but I can't say yes or no,**
 21 **but I don't think so.**

22 Q. Okay. In your opinion...

23 **A. Oh, wait. Yes, there was. I take that**
 24 **back.**

25 Q. What was that?

1 **A. I think there was one. I don't remember the**
 2 **name, the name of it, but I think there was one, but**
 3 **anyway...**

4 Q. No. Let's talk about it. Let's talk about
 5 your memory with regard to that.

6 **A. No. I think there was one. I think a while**
 7 **back there was one, but I – I don't remember what it**
 8 **was. That's why I didn't want to answer that**
 9 **question yes or no because it – that would be a**
 10 **maybe because...**

11 Q. So it's possible?

12 **A. It's a possible. Yeah. It was possible.**

13 Q. It is possible that a person would be
 14 able...

15 **A. I think so, but I am – again, I am not sure**
 16 **on that one.**

17 Q. Okay. I think we've got kind of a broken up
 18 question and answer here. So let's see if we can
 19 just get it all in one answer straight. Is it
 20 possible that the city would have allowed a pit bull
 21 to go home with an owner kind of with just a warning
 22 instead of enforcing the ordinance?

23 **A. I don't remember for sure. I don't know.**

24 Q. But is it...

25 **A. Put it that way. I don't know.**

1 Q. Okay.

2 **A. I don't know.**

3 Q. You think it's possible, though? It sounds

4 like, based on your answer, that you think it

5 happened once?

6 **A. I don't know.**

7 Q. Okay.

8 **A. I don't know.**

9 Q. In your opinion are certain purebreds more

10 aggressive than others?

11 **A. Oh, there's dogs that are definitely more**

12 **aggressive than others because of what they were bred**

13 **for, what their breed temperament or what their breed**

14 **specific calls for and how they were bred. So, yes,**

15 **there are other dogs that are bred for -- to be**

16 **aggressive.**

17 Q. How about with mixed breeds? Is it your

18 opinion that the physical characteristics are

19 indicative of behavior?

20 **A. Some, depending on what characteristics it**

21 **takes on.**

22 Q. Will you tell me about -- like, explore

23 that. Tell me about when that can happen.

24 MR. VONDRAK: I am going to object to the

25 form. Where are -- what are you trying to ask? I am

1 confused. So let's...

2 MR. HASAN: Whether physical

3 characteristics can be indicative of behavior, and

4 she said sometimes. So I am asking what physical --

5 MR. VONDRAK: Yeah, you can ask...

6 MR. HASAN: -- characteristics are

7 indicative of behavior.

8 **A. I mean, I guess sometimes, yeah.**

9 Q. (By Mr. Hasan) So what physical

10 characteristics are indicative of behavior?

11 **A. Well, I'll use one of my favorite dogs,**

12 **which is a Chow. Typically, because of how Chows**

13 **were bred, they're a dog to watch out for. Now,**

14 **not -- I am not saying that all Chows are aggressive**

15 **or mean by any means, but they're a dog you have to**

16 **be very respectful of because of how they were bred.**

17 **And I just use that as an example because that was**

18 **the first thing that popped into my head.**

19 Q. No. That's fine. Do you think there are

20 other breeds that are -- well, actually, strike that

21 question.

22 You mentioned Chow as a breed. What

23 characteristics of the Chow make it more indicative

24 of aggression?

25 **A. What -- because of how it was bred. They**

1 **were bred to be a guard of -- for the Chinese. They**

2 **were bred to be guard dogs. And so they typically --**

3 **and their breed characteristics. I have been around**

4 **them. I have shown them.**

5 **They're not the breed for everybody.**

6 **They're a very aloof breed. They like one person**

7 **typically. They don't see real well here**

8 **(indicating), peripherally, but they see straight on,**

9 **which that's -- results in bites sometimes because**

10 **people approach them differently.**

11 **So you just have to know the breed. But**

12 **they're not the breed of dog for everybody. And I**

13 **just use them as an example.**

14 Q. So if we step aside from whether it's a

15 purebred or not and talk about one of these mixed

16 breeds and you're looking at a dog, the dog's

17 physical characteristics, those physical

18 characteristics, are those indicative of a dog's

19 behavior, in your experience?

20 **A. Not necessarily. It just depends on the**

21 **dog.**

22 Q. So if the dog is a mixed breed...

23 **A. It could show no physical characteristics of**

24 **a specific breed and just be nastier than heck. So**

25 **it just -- it just depends, you know.**

1 Q. Is it your opinion that a dog's behavior

2 is -- actually, strike that.

3 What breeds would you say are more

4 aggressive than others?

5 **A. Um...**

6 Q. Actually, let me strike that.

7 **A. Okay.**

8 Q. In your opinion, what are the most

9 aggressive breeds?

10 **A. Well, that's -- that's kind of difficult to**

11 **say because it depends on the dog and it depends on**

12 **the breeding, but certain dogs were bred for specific**

13 **things. Certain dogs were bred to be -- to protect.**

14 **Certain dogs were bred to herd, which peo -- some**

15 **people would take as being aggressive. It just**

16 **depends on what they were bred for and their**

17 **backgrounds and stuff, but any dog can be aggressive.**

18 Q. Any dog, any breed?

19 **A. Any breed can be aggressive.**

20 Q. Is...

21 **A. But typically other -- there's some breeds**

22 **that are bred to be more aggressive because of what**

23 **they were bred for. So you have to look into the**

24 **breed specifics on what they were bred for, to be**

25 **used as.**

- 1 Q. So which are -- what breeds are you talking
2 about right now?
- 3 A. **Oh, I don't know. I am not going to be
4 breed specific. I am -- I am just not because
5 there's a lot of dogs that can be. My beloved German
6 Shepherds, love them dearly, but there's a lot of
7 them out there that are nasty.**
- 8 Q. The inverse. You said that any dog can be
9 aggressive; right?
- 10 A. **Yes.**
- 11 Q. Is the inverse of that true? Can any dog be
12 passive, kind?
- 13 A. **Sure. Sure.**
- 14 Q. Regardless of breed?
- 15 A. **Sure. Sure. Just like with people.
16 There's good and bad, both.**
- 17 Q. How about your experience with pit bulls?
18 Do you find them to be -- and I -- when I say "pit
19 bulls," I am talking about the pit bull breeds that
20 are --
- 21 A. **Listed?**
- 22 Q. -- defined in the ordinance.
- 23 A. **(Witness nods head up and down.)**
- 24 Q. Do you find those dogs to have any specific
25 behavioral attributes that are different than others?

- 1 A. **Any physical attributes, did you say?**
- 2 Q. Behavioral. Sorry.
- 3 A. **Oh, behavioral attributes? You have to --
4 you look at what they're -- again, the breed standard
5 for those dogs and what they were bred for and have
6 respect for that because of how they were bred.**
- 7 Q. But in your experience do they have
8 different -- do they exhibit different behavior than
9 other dogs?
- 10 A. **I have -- I have never owned one myself.
11 So -- and I have been around a lot of them, a lot of
12 good ones, some -- some bad. So I don't have an
13 answer one way or another.**
- 14 Q. What do you think about the pit bull ban?
- 15 A. **I enforce the city laws. I have a contract
16 with the City of Sioux City, and I have to enforce
17 those laws. And I -- and I go by what the ordinances
18 are set forth before me and that I have to enforce
19 those laws.**
- 20 Q. In your experience with your current
21 position -- did you say you have been in this
22 position 22 years?
- 23 A. **I have been here 33.**
- 24 Q. Thirty-three.
- 25 A. **But I have been a contract -- contractor for**

- 1 **22.**
- 2 Q. Okay.
- 3 A. **Roughly 22, right in there. So...**
- 4 Q. Either way, that's a lot of experience.
- 5 A. **That's a lot of years.**
- 6 Q. I didn't say years. I said experience.
- 7 A. **A lot of years. I started when I was two.
8 So you can put that down.**
- 9 Q. Yeah. In your experience do certain dogs --
10 certain breeds of dogs bite more than others?
- 11 A. **Well, the number one biter is a Lab because
12 that's the number one dog in the country that
13 everybody has. So it has the greatest draw from
14 the -- from the public. So does any one bite more
15 than the other? No. I mean, we -- it's all -- we
16 have different breeds that bite all the time.**
- 17 Q. What do you think the point of the pit bull
18 ban is?
- 19 A. **It's not for me to say.**
- 20 Q. Well, your personal opinion. What do you
21 think -- why do you think it's there?
- 22 A. **My opinion doesn't matter. I have a job to
23 do with the City of Sioux City, and I have to do my
24 job. I have to enforce those ordinances.**
- 25 Q. Sure.

- 1 A. **And so I -- I enjoy what I do, and I hope I
2 am here another 20 years. And I will continue to do
3 what I have to do and enforce the laws and enforce
4 the ordinances and my contract. So it -- my opinion
5 does not matter.**
- 6 Q. Okay. But what is that opinion?
- 7 A. **Doesn't matter.**
- 8 Q. Well, you may say it may not matter, but I
9 am curious. What is your opinions of -- what do you
10 think the pit bull ban is meant to do?
- 11 A. **I think it was started to reduce the amount
12 of bites that we had within the city at that time and
13 also the severity of the bites of -- of the victims
14 that we did have at that time. The bites were on the
15 rise, and the breed was on the rise, and the severity
16 of the bites were very substantial compared to other
17 dogs that we had had.**
- 18 **But I can't answer that question. I -- I
19 mean, as far as why they did, I -- they just did.
20 And -- but I am guessing that is -- that's what they
21 brought to the table was that there were severe
22 bites. Bites were on the rise, and the breed was on
23 the rise.**
- 24 Q. Have you talked to any city council members
25 or anyone about the ban?

1 **A. No.**
 2 Q. About the point of the ban?
 3 **A. No.**
 4 Q. How about the effect of the ban?
 5 **A. No.**
 6 Q. In your opinion, has the ban – if that's
 7 what you think the ban was meant to curb, to prevent,
 8 did it work?
 9 **A. Yes.**
 10 Q. How?
 11 **A. We have less bites. We have less severe**
 12 **bites.**
 13 Q. Did you say earlier that any – that the
 14 frequency of dog bites can be the same across all
 15 breeds?
 16 **A. It can. It can. But statistically, and I**
 17 **think if you check with the health – the district**
 18 **health department – because they quarantine every**
 19 **dog. We don't always get – everything that you**
 20 **checked at the shelter is what we get, but the**
 21 **district health department goes out on every bite**
 22 **within the city.**
 23 **We may not get notified of it because if you**
 24 **have a current rabies shot, you can keep your dog at**
 25 **home. So the health department will go to your house**

1 **and quarantine the dog at your home, at your**
 2 **residence, so we don't ever get notification of it.**
 3 **Or maybe you took your dog's bone and it bit**
 4 **you. So they would do all the quarantines. So a**
 5 **more accurate statistics would be through the**
 6 **district health department on how many bites there**
 7 **actually were.**
 8 **And I think back then when the ban did start**
 9 **they did do a statistical survey on who was doing the**
 10 **bites and that type of thing, but it's been a long**
 11 **time ago, so I am not real positive about that.**
 12 **So...**
 13 Q. Okay. Do you know who would have that
 14 information? Would Chris have that information?
 15 **A. Oh, no. No. No. No. Oh, this was a long**
 16 **time ago when the ban came into effect, which...**
 17 Q. Almost ten years now, I think.
 18 **A. Yeah. Yeah. I am lucky to remember what**
 19 **happened yesterday. Yeah, it was at least ten years**
 20 **ago that they put together those stats.**
 21 MR. HASAN: Okay. Do you guys want to
 22 take, like, five minutes? I just want to look over
 23 and see if I have any pictures or anything like that.
 24 Can we go off the record, Julie?
 25

1 (A recess was taken from
 2 11:05 a.m. to 11:15 a.m.)
 3 Q. (By Mr. Hasan) All right. We are back on
 4 the record. Cindy, we were talking earlier about
 5 animal control officers picking up dogs in the field.
 6 Do you remember that?
 7 **A. Yes.**
 8 Q. And you mentioned also that the animal
 9 control officer in the field is the individual that
 10 makes the determination on whether or not that dog
 11 satisfies the definition of the pit bull definition
 12 in the code; is that right?
 13 **A. Yes.**
 14 Q. That determination whether to bring the dog
 15 back into the facility?
 16 **A. Yes. But...**
 17 Q. The initial decision, when out in the field,
 18 that animal control officer --
 19 **A. Yes. Correct.**
 20 Q. -- is the one making the initial decision?
 21 **A. Yes. Typically, though, that dog is in**
 22 **violation of not just the pit bull ban but maybe at**
 23 **large, barking, whatever. So we just don't go out**
 24 **and go door to door and knock on doors and take**
 25 **people's pit bulls. So...**

1 Q. I don't think you'd have time to do that.
 2 **A. No.**
 3 Q. But if the animal control officer does make
 4 the determination, whether it be dog at large --
 5 **A. Right.**
 6 Q. -- or any of these circumstances --
 7 **A. Right. Right.**
 8 Q. -- it is that animal control officer that
 9 makes the --
 10 **A. Yes.**
 11 Q. -- determination?
 12 **A. Yes.**
 13 Q. If the animal control officer makes the
 14 determination that it is not -- it does not meet the
 15 definition under the code and does not impound the
 16 dog, what happens to the dog?
 17 **A. (Indicating.)**
 18 Q. So it doesn't -- the animal control
 19 officer -- say it's a dog at large.
 20 **A. Okay.**
 21 Q. And it's a dog at large where the animal
 22 control officer knows -- looks at the tag and the tag
 23 says lives at 123 A Street.
 24 **A. Right.**
 25 Q. Takes the dog back to 123 A Street --

1 **A. Right.**
 2 Q. – and gives it back to the owner of the
 3 dog.
 4 **A. Right.**
 5 Q. If that officer made the determination that
 6 that dog is not a prohibited pit bull, does anything
 7 come of that dog? Is there any record of...
 8 **A. Typically he will ask them when he takes it**
 9 **back to the house, if the dog has tags on it, is your**
 10 **dog registered. They always ask, is the dog**
 11 **registered. Then they will call in to find out, if**
 12 **it's registered, what it's registered as.**
 13 **And usually if it's registered, everything**
 14 **is okay. If it's not registered, it gives them cause**
 15 **to take the dog. And then the determination can be**
 16 **made at a – you know, at a later time if he believes**
 17 **that it's a pit bull, but it depends on what the dog**
 18 **is registered as too.**
 19 Q. So is it subject to that animal control
 20 officer's discretion whether to impound the dog based
 21 upon it being a prohibited pit bull?
 22 **A. Typically they impound for violations of the**
 23 **ordinance. If – typically if it's just a pit**
 24 **bull – you know, if they see a dog running loose,**
 25 **they'll pick it up. If it's a pit bull, it's a pit**

1 **bull. But typically to go to somebody's house just**
 2 **to take their dog because it's a pit bull, no.**
 3 Q. I guess I was...
 4 **A. Oh.**
 5 Q. If they were to pick up a dog at large –
 6 **A. Right.**
 7 Q. – once they pick up that dog at large –
 8 **A. Right.**
 9 Q. – is it within that animal control
 10 officer's discretion whether or not to deem that dog,
 11 at least initially, the pit bull?
 12 **A. He can. He can if he feels that it meets**
 13 **those characteristics. Yes, he can bring it in.**
 14 Q. So one animal control officer may have a
 15 different interpretation than another animal control
 16 officer?
 17 **A. Yes. He can bring it in, and at that time**
 18 **then he will say, I think I have a dog that meets the**
 19 **characteristics of the pit bull. And then we will**
 20 **all do a consensus. And if it's not, it gets to go**
 21 **home. If it is, then, again, if it has no paperwork,**
 22 **no – nothing to substantiate what it is, not**
 23 **licensed before, no rabies, no nothing on the dog,**
 24 **then it's going to be a determination that we have to**
 25 **make.**

1 Q. So then when it's first picked up, though,
 2 it is within that officer's discretion?
 3 **A. If it meets the characteristics, yes, but**
 4 **typically he picks up for violations or infractions**
 5 **of the ordinance.**
 6 Q. Right. So if it is picked up for being at
 7 large –
 8 **A. Yeah, it...**
 9 Q. – at that time is when the animal control
 10 officer, within his or her discretion, can make the
 11 determination of...
 12 **A. If it's at large, he picks it up for at**
 13 **large.**
 14 Q. Right.
 15 **A. He brings it to the shelter and says, I**
 16 **think I have a dog that meets that characteristics.**
 17 Q. So is it always brought back to the shelter
 18 if it's at large?
 19 **A. Most of the time they do. Most of the time**
 20 **they do if they have a question or a concern, unless**
 21 **it's previously registered and it has a proper**
 22 **identification that says what the dog is. Then**
 23 **they'll give it back.**
 24 Q. So if a dog is picked up that has tags on
 25 saying I live at 123 A Street –

1 **A. Uh-huh.**
 2 Q. – does that dog automatically go back to
 3 the facility or would the animal control officer take
 4 it home?
 5 **A. No. Sometimes they can make that**
 6 **determination of taking it back home at the time.**
 7 **Typically I tell them if they pick it up at large, it**
 8 **needs to come in so we can document everything and**
 9 **make sure the dog's chipped before it goes home.**
 10 **But they can make that determination.**
 11 **They're out there working the field. So if**
 12 **they've – if it's a little old lady that has a dog**
 13 **and, you know, he wants to give it back, that's fine.**
 14 **He can give it back.**
 15 Q. So it's up to the officer on whether to give
 16 it back or not?
 17 **A. It's their discretion of whether they want**
 18 **to, yeah.**
 19 Q. Okay. When did you say the last time you
 20 did in-field identification was, in-field enforcement
 21 of the pit bull ban?
 22 **A. For me to go out on? I am...**
 23 Q. Yeah.
 24 **A. It's been a long time. I usually don't work**
 25 **the field. If I work the field, it's on specific**

1 **cases, but not a pit bull. I have not gone out on**
 2 **them hardly at all.**
 3 Q. Long time?
 4 **A. Long time.**
 5 Q. Okay. Did you do anything to prepare for
 6 this deposition today?
 7 **A. Nope.**
 8 Q. Did you look at any...
 9 **A. Nope.**
 10 Q. Look at any documents?
 11 **A. I looked over the ordinance, of course. I**
 12 **have the ordinance here (indicating). And then I**
 13 **have the Kali Myers' information here to look – you**
 14 **know, just in case it was called up because I needed**
 15 **more information on that. So...**
 16 Q. Sure. How about did you speak with anyone
 17 in preparation for today?
 18 **A. For – to prepare – has anybody spoken to**
 19 **me?**
 20 Q. Or have you spoken to anyone else to prepare
 21 for this today?
 22 **A. No. I know I – the legal department.**
 23 Q. Yeah. And I don't want you to talk about
 24 any discussions that you had with the legal
 25 department.

1 **A. No. They just told us it was – no. They**
 2 **just told us it was today.**
 3 Q. Okay.
 4 **A. That it was today.**
 5 Q. Did you and Chris discuss it at all?
 6 **A. He had pool last night. So I – no, I**
 7 **didn't talk to him about it.**
 8 Q. Pool. Like billiards, pool?
 9 **A. Yeah. He plays billiards. So he had that**
 10 **last night. So I didn't get a chance to talk to him**
 11 **about that. And I – and, quite frankly, I took the**
 12 **file home and didn't even look at it.**
 13 Q. Were you involved in Ms. Myers' enforcement?
 14 **A. Very little. Very little, if anything.**
 15 **I – it – very little.**
 16 Q. What was that very little involvement?
 17 **A. I know about the case, but it – it's so**
 18 **long ago that I don't remember. I just can't say. I**
 19 **don't know enough about it to say one way or another.**
 20 Q. Do you remember if you were part of the
 21 group that determined whether the dog...
 22 **A. Yes. Yes. That, yes, but, oh, there's so**
 23 **many other factors that were in this whole thing that**
 24 **I don't know exactly the order that it went in. And**
 25 **I don't want to talk out of turn of how it actually**

1 **went.**
 2 **All I can say on the Myers is I know that**
 3 **we've had several of their dogs, and that's about**
 4 **really all I can tell you. We've impounded several**
 5 **of their dogs. That's about all I can tell you.**
 6 **They've got a history.**
 7 Q. A history of dog enforcement?
 8 **A. Of dogs running loose, yeah, yeah, and stuff**
 9 **like that. Yeah.**
 10 Q. Does that ever factor into whether or not a
 11 dog is picked up under a code section? So...
 12 **A. Oh, no. No. Huh-uh. No. No. We have –**
 13 **that's why we microchip everybody so that we can keep**
 14 **track of them when they come in.**
 15 Q. Okay. I thought I had the form. I looked
 16 in my binder. I don't have the form I am looking
 17 for. But when I was looking through the enforcement
 18 records – I will try to visually describe it –
 19 there's almost like an index card that an animal
 20 control officer, it looks like, fills out with the
 21 enforcement officer's name, the reason for the
 22 infraction. Do you know what I am talking about
 23 there?
 24 **A. Yes. Yes.**
 25 Q. Who fills those out? Is it...

1 **A. It could be the – most of the time it's the**
 2 **animal control officer, but the office staff has**
 3 **access to it as well to make notes because sometimes**
 4 **it's got notes in there for, you know, if somebody**
 5 **called, if you made – you have contacted them or –**
 6 **so it's just – anybody has access to that card.**
 7 Q. It's...
 8 **A. Even the kennel staff. If they have a**
 9 **sickness or something, they can write that on that**
 10 **card too.**
 11 Q. Okay. That's exactly what I wanted to know
 12 because when I was looking through those, sometimes
 13 you'd see there would be multiple – I mean,
 14 obviously different handwriting on one card.
 15 **A. Yeah. Yeah.**
 16 Q. Is that common?
 17 **A. Yeah. Yeah. Because the kennel staff has**
 18 **access to it. I have got access to it. Anybody that**
 19 **answers the phone has – you know, if you call and**
 20 **just say, how's my dog doing today. Oh, John Smith**
 21 **called today and checked on his dog.**
 22 **And it's just mostly notes of things that**
 23 **have happened or if the dog is sick or if it came in**
 24 **with a broken tail or a broken collar or whatever.**
 25 Q. So when I was looking through it, I noticed

1 there was a lot of examples -- obviously, most of the
2 examples that I was looking at were for pit bulls.
3 And I noticed that it would just say, reason, illegal
4 pit bull. Is that common? Do you know what I am
5 talking about there, for enforcement where a card may
6 say, reason picked up, illegal pit bull? And I
7 understand I don't have one to put in front of your
8 face right now, but...

9 **A. No. I don't know.**

10 Q. Let's say that in -- a dog was picked up as
11 being an illegal pit bull. When it's brought back
12 into the facility, does the animal control officer
13 have to say -- tell the rest of the team the
14 characteristics of why that animal control officer
15 believes it was...

16 **A. If he picks it up for at large, he'll put at**
17 **large on there. And if he puts illegal pit bull on**
18 **the bottom of it, usually it should be followed by a**
19 **question mark. And that basically tells us that we**
20 **have to go back there and we have to make an**
21 **identification on the dog, that he basically**
22 **suspects, because of what he is -- he looks at the**
23 **dog's breed type and the characteristics and says,**
24 **you know, you guys might want to look at this.**

25 So it will be -- it will be -- usually it's

1 **followed by a question mark that they'll put, and**
2 **that gives us a clue that we need to go look at this**
3 **dog for him.**

4 Q. Okay. And I just want to shore up a couple
5 of other things that when you were talking about the
6 characteristics of what predominates, is it fair to
7 say that what predominates is not based on some sort
8 of mathematical equation? It's not a...

9 **A. Oops.**

10 Q. Oh, that pen just snapped.

11 **A. I know.**

12 Q. Sorry. I was asking that...

13 **A. A mathematical equation?**

14 Q. Right. For how you determine what the
15 predominant breed type is in a mixed-breed dog, is it
16 fair to say that it is not a mathematical
17 determination?

18 **A. No. Well, it depends on if you look at the**
19 **weight or the height as opposed to the -- for the --**
20 **rather than the whole character of the dog.**

21 Q. Right. So it's...

22 **A. Height, weight, width.**

23 Q. So it's a subjective determination rather
24 than an objective one?

25 **A. Right.**

1 Q. It's one that's based on how you feel this
2 dog's characteristics all blend together?

3 **A. Based on the appearance and characteristics**
4 **of that breed, specific breed.**

5 Q. Right.

6 **A. It's not a mathematical equation, no.**

7 Q. Right. And I don't think I was going over
8 that as well earlier. I think that what I was trying
9 to explain was objectively, as if there was going to
10 be a chart where you go down --

11 **A. No.**

12 Q. -- and, you know, you have one column where
13 it's like, is this a pit bull --

14 **A. Yeah. Right. Right.**

15 Q. -- and in the other column it's, oh, it's
16 not a pit bull.

17 **A. Right.**

18 Q. You don't weigh those?

19 **A. No.**

20 Q. It's just a matter of based on your
21 experience --

22 **A. Right.**

23 Q. -- whether...

24 **A. And the whole group.**

25 Q. Right. The collective experience --

1 **A. Yes.**

2 Q. -- of the group, whether or not the group
3 thinks that it is predominantly --

4 **A. Correct.**

5 Q. -- predominantly the characteristics that
6 are set forth in those standards?

7 **A. Correct.**

8 Q. Something that I guess I just don't
9 understand because I am not an AKC, UKC -- haven't
10 gone through that training. You mentioned earlier,
11 though, that the breed standards are different
12 amongst those breeds; right?

13 **A. The breed standards are almost the same, but**
14 **they're different because the AKC recognizes the**
15 **purebred dog. The UKC recognizes the mix. But**
16 **they're basically the same, but they can vary in that**
17 **breed standard.**

18 Q. Okay.

19 **A. Within that breed standard. So let's say**
20 **you have a dog that's 26 inches, American Pit Bull or**
21 **American Staffordshire Terrier. Well, over on the**
22 **UKC, on the American Pit Bull, it might go up to 28**
23 **inches or you might have one that just doesn't meet**
24 **the standard. It goes 30 inches.**

25 You know, so it goes by a breed standard,

1 **but that doesn't mean that standard has to exactly**
 2 **fit either. It's a variable. It – even in those**
 3 **breed standards.**

4 Q. Do breed standards cross over? Obviously,
 5 we've got three breeds, purebreds, that are subject
 6 to the pit bull ban.

7 **A. Uh-huh. Right.**

8 Q. Are those characteristics that are set
 9 forth, can they be shared by other breeds, like other
 10 terriers? I assume that a terrier is going to be
 11 like a subgroup within...

12 **A. No. There's – yeah. There's the – that's**
 13 **the terrier group. No, they are – they typically**
 14 **all have their own because they were all bred for a**
 15 **specific thing.**

16 Q. So such as – let's take individual
 17 characteristics like ear shape or ear type. I know
 18 prick ears are a type of ears because my – my dog
 19 has prick ears.

20 **A. Oh, ear type. Yeah. Yeah.**

21 Q. And so I know that's a thing.

22 **A. Right.**

23 Q. So an ear type can be a characteristic
 24 within a purebred standard?

25 **A. Yeah. A lot of dogs have ear – floppy**

1 **ears, yeah.**

2 Q. Okay. Do the pit bulls that are subject --
 3 the purebreds here, are they all floppy ear dogs?

4 **A. Not necessarily because you can cut them.**

5 Q. Okay.

6 **A. A lot of people will cut them, crop them.**

7 Q. So they can – they can vary?

8 **A. They can vary, yes.**

9 Q. So if there's a trait – let's say muzzle
 10 shape. Can that muzzle shape characteristic be
 11 shared amongst different breeds, not just these three
 12 that are subject to the statute, but can, like, a
 13 muzzle shape be a – I can't – I don't have all
 14 hundred dog breeds memorized, but if there's another
 15 dog breed out there, is it possible for it to have
 16 the same characteristic or...

17 **A. If it would be in the bulldog – bulldog**
 18 **family maybe, or maybe in the terrier. I – I don't**
 19 **know.**

20 Q. Or maybe like a boxer, certain traits that a
 21 boxer may have that the – one of these Staffordshire
 22 Terriers may also have with, like, a skull shape?

23 **A. They could I suppose, yeah.**

24 Q. And not just restricted to the skull shape
 25 and not just restricted to boxers...

1 **A. Yes. I mean, yeah. Ear type. We were**
 2 **talking ear type.**

3 Q. Sure. So ear type or skull shape or how
 4 muscly it is, that a very muscly dog could be a
 5 Staffordshire Terrier. It could be a bulldog. It
 6 could be a – just based on how muscly the dog is,
 7 those are traits that could be shared amongst
 8 different breeds?

9 **A. There's a – there's a lot of dogs that have**
 10 **a different muscular-type breed. So...**

11 Q. Right.

12 **A. Muscular-type body type.**

13 Q. Right. But the point is they're different
 14 breeds, that a breed may have X ear shape and that
 15 same X ear shape could be shared by another breed?

16 **A. Yes. Yes.**

17 Q. Because like my dog is an Australian cattle
 18 dog. And it's got prick ears. And, granted, the
 19 color of those ears is a little different than my
 20 neighbors' German Shepherds, but I look at the ears
 21 and it's like, oh, look at that, same ear type.

22 **A. Uh-huh. Yeah.**

23 Q. So that could be true, similar to – for
 24 these pit bull breeds. Is it true that they can have
 25 a characteristic that another not pit bull...

1 **A. Yes. Yep.**

2 Q. So those characteristics can be displayed in
 3 nonprohibited breeds?

4 **A. Uh-huh.**

5 Q. Yes?

6 **A. Yes.**

7 Q. If those same characteristics are present in
 8 other breeds and the predominant – predominance of
 9 those characteristics are shown on a dog, how does an
 10 individual tell whether it's a pit bull or one of
 11 those other ones?

12 **A. Because we've discussed 26 different factors**
 13 **that we went over to – when describing the pit bull.**

14 Q. Yeah.

15 **A. You're asking me on ear types and also**
 16 **muzzle types, structure types. There's different –**
 17 **those are – those are three things that other breeds**
 18 **also have.**

19 Q. Sure.

20 **A. So I am looking at 26 different things that**
 21 **the American Staffordshire would have over a boxer,**
 22 **over a bulldog, but you were asking me about the ear**
 23 **and the nose type –**

24 Q. Okay.

25 **A. – and the body structure type.**

1 Q. Yeah. I don't want to pose an unfair
2 question. So I apologize if that was. Do you always
3 look at all of those 24 or 26 things on every dog?

4 A. Absolutely. Absolutely.

5 Q. And if 12 of those characteristics --
6 it's -- can I just use examples? Tail shape, tail
7 size, neck, ear size, muzzle shape, head shape,
8 topline angle, weight, coat length, coat texture.
9 That's enough. I don't know if that was 12, but
10 that's a lot of them. If those were all
11 characteristics that the -- that displayed
12 characteristics of the dog you're looking at, if
13 those characteristics could be present in one of
14 these purebred pit bulls or it could be present in a
15 boxer or a German Shepherd or a cattle dog, if those
16 are traits that could be shared, how do you determine
17 what the predominant breed is?

18 A. It's hard to say. You'd have to go through
19 every one of those. You asked me if the ear set
20 could be the same. Yes, it could, and because they
21 can crop those ears. And you asked me on the muzzle
22 type. The muzzle type is a little different, but
23 there are other dogs in the AKC -- out of a hundred
24 breeds, there are dogs in there that can display
25 that, but I'd have to go through every single one of

1 those to say whether one other dog displayed
2 everything that that dog did. And it wouldn't
3 because that -- those are the only characteristics
4 that we were talking about for the American
5 Staffordshire Terrier.

6 Q. Okay. So it's a person's subjective view of
7 all of those different characteristics combined?

8 A. Characteristics together. Correct.

9 Q. Okay.

10 A. Correct.

11 MR. HASAN: Okay. I think that's all I
12 have got right now, Cindy. Thank you.

13 Do you guys have any?

14 MR. VONDRAK: I don't have any follow-up.

15 MR. HASAN: Okay. Do you want to discuss
16 the read and sign, or do you want me to?

17 MR. VONDRAK: I am sorry?

18 MR. HASAN: For a read and sign.

19 MR. VONDRAK: Yeah, you can.

20 MR. HASAN: You have the right to read and
21 sign your deposition transcript at the end of this
22 and make any changes. You have the ability to waive
23 that right if you'd like to. Would you like to waive
24 that, or would you like to review it?

25 THE WITNESS: No. I'd like to review it.

1 MR. HASAN: Great.
2 Anything else you guys want to cover?
3 MR. VONDRAK: No.
4 (The deposition concluded at 11:35 a.m.)
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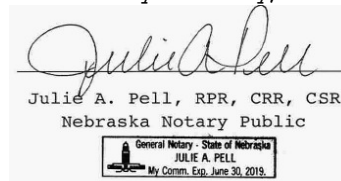
C E R T I F I C A T E

1 I, Julie A. Pell, RPR, CRR, CSR, CRC, General
2 Notary Public, duly commissioned, qualified, and
3 acting under a general notarial commission within and
4 for the State of Nebraska, do hereby certify that:
5

6 CINDY RARRAT

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 22nd day of January, 2018.



1 AMENDMENT TO DEPOSITION
 2 CASE: Myers v. City of Sioux, et al.
 3 WITNESS: CINDY RARRAT _____ No Changes
 4 The Witness herein states that he/she wishes
 5 to make the following changes in his/her deposition:
 6 PAGE LINE CURRENTLY SHOULD REASON
 7 READS READ FOR CHANGE
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 DEPONENT'S SIGNATURE _____
 19 ACKNOWLEDGEMENT State of _____
 20 County of _____
 21 The foregoing instrument was acknowledged
 22 before me this _____ day of _____, 20____.
 23 _____
 24 ^ Affix Seal Here ^ GENERAL NOTARY PUBLIC
 25

1	ability [2] 86/4 134/22 able [10] 10/11 41/23 88/16 88/18 88/19 89/21 89/25 93/25 99/23 104/14 absolutely [8] 37/19 39/14 46/4 75/8 89/21 101/9 133/4 133/4 academy [1] 20/4 access [4] 124/3 124/6 124/18 124/18 accordance [1] 136/10 account [1] 84/24 accurate [1] 114/5 accurately [1] 86/22 acknowledged [1] 137/20 ACKNOWLEDGEMENT [1] 137/18 across [2] 33/21 113/14 acting [1] 136/4 actions [1] 97/22 activities [1] 15/19 acts [3] 56/5 70/2 78/7 actual [1] 69/18 actually [16] 44/10 50/8 53/1 53/1 72/14 77/20 84/3 85/22 85/25 96/16 100/15 106/20 108/2 108/6 114/7 122/25 added [1] 22/21 adding [1] 22/21 additional [5] 9/19 10/10 10/20 18/24 31/23 admit [1] 100/10 adopted [1] 93/25 adoption [3] 16/20 17/10 96/18 advice [1] 34/25 advising [1] 40/8 affirmatively [1] 7/22 Affix [1] 137/24 aforementioned [1] 31/9 after [3] 24/10 93/19 93/21 again [13] 12/11 28/23 35/18 43/6 45/25 65/5 66/18 88/5 92/24 94/24 104/15 110/4 118/21 against [2] 39/24 70/20 age [1] 5/2 aggression [1] 106/24 aggressive [11] 105/10 105/12 105/16 106/14 108/4 108/9 108/15 108/17 108/19 108/22 109/9 agility [1] 48/19 ago [14] 9/2 9/2 11/13 11/20 12/3 12/11 13/13 13/21 31/16 50/18 114/11 114/16 114/20 122/18 agree [9] 29/13 30/6 46/20 47/5 54/23 57/3 64/6 90/8 90/22 agreed [2] 4/2 85/2 agreement [2] 57/4 57/6 agrees [1] 57/22 ahead [6] 17/22 26/23 26/23 30/23 41/12 45/4 AKC [28] 37/14 38/12 38/17 41/17 42/14 42/20 47/6 51/16 59/5 60/24 64/2 64/8 65/2 65/2 71/12 72/8 73/3 73/11 74/4 75/7 75/19 76/7 77/6 87/12 91/12 128/9 128/14 133/23 al [1] 137/2 alcohol [1] 8/12 allowed [2] 99/15 104/20 almost [3] 114/17 123/19 128/13 along [2] 13/6 91/3 aloof [1] 107/6 aloud [1] 4/20 already [7] 10/8 22/7 77/22 78/6 79/1 79/1 80/2 also [34] 6/14 6/22 7/18 9/10 9/19 9/20 16/11 16/25 19/21 25/19 30/17 32/7 38/4 38/4 42/22 45/14 47/5 61/24 62/9	67/8 80/19 93/1 97/25 98/6 98/16 99/13 100/23 101/3 102/13 112/13 115/8 130/22 132/15 132/18 always [14] 19/16 20/20 20/22 57/21 94/13 94/25 95/17 96/14 100/20 101/7 113/19 117/10 119/17 133/2 Amendment [2] 3/5 137/1 American [97] 9/11 9/21 9/23 13/17 14/7 14/12 15/2 22/13 22/14 22/17 23/9 31/2 31/2 31/6 31/6 31/8 38/18 38/18 39/3 39/17 40/23 42/2 42/11 42/13 42/15 42/19 42/20 42/22 43/1 43/4 43/7 43/19 49/7 51/7 51/8 51/9 51/12 51/13 51/15 51/18 51/19 64/13 64/16 64/19 65/7 65/15 65/15 65/17 65/18 65/19 66/3 66/25 67/2 67/4 70/6 70/8 70/9 70/13 70/13 70/14 70/17 70/19 70/25 71/5 71/8 71/13 71/17 71/20 71/21 72/19 73/3 73/19 73/21 74/8 74/13 74/15 74/18 75/1 75/8 75/9 76/7 76/10 76/18 77/6 77/13 77/23 79/5 79/9 80/4 83/20 84/5 84/9 128/20 128/21 128/22 132/21 134/4 amongst [4] 67/17 128/12 130/11 131/7 amount [1] 112/11 and/or [1] 14/25 angle [5] 46/2 46/9 46/12 46/13 133/8 angled [3] 46/7 46/18 67/13 animal [104] 8/23 9/3 9/20 9/21 10/3 10/23 10/25 11/3 11/4 13/1 13/1 15/2 15/23 16/20 17/9 17/10 17/10 17/11 17/13 17/13 17/16 18/1 18/4 18/6 18/8 18/14 18/17 18/20 18/22 19/22 20/5 20/9 21/7 21/11 21/14 21/19 23/20 23/23 24/5 24/6 24/9 24/15 24/23 25/15 26/5 26/19 26/19 26/20 27/6 27/13 27/17 27/22 28/2 28/3 28/4 28/8 29/1 29/4 29/13 29/14 29/17 29/18 32/16 32/19 33/3 33/16 33/23 34/7 34/13 34/15 35/10 35/19 45/1 52/17 53/7 55/11 56/1 56/14 58/7 58/20 59/12 59/21 60/11 90/16 92/12 92/16 115/5 115/8 115/18 116/3 116/8 116/13 116/18 116/21 117/19 118/9 118/14 118/15 119/9 120/3 123/19 124/2 125/12 125/14 animals [5] 11/5 24/17 27/2 28/1 30/9 another [10] 20/2 57/4 91/7 110/13 112/2 118/15 122/19 130/14 131/15 131/25 answer [22] 6/5 7/22 7/23 8/18 12/2 16/15 16/25 29/6 39/11 39/22 40/4 40/5 40/9 41/15 44/12 56/17 104/8 104/18 104/19 105/4 110/13 112/18 answering [1] 28/19 answers [5] 6/9 6/11 8/8 17/24 124/19 any [65] 8/12 9/25 10/1 10/1 10/16 10/19 10/20 13/14 14/8 16/14 16/16 16/21 16/23 18/24 19/2 19/12 19/12 19/19 20/24 21/18 21/25 23/15 24/8 24/10 24/17 25/23 25/24 31/1 31/3 31/9 31/23 32/10 33/7 33/13 34/15 40/14 44/9 44/21 52/15 56/18 62/12 86/7 102/5 103/17 106/15 108/17 108/18 108/18 108/19 109/8 109/11 109/24 110/1 111/14 112/24 113/13 114/23 116/6 117/7 121/8 121/10 121/24 134/13 134/14 134/22 anybody [4] 58/13 121/18 124/6 124/18 anyone [5] 16/2 18/5 112/25 121/16 121/20
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