

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION**

**GABRIEL STEELE, individually, as
Executor of the Estate of Autumn Steele,
and as next of friend for his minor child
G.S., Sean Schoff, as next of friend for his
minor child K.S., and GINA COLBERT,
individually.**

Plaintiff,

v.

**CITY OF BURLINGTON and OFFICER
JESSE HILL**

Defendants.

Case No.: 3:16-cv-105

**PLAINTIFF' AMENDED
APPENDIX SUPPORTING
SUMMARY JUDGMENT ON
LIABILITY**

Comes now the Plaintiffs, Gabriel Steele, the Estate of Autumn Steele, G.S., K.S. and Gina Colbert, in accordance with Fed. R. Civ. Pr. 56 and Local Rule 56.1, to submit the following Appendix in support of Summary Judgment on liability grounds, as follows:

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on the 5th day of April, 2018, by:

X EDMS/ECF

☐ FAX

☐ Hand Delivered

☐ Certified Mail

☐ FedEx/Airborne Express

Email

Signature: /s/ David A. O'Brien

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

<p>GABRIEL STEELE, individually, and as Executor of the Estate of AUTUMN STEELE, and as next of friend for minor G.S., Sean Schoff, as next of friend for minor K.S., and GINA COLBERT, individually,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>CITY OF BURLINGTON and JESSE HILL,</p> <p>Defendants.</p>	<p>Civil No. 3:16-cv-105</p> <p>DEFENDANTS' ANSWER TO PLAINTIFFS COMPLAINT AND JURY DEMAND</p>
--	---

COME NOW the Defendants, City of Burlington and Jesse Hill, by and through their attorneys, Betty, Neuman & McMahon, P.L.C., and for their Answer to Plaintiffs Complaint, state as follows:

INTRODUCTION

1. No allegations in ¶ 1 are asserted against Defendants, therefore no response is necessary. To the extent a response is required Defendants deny all allegations in ¶ 1.

JURISDICTION

The allegations in ¶2 are admitted.

Defendants admit the incident complained of in Plaintiff's Complaint occurred at the Steele residence in Burlington, Des Moines County, Iowa but deny all remaining allegations in ¶ 3.

4. The allegations in ¶4 are admitted.

PARTIES

The allegations in ¶5 are denied for lack of information.

The allegations in ¶6 are denied for lack of information.

The allegations in ¶7 are denied for lack of information.

The allegations in ¶8 are denied for lack of information.

The allegations in ¶9 are admitted.

10. Defendants admit Officer Hill is an employee of the City of Burlington Police Department. Defendants deny the remaining allegations of ¶ 10.

FACTUAL BACKGROUND

11. The allegations in ¶11 are admitted.

12. The allegations in ¶12 are denied.

13. The allegations in ¶13 are admitted. Defendants further affirmatively state Autumn Steele and Gabriel Steele were engaged in a physical altercation in addition to a verbal argument.

14. The allegations in ¶14 are admitted.

15. Defendants admit that Defendant Hill made a radio call to dispatch, exited his patrol vehicle, activated his body camera, and approached Autumn, Gabriel, and G.S. Defendants deny all remaining allegations of ¶ 15.

16. The allegations in ¶16 are admitted. Defendant further affirmatively states Autumn Steele was physically assaulting Gabriel Steele in addition to shouting.

17. The allegations in ¶17 are admitted.

18. The allegations in ¶18 are denied.

19. The allegations in ¶19 are denied.

20. Defendants admit that Defendant Hill fired his service weapon two times but deny all remaining allegations in ¶ 20 for lack of information.

21. Defendants admit Autumn Steele was struck by a single round discharged from Officer Hill's service weapon. Defendants deny all remaining allegations of ¶ 21.

22. The allegations in ¶22 are denied.

23. Defendants admit a citizen called 911, and that additional Burlington Police arrived on and provided assistance. Defendants deny all remaining allegations of ¶ 23.

The allegations in ¶24 are denied.

Defendants admit that the Burlington Animal Hearing Board found Sammy was not a vicious animal as defined under the applicable Burlington City Code provisions based on the evidence presented at a public hearing. All remaining allegations in ¶ 25 are denied.

26. The allegations in ¶26 are admitted.

27. Defendants admit that Autumn Steele was pronounced dead at the hospital but deny all remaining allegations in ¶ 27.

28. The allegations in ¶28 are admitted.

COUNT I

USE OF EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION and ARTICLE I, SECTION 8 OF THE IOWA CONSTITUTION AGAINST ALL DEFENDANTS

29. Defendants, City of Burlington and Jesse Hill, restate and re-allege their answers to ¶¶1-28 as if fully set forth herein.

30. The allegations in ¶30 are denied.

31. The allegations in ¶31 are denied.

1 (Confidential transcription of 3/28/2017
2 body video of Officer Hill.)

OFFICER HILL: Hey, hey. Hey, stop it

4 MRS. STEELE: He's got my kid.

5 OFFICER HILL: Get your dog

6 (Shots fired.)

7 MRS. STEELE: Ahh

8 MR. STEELE: t her?

9 OFFICER HILL: ? Oh, God.

10 MR. STEELE: Are you shot?

11 OFFICER HILL: Oh, my God.

12 MR. STEELE: You shot her?

13 OFFICER HILL: 38, shots fired

14 MR. STEELE: (Inaudible) you shot her

15 OFFICER HILL: Did I? Did I really?

16 MR. STEELE: You shot her.

17 OFFICER HILL: Oh, my God. Get your dog.

18 Where are you shot, ma'am? 38, get an ambulance.

19 Where are you shot, ma'am? Ma'am, ma'am, where are

20 you hit? Oh, my God. Oh, my God. Oh, my God. Oh,

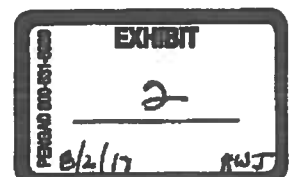
21 my God, Tim.

22 MR. STEELE: You shot her? Is she hit?

23 MALE VOICE: We need an officer over there

24 on Garfield and (inaudible). We got shots fired.

25 CER The dog attacked me I



1 pulled my gun and shot it and I hit her.

MR. STEELE: Did you fucking hit her?

OFFICER HILL: I don t know.

4 OFFICER MERRYMAN: Where did you hit her?

OFFICER HILL: I don t know. Oh, my God,

6 Tim.

7 MR STEELE: Is she hit?

8 OFFICER MERRYMAN: Sir, just hold on

9 OFFICER HILL: Oh, my God, Tim.

10 MR. STEELE: Did you shoot her?

11 OFFICER MERRYMAN: Sir, just hold on. Put

12 your dog inside, please

13 MR. STEELE: I can't. He's shot

14 OFFICER HILL: Oh, my God, no. Oh, fuck,

15 Tim

16 OFFICER MERRYMAN: We gotta start CPR.

17 OFFICER HILL: Shit, Tim. I'm fucking going

18 to prison, Tim. Oh, my God. Oh, my God.

19 OFFICER MERRYMAN: It was an accident

20 OFFICER HILL: It was

21 OFFICER MERRYMAN: Sir, just wait

22 MR. STEELE: Well, let me know

23 OFFICER HILL: Oh, my God.

24 OFFICER MERRYMAN: We don't know yet

25 MR. STEELE: (Inaudible) you shot my dog

1 MERRYMAN Hc d
2 on
3
4
5
6
7
8 HILL breath
9 MALE VOICE: Did the dog come out --
: attacked me
11 MALE VOICE: Did the dog --
12 OFFICER HILL: I pulled -- shot the dog, and
13 I -- fuck, I think I hit her. I don't know where
14 though.
15 MR STEELE: Is she hit somewhere?
16 OFFICER HILL: Oh, my God.
17 OFFICER MERRYMAN: I don't know
18 MR. STEELE: Is she breathing? Y'all don't
19 know what the hell you're doing.
20 OFFICER HILL: Yes, she's breathing Tell
21 them to hurry. Oh, my God, Lieutenant. Oh, my
22 fucking God.
23 OFFICER MERRYMAN ' know
24 haven t seen any . .
25

1 MERRYMAN

2 inj

3 k.

4 Oh, my God.

5 MALE VOICE: Does she have any injuries

6 or --

7 MALE VOICE: Let me take over for CPR.

8 OFFICER HILL: Yes, go ahead. Oh, my

9 fucking God. Oh, my God.

10 MALE VOICE: That's all right. Just calm

11 down.

12 OFFICER HILL: Oh, my God.

13 MALE VOICE: Go sit in the car All right?

14 OFFICER HILL: Oh, my fucking God

15 MALE VOICE: Come on. Where were you at?

16 OFFICER HILL: They were fighting, and as

17 soon as I tried to grab her to get her away, the

18 fucking dog jumped on me. My gun .

19 MR. STEELE: (Inaudible) is she bleeding out?

20 MALE VOICE: Did she shoot herself?

21 OFFICER HILL: No, sir. The fucking dog

22 attacked me, and I fucking pulled and shot it Fuck,

23 and I think I hit her, Sergeant. I don't know where.

24 Oh, my fucking God.

25 MALE VOICE: Where is the

1 MALE VOICE: 444
2 OFFICER HILL: Oh, my God
3 MALE VOICE: Go ahead --
4 OFFICER HILL: Go ahead, 444. Shit Yes
5 MALE VOICE: 444, is it okay for the
6 ambulance to come on in?
7 OFFICER HILL: Yes
8 MALE VOICE: 10-4. Again, here Market and
9 Garfield
10 HILL
11 Fuck.
12 MR. STEELE: (Inaudible) don t come by me
13 I m not going --
14 OFFICER HILL: Sir --
15 MR. STEELE: Did you sweep her for blood?
16 Is she hit anywhere?
17 OFFICER HILL: Tell me what I can do
18 MR. STEELE: Sweep her for blood. Check
19 the --
20 HILL: We I '
21 anything sir.
22 MR. STEELE: Why are they doing CPR? Does
23 she not have a fucking pulse? Check for a fucking
24 pulse inaudible).
25 OFFICER HILL: Well,

1 MR STEELE: You told me to stay away I'm
2
3 : fucking God
4 MALE VOICE: Hey, has he got (inaudible) --
5 MALE VOICE: Who?
6 MALE VOICE: Upstairs
7 MR. STEELE: Does she not have a pulse?
8 OFFICER HILL: Let's go.
9 MR. STEELE: Somebody get over here that
10 knows what they're doing.
1 OFFICER HILL: Hustle, guys
1 MR. STEELE: Please, they don t know what
they re going.
OFFICER HILL: Hustle, hustle No pulse.
15 MALE VOICE: I don't know where she s hurt
16 at though.
17 OFFICER HILL: I don t see it Honestly, I
18 don t.
19 MALE VOICE: So they were over here
20 fighting?
21 OFFICER HILL: Yeah, she was swinging on
22 him. I jumped out, tried to get her away, and the
23 fucking dog jumped on me.
24 MALE VOICE: All the way down.
25 God.

1 MR STEELE: (Inaudible) why is her mouth

2

3 OFFICER MERRYMAN: Sir, we don't know.

4 MR. STEELE: I know you don't know, and you

5 wouldn't let me come over here and do anything

6 She s bleeding out her mouth.

7 MALE VOICE: Just go.

8 OFFICER HILL: Just go Just go Oh, my

9 fucking God.

10 MALE in

. : (

12

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IOWA DIVISION OF CRIMINAL INVESTIGATION

CASE: 15001378

CASE AGENT: S/A MATT GEORGE
REPORTING AGENT: S/A MATT GEORGE
TYPED BY: S/A MATT GEORGE
PROOFED BY: HAWN/261255

NARRATIVE – EXAMINATION OF OFFICER JESSE HILL'S HANDGUN AND EQUIPMENT AT THE BURLINGTON POLICE DEPARTMENT

On January 6, 2015, at approximately 3:37 p.m., I, S/A Matt George, along with S/A Joe Lestina, examined Officer JESSE HILL'S duty weapon and equipment at the Burlington Police Department. Officer HILL'S duty weapon was identified as a .40 caliber Glock Model 22 Gen 4, bearing serial number [REDACTED]. S/A Lestina unloaded the firearm. One bullet was in the chamber and 13 bullets were in the magazine. The magazine held 15 bullets. Officer HILL'S ammunition was identified as Federal S&W .40 caliber. The handgun, magazine, and bullets were photographed. Officer HILL'S duty belt contained the following equipment: holster, 2 handcuffs, radio, flashlight, 2 extra magazines containing 15 bullets each, 1 Asp baton, 1 Taser, 1 canister of pepper spray (OC), and 5 belt keepers. The items were photographed and eventually placed in evidence.

On January 6, 2015, I, S/A Matt George, visually inspected Officer HILL'S duty pants. I concentrated my attention to the left thigh area and searched for a tear in the pants associated with a dog bite from the STEELES' dog. I did not find a rip or tear however I did find an area located on the left thigh area where the fabric was raised slightly. This area was about the size of a BB. Near this same area, the fabric was slightly discolored or stained with an unknown substance. Photographs were taken; however, it was difficult to capture the raised and discolored area. It is not known if the aforementioned artifacts were related to the dog attack or not.

Please review photographs for details.

END OF NARRATIVE

Exhibit #: 4-15

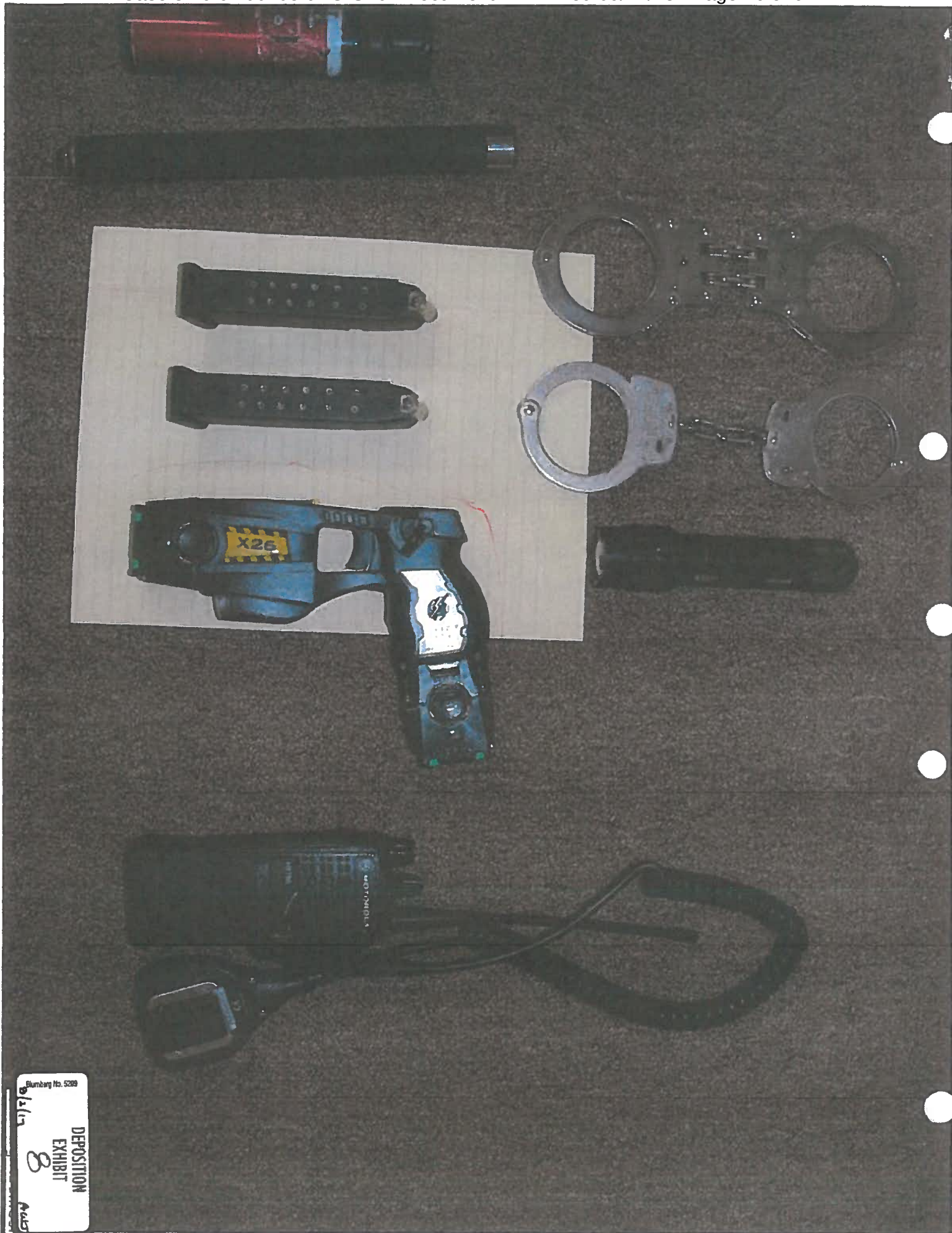




DEPOSITION
EXHIBIT
5
AUG 12 2018

1

12



Blumberg No. 5209
DEPOSITION
EXHIBIT
8
AUG 17



**BURLINGTON, IA POLICE DEPARTMENT
SUPPLEMENTAL NARRATIVE REPORT**

PAGE ONE

CFS # 15-00651

OFFICER: Hill #238

INCIDENT: Domestic Problem/Officer Involved Shooting

DATE/TIME OF INCIDENT: January 6, 2015 @ 10:25 a.m.

On Tuesday, 1-6-15 at approximately 10:25 a.m. I was dispatched to 104 S. Garfield Ave. for a domestic disturbance call. I arrived on scene at approximately 10:28 a.m. Upon my arrival to the proximity of the address I observed one white male later identified as Gabriel Steele walking abruptly from his home out of his front door, down his front steps holding his small child in his hands. When Gabriel started to walk down the second flight of steps I observed a white female later identified as Autumn Steele running out after him. Gabriel proceeded down the steps began walking north on the sidewalk towards Market Street.

While coming to a complete stop I observed Autumn Steele grabbing hold of the back of Gabriel's shirt and striking him multiple times with an opened and closed fist against his head and neck area. While the two individuals were outside I did observe a black and brown German shepherd-looking dog running out with the individuals during the altercation. I notified dispatch the two individuals were outside of their home fighting. I exited my vehicle and activated my body camera and proceeded to the area where the individuals were at.

When I arrived to the area I observed Gabriel being turned around with his back facing Market Street and having his left hand against the fence that was located to the north of their home, with his child in his right hand. During this time Autumn was punching Gabriel in his face while she was behind him and striking him multiple times with closed fist and open fist with her back towards Market Street. While running toward the individuals I yelled for them to "stop" and during my initial contact I proceeded to put both of my hands on Autumn's shoulders to remove her from further assaulting Gabriel. While removing her we took a couple of steps towards Market Street away from the altercation.

After getting Autumn removed from Gabriel I heard the dog growl and immediately I felt the sensation of being bit on my upper left thigh area. Immediately I broke contact with Autumn and advised the owners to "get their dog" and began to back pedal to the north away from the dog. The dog began advancing toward me with its teeth showing and I drew my duty weapon and pointed at a downward angle toward the dog and fired a shot. During my back pedal I lost my balance on the downward angled, snow covered sidewalk and began falling towards Market Street. Before hitting the ground my body was positioned slightly lower than 45 degrees when another shot was fired at the dog, which I observed to still be advancing toward me at my feet.

After the second shot the dog fled from my area and I observed Autumn falling into the fence and toward the ground. I left my gun on the ground and I put over dispatch that shots were fired. I proceeded to Autumn's location to check and see if she was injured. I asked if she was hurt and I did not get a response back. I put out over the radio to dispatch an ambulance to my location. During this time Officer Merryman arrived on scene and I advised him of what transpired. We continued trying to get a verbal response from Autumn but were unsuccessful. Officer Merryman and I turned Autumn over on her back and I opened her shirt to check her to see where she may have been injured and I was unable to locate where she may have been injured. I put on my latex gloves and began CPR chest compressions on Autumn. I observed Autumn taking a breath during my chest compressions and moments later Officer Merryman requested to take over the CPR and I advised him he could.



EXHIBIT #7-6
CASE 15001378

Courtney Webb Interview:

Officer: "Did you see the dog?"

Ms. Webb: "yeah, it looked like, it looked like he was trying to play, but sometimes playing can look, more, like more obviously"

Officer: "Where was dog at when the officer was running up to the people?"

Ms. Webb: "Um, it looked like he was barking at the people, maybe"

Officer: "So the dog was already down there with them?"

Ms. Webb: "yeah."

Officer: "ok"

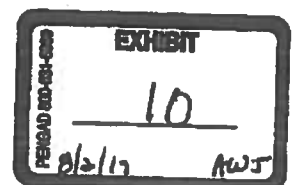
Officer "And when the officer ran up there what did the dog do, do you know?"

Ms. Webb: no audible

Officer: "ok"

Officer: "Did you see the dog go after the officer at all?"

Ms. Webb: "hu uh"



Ed Rank Interview:

2:00-2:56

Mr Rank: "The officer rolled up . . . jumped out, ran over to break up the fight and the dog ran over after him, to me the dog wasn't being aggressive, he wasn't being aggressive when he came out the door, he wasn't being aggressive to the cop. I mean, I didn't hear any barking, I didn't hear any growling, I seen jumping, which, that kind of dog, I suppose it could be aggressive but, anyways the guys at the people trying to break them up as the dog gets to him, he sees the dog, he spins around, trying to get push the dog off, stumbles back, pulls his gun, starts firing."

9:20

Mr. Rank: "To me it looked no different than if my dog jumped on somebody, but I wasn't close enough, I didn't hear the dog bark, I didn't hear the dog growl, I didn't hear anything like that. Just when the cop went running that's when the dog came after him..."

16:15

Officer: Did the dog continue to go after him at that point?"

Mr. Rank: "No."

20:20

Officer: "Was there any doubt in your mind why he pulled his gun, mean, was it pretty clear that he was trying to get...his point was to his intention was to shoot the dog?"

Mr. Rank: "Yes, I think it was excessive, I don't think he needed to, but..."

21:50

Officer: "So you're not sure if the dog knocked him over, or if he just stumbled back and fell over?"

Mr. Rank: I don't believe the dog knocked him over, the dog wasn't close to him when he was falling."

Laura Mellinger Interview:

2:35

Officer: "Do you know what he was shooting at?"

Laura: "You said something about the dog . . . I saw the dog just standing by him, the guy, I didn't notice him (the dog) doing anything at all, but to me it just looked like he was shooting at her (Autumn)."

Officer: "If I'm the officer coming up, they're fighting, where is the dog in relation to all that?"

Laura: "They were, ok, they had come out of their house walking down the sidewalk, and the guy was on the sidewalk and the dog was just right next to him, it would be to his right, yeah, just right there next to him. I didn't see the dog doing anything just um standing there the whole time . . ."

Officer: "Was the dog close to her?"

Laura: "The only time I saw him he (the dog) was next to the guy, right next to him"

Officer: "When you heard the shots, do you remember where the dog was at in relation to everyone else?"

Laura: "The only time I saw the dog was he was right by to the guy, kind of on his right side."

Officer: "were they still all standing up at the time?"

Laura: "When I heard the shots, they were all kind of pretty much, kind of behind the telephone pole . . . in my mind I was thinking, why, what the heck, why would . . . they shoot her, and I thought maybe she had a weapon or something, a gun, that's the only thing I could think. . ."

"I didn't see the dog acting up or barking or anything but again some of it was kind of behind the pole, the actual shooting but I never saw the dog acting up or anything. . ."

Laura: "To me, I didn't, the dog wasn't barking or, um, when I saw it, it was just standing by him I didn't see it, um, so I was surprised, why, why, shots were fired, the only thing I thought is she had, maybe, that was going to hurt the guy, that's the only reason. . ."

Officer: "Did you her or him hitting each other at all?"

Laura: "... Like I said, I saw the dog just kind of standing by the guy, but I didn't see it acting aggressive or barking or anything ... the only time, I just saw him standing there. I didn't see him doing anything else. And when she was reaching out to get the little boy is when I heard the shots fired, and I thought maybe she had a weapon or something, I don't know "

Officer: "when she was reaching to get the boy?"

Laura: "Yeah, because I thought, why would, why would, they shoot her, that the only recent thing I thought?"

IOWA DIVISION OF CRIMINAL INVESTIGATION

CASE: 15001378

CASE AGENT: S/A MATT GEORGE
REPORTING AGENT: S/A MATT GEORGE
TYPED BY: S/A MATT GEORGE
PROOFED BY: HAWN/261255

NARRATIVE – FOLLOW-UP QUESTIONS FOR OFFICER JESSE HILL

On January 9, 2015, after the conclusion of Officer JESSE HILL'S interview, I, S/A Matt George, sent some additional questions via e-mail to Officer HILL'S attorney, James Dennis, at [REDACTED]. The questions consisted of whether Officer HILL was holding his gun with one hand (which hand) or two hands during the officer involved shooting on January 6, 2015. I also inquired if Officer HILL recalled how he had the gun positioned when he fired the gun, such as arm extended out, gun at hip, or at side, etc.

Mr. Dennis responded to my e-mail on January 9, 2015. In response to our questions, Mr. Dennis said, "JESSE says that he was holding the gun with one hand, in his right hand. He says that he does not remember how he had the gun positioned when he fired."

END OF NARRATIVE

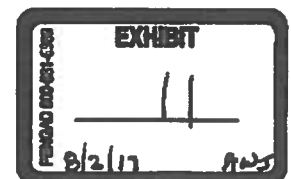


Exhibit #: 7-4D

IOWA DIVISION OF CRIMINAL INVESTIGATION

CASE: 15001378

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END OF NARRATIVE

CASE: 15001378

RECORDED INTERVIEW – JESSE HILL, 01/09/2015 (CON'T)

1359
1360 JL: ...and make sure that, uh, no family pets had ever nipped at ya or anything
1361 like that when you were younger. Nobody had a...and I'm not tryin' to put
1362 words in your mouth...
1363
1364 JH: (UNINTELLIGIBLE)
1365
1366 JL: ...but if you can't remember it then that's fine.
1367
1368 JH: Yeah, I'm...
1369
1370 JL: Okay.
1371
1372 JH: I'm trying to think, but can't recall remembering that. I'm sorry.
1373
1374 JL: All right. All right. I think we've touched everything, so.
1375
1376 MG: Okay. I think just to...not...not to hone in on...on...on this too much, but just
1377 to take that one step further just if I could add somethin'. So I've never
1378 been...I've never been bit by a dog either. It sounds like you never have
1379 either. Um, I don't want to get bit by a dog just like everyone here doesn't
1380 want to get bit by a dog I'm...I'm sure. Um, and I think where Joe was goin'
1381 with this was whether or not you had any, not phobias, but be...beyond the
1382 average thought process of hey, don't want to get bit by a dog. Were you
1383 scared of dogs in general?
1384
1385 JH: (UNINTELLIGIBLE)
1386
1387 MG: And some people don't like different animals or they're scared of this or that,
1388 do...do you any...have any (UNINTELLIGIBLE) about dogs that you just
1389 didn't care for prior to the 6th?
1390
1391 JH: I mean I...I own a dog but it's with my mom right now. I...I love my dog but
1392 when it comes to other people's, I kind of...I'm leery about 'em, you know, just
1393 'cause you never know what...what dogs are...are thinkin'. I mean...
1394
1395 MG: Right.
1396
1397 JH: So. Besides that I wouldn't say I have a phobia, but I'm just kind of leery of
1398 other people's animals.
1399

CASE: 15001378

RECORDED INTERVIEW – JESSE HILL, 01/09/2015 (CON'T)

1400 MG: Okay. Has this been a cautious leery or is like an over-the-top leery? I mean
1401 is it a normal leery or is it like what you would think would be above what's
1402 normal?
1403
1404 JH: Uh, I can't really answer that. I'm sorry.
1405
1406 MG: Okay.
1407
1408 JH: I don't know.
1409
1410 MG: Okay.
1411
1412 JH: I mean it just kind of depends person to person I guess.
1413
1414 MG: I get it. What kind of dog do you own?
1415
1416 JH: actually own a pit bull.
1417
1418 MG: Oh, you own a pit bull.
1419
1420 JH: Yeah.
1421
1422 MG: Okay.
1423
1424 JL: And so to...to kind of follow-up on that, um, we often have law enforcement
1425 agencies that have working dogs, uh, law enforcement canines and stuff like
1426 that. Um, have you ever observed, uh, the training of a law enforcement
1427 canine doing the bite training or anything like that?
1428
1429 JH: Uh, no. I mean they had somethin' goin' on at the academy but, uh, we didn't
1430 get to really...
1431
1432 JL: Okay.
1433
1434 JH: ...sit and watch that much, but.
1435
1436 JL: And...and that was kind of my question was while at the academy or any
1437 other training while on the po---police department did you ever get to
1438 observe any, uh, police dog doing the bite training or anything like that?
1439
1440 JH: No.
1441

CASE: 15001378

RECORDED INTERVIEW – JESSE HILL, 01/09/2015 (CON'T)

1610 him down, smackin' him in the back of the head. And, uh, by that time I crept
 1611 up a little closer, parked my vehicle, advised dispatch that they're outside
 1612 fightin'. And, um, and I opened my door, activate my body video, hop out of
 1613 the car and kind of run over to the area. And, uh, I yell. I'm like hey, what are
 1614 you guys doin'? Stop. And, uh, I get close to 'em. By that time I grab...kind
 1615 of grab a hold of AUTUMN because at that time when I was runnin' up there,
 1616 uh, GABRIEL was kind of...they got turned around. He was hanging onto the
 1617 fence while she was on back of him punchin' him in the face, holdin' onto his
 1618 shirt, slappin' him and (clears throat) I grabbed a hold of her and said, hey,
 1619 stop. Okay, just tryin' to get her out of the way. So I mean I was concerned
 1620 with the child. I didn't want GABE to fall holdin' the kid in his hands and I
 1621 mean somehow the kid get hurt with this incident. So I split 'em up. And by
 1622 the time I kind of took a couple steps with her, I mean the dog starts growlin'
 1623 and, uh, jumps up, bites me on the thigh. And by that time I was...I felt I was
 1624 bit I started backpedaling say hey, get your dog. I'm backpedaling and the
 1625 dog's comin' at me. By the time I took, uh, it felt like two or three steps, but I
 1626 don't...it may not have been that many, and, uh, I drew my gun. As I'm falling
 1627 backwards I fire one shot. I fall on the...the snow covered ground. Fall down.
 1628 Take another shot. And, uh, I get up and, um, I heard GABRIEL yell
 1629 somethin', uh, did you shoot her? And I...I kind of...I mean everything
 1630 happened so fast I kind of came...came with myself and was like I seen her
 1631 kind of fall over onto the ground and...and lay there. So I...I hop up and I...I
 1632 run over there. And I...I can kind of hear her moanin' and I knew somethin'
 1633 was wrong. So I...I radioed out shots fired. And, um, I kind of ask her
 1634 are...are you hit, are you okay, are you shot? I didn't get a response. And
 1635 I...then I radio out a...that we need an ambulance and we need an
 1636 ambulance here quick. And, uh, I mean in the amongst of that I think Officer
 1637 MERRYMAN pulls up. I think he either parked in front of me or behind me. I
 1638 can't recall exactly where his car was at. And then I'm kind of lettin' him know
 1639 what's goin' on, what...what happened. And, uh, he...I think he radioed out
 1640 maybe get the ambulance here immediately. And, uh, we kind of get her
 1641 turned over a little bit. I mean I...I open her shirt just to try to sweep her and
 1642 see if there's anywhere she may have been wounded or anything like that and
 1643 I didn't see anything. And, um, I mean moments after that I...I start puttin' my
 1644 rubber gloves on and was gonna start doin' chest compressions on her. I
 1645 started doin' that. I mean I...I seen her take a breath so I...I mean I advised
 1646 that she was...she was still breathing. And, uh, I continued doin' chest
 1647 compressions. And, um...and...I mean nothin'...nothin' was really going on. I
 1648 mean I wasn't gettin' any feedback or response from her. And then, uh,
 1649 Officer MERRYMAN...I think Lieutenant ALLEN (phonetic) or Sergeant
 1650 SCHWANDT showed up and, um, Officer MERRYMAN asked me if it's okay if
 1651 he took over and I...I let him take over. And by that time was speaking to, it



2015-01-06 10:25
GMT -6



25

DEPOSITION
EXHIBIT
8/2/17 12
NWS



PAGE TWO

CFS # 15-00651

OFFICER: Merryman #244

INCIDENT: Domestic/Shooting

DATE: January 6, 2015

On 1-6-15 at 10:25 a.m. Officer Hill and I were dispatched to 104 S. Garfield Ave. in reference to a domestic problem. While we were en route we were informed the female involved, Autumn Steele, had been placed under arrest yesterday for domestic abuse assault and there possibly was a no contact order. Officer Hill arrived approximately one minute before I did. I heard him say over the radio that he could see them fighting in the front yard. Upon my arrival I saw two subjects and a child as well as a dog along with Officer Hill out on the sidewalk just north of 104 S. Garfield Ave. The male, identified as Gabriel Steele, had hold of a dog that appeared to be some type of German shepherd breed and also had a small child approximately 3 years old.

I could see Officer Hill just north of him. He had snow on his back and was kneeling down next to a female later identified as Autumn Steele who was lying on the ground next to a chain link fence. Officer Hill informed me the dog had tried to attack him and he had shot the dog and believed he might also have shot Autumn Steele. I could see blood coming from her mouth and she was unresponsive. We attempted to roll her over to try to find an injury. I was not successful in finding the injury so I requested an ambulance for a possible gunshot wound. I looked for a pulse and we started CPR. When the ambulance arrived we assisted in getting her into the ambulance.

I spoke to several witnesses as well as Gabriel Steele briefly. The following is a summary of those interviews. The interviews were recorded on my body video which will be placed into evidence. Gabriel told me Autumn had come over and they were having an argument about their child and she was trying to take the child. He said Autumn was assaulting him during the argument. He said he thought his dog had been shot as well as his wife and he put his dog into the garage.

I also briefly spoke with Autumn's mom, Gina, at [REDACTED] She was told her daughter had been taken out to Great River Medical Center.

Courtney Webb was driving in a vehicle with license plate [REDACTED] She said she was southbound on Garfield Avenue at Market Street when she saw part of the incident take place. She said initially it looked like there was what she thought were teenagers throwing punches in front of 104 S. Garfield Ave. She said the female was on the male's back punching him in the face from behind him. She said an officer arrived, Officer Hill, and she heard two shots. I asked her what was happening at that time. She said the last thing she knew they were still fighting when she went around the corner on Smith Street. She thought they may have even been still fighting after she heard the shots. She said she went left on Smith Street from Garfield Avenue. I asked her if she saw the dog at all and she said she did but she did not see the dog going after the officer.

I briefly spoke with Gene Bickel. He said he was inside of his house and heard two shots but did not see anything that was going on. He said his neighbor across the street later identified as Edward Ranck said he did witness what had happened.

I went to [REDACTED] and spoke with Laura and Richard Mellinger. Laura said she was upstairs in her residence when she heard fighting outside. She said she looked outside and saw the couple who she knows lives at 104 S. Garfield Ave. arguing. She said she heard them saying, "You're not taking my fucking kids." She saw Gabriel carrying their son and saw Autumn come out of the house yelling. She said they were walking down the sidewalk and she was trying to get her son from him when the police department arrived.

EXHIBIT # 4-5A

CASE 15001378

13

27

PAGE THREE

CFS # 15-00651

OFFICER: Merryman #244

INCIDENT: Domestic/Shooting

DATE: January 6, 2015

She said she saw the officer get out and heard two shots. She said she had seen the dog was outside but did not see very well because she was behind a telephone pole. She said she saw one of the other neighbors take the boy from Gabriel and saw us doing CPR on Autumn. I asked if the male and female, Gabriel and Autumn, were standing prior to the shot being fired and she said they were.

I also spoke to Richard Mellinger. Richard said he heard two shots in succession, one right after the other. He looked outside and thought it looked like the officer had just shot the dog and saw the female on the ground. He saw the male Gabriel pulling the dog with his boy in his arms. He said he did not hear or see anything prior to the shots.

I next spoke with Edward Ranck. Ranck said he was going outside to take his son to school. He said he heard the neighbors yelling about their child and Ranck was trying to decide whether to call the police when he heard Gabe mention calling the police. Ranck said he saw Autumn sitting on a chair on the porch when he first came outside and her child was in her arms. He heard her say she was allowed to come back and get her stuff and the child was hers and she was taking it. He said they argued some more and then walked back inside. Shortly after that Gabriel came out the door with the child and Autumn came out right after him and the dog came out right after her. He said she was saying the kid was hers and he could not take it away. He said she was hitting him and he was trying to shield the child from being hit by her.

He said when Officer Hill arrived he ran over to try to break them up and as he was running over the dog came off the front porch and started running towards Officer Hill. He said the dog jumped up on Officer Hill and had his paws on him from behind. He said Officer Hill turned around and took out his gun and he heard a shot and it was apparent Officer Hill was shooting at the dog. He said he was unsure if Officer Hill shot before or after he started to fall backwards. He said Officer Hill was stepping backwards to get away from the dog and believes he started to stumble and fall on his back but he is unsure if the first shot was just before he fell or as he was falling and he heard one more shot as he was falling.

After he heard the shots he saw Autumn was on the ground. He said prior to that she had been standing up and Officer Hill had not yet been able to separate the two. He heard Gabriel Steele say, "You shot my wife and you shot my dog." He said Gabriel grabbed the dog and still had the child in his arms and at that point Ranck called 911 as well. He said he saw Officer Hill checking to see if she was OK. I asked if he could try to describe where they all were just prior to the shots being fired in relation to each other.

From his description it sounded like Autumn and Gabe were on the sidewalk near the chain link fence that Officer Hill was running up to them from the southwest of them and he was facing northeast to east. He said the dog would have been running up behind him somewhere between the sidewalk and the curb to Officer Hill's back. He said as Officer Hill turned around he would have been facing more southbound towards the dog.

I asked what the dog did after Officer Hill was on the ground and he said the dog did not continue going after him. He said the dog appeared to be a German shepherd. He said it was clear to him that Officer Hill was attempting to shoot the dog and he did not intentionally shoot any person. He said his son [REDACTED] also would have seen what had happened as well. His son [REDACTED]

PAGE FOUR

CFS # 15-00651

OFFICER: Merryman #244

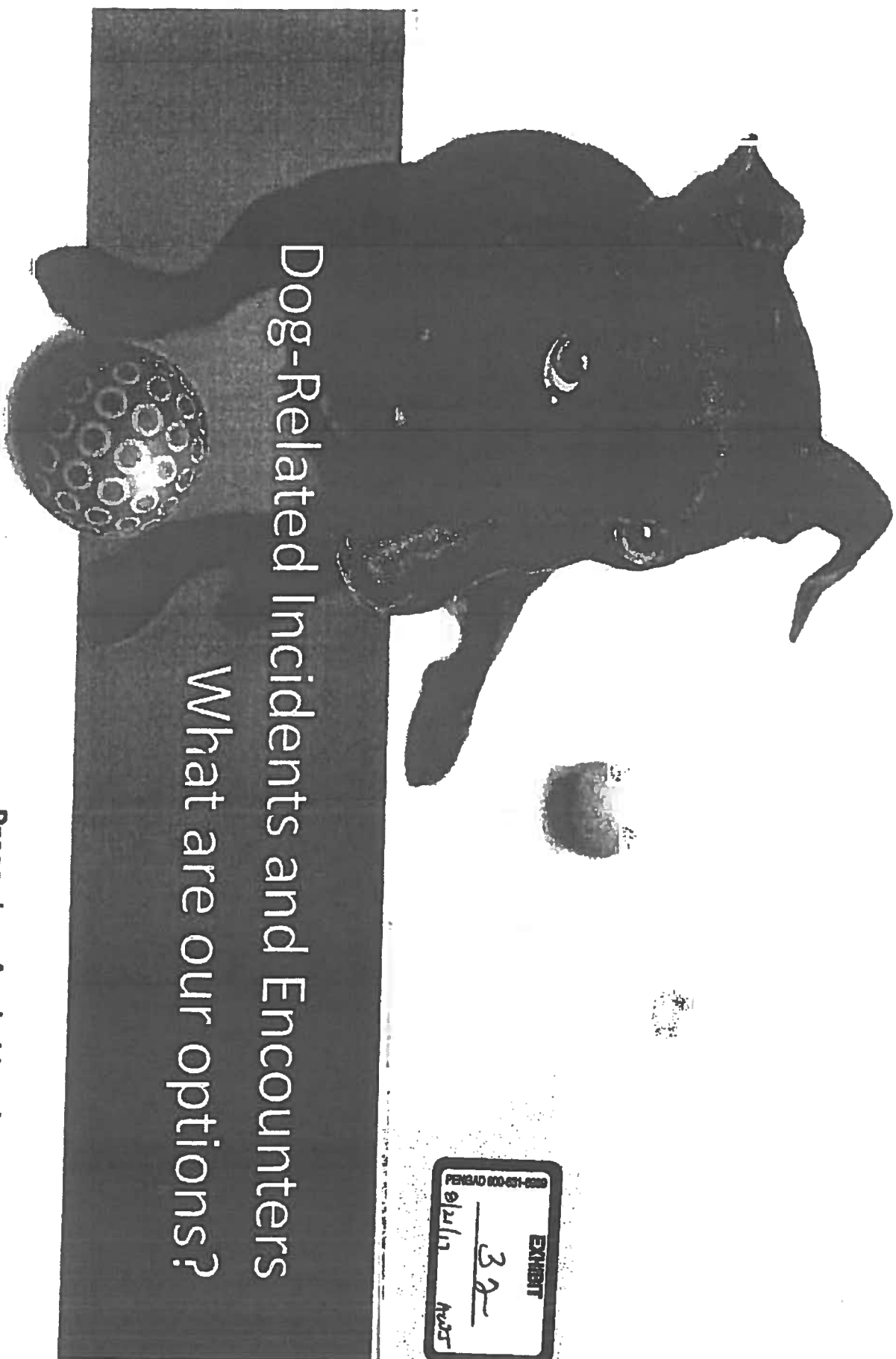
INCIDENT: Domestic/Shooting

DATE: January 6, 2015

My videotape was placed into evidence.

Officer Timothy Merryman #244

rw 1-7-14 8:32 a.m.



Dog-Related Incidents and Encounters What are our options?

Presenter: Angie Vaughan

fppl.com

30(b)(6) - 1.4_005



What are we really afraid of?

- Despite popular belief there is no dog-bite epidemic.
- Even with the steady growth in canine population, the number of dog bites have drastically decreased world wide. For example from 1970 to today, New York City has seen a decrease in dog bites by more than 37,000 a year. In 2009 they had less than 3600 bites.
- More people are killed by lightning every year than by dogs bites.
- The overwhelming majority of dog bites are minor, causing either no injury, or injury so minor that no medical care is required.
- Fewer then 2 percent of people who visited the emergency room complaining of dog bites required hospitalization.
- By way of comparison, in 2009, almost five times as many people went to the emergency room because they had been assaulted by another person. Approximately 5.7 percent of those assaulted by a person were hospitalized.
- Fatalities from dog attacks are extremely rare, and most often affect the weak, such as elderly and small children.
- There is no documented case of a Police or Peace Officer dying as the result of a dog-bite related injury.

fpn1.com



A Barking Dog

- A dog communicates by barking. We do not understand what they are saying, but we can differentiate between an aggressive bark and a friendly bark by the tones in which they use.
- Some dogs will even use a growl to talk with you, this does not always mean they are being aggressive. Again, the tones of the growl will communicate whether they are being aggressive or just communicating the best they know how.
- And please, yelling at a dog to stop barking does not work. The dog just appreciates that you can bark too!
- Hero video

fptt.com

A Dog Stimulated by Quick Movement

- Most dogs will chase any rapidly moving object. Thus, a running officer or member of the public is likely to be chased by any dog in the vicinity. This behavior can escalate to grabbing and biting. (Especially depending on the breed) This is not aggression, in the sense of responding to a threat, but rather a game for the dog and instinct. It's a response to the same impulse that causes a dog to chase a tennis ball or a toy. Running in the area of a dog should be avoided when possible.
- If you are trying to catch a dog, running away from the dog will bring him to you. It works much better than chasing.
- Dogs base everything they do in life on comfort, praise and fun.

fppl.com



30(b)(6) - LA-036

Breed Discrimination

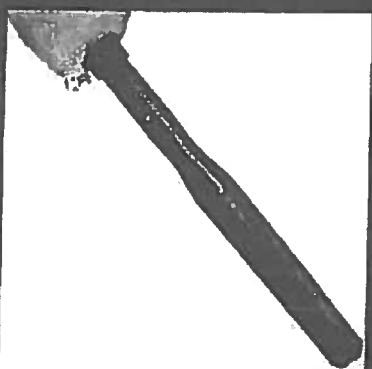
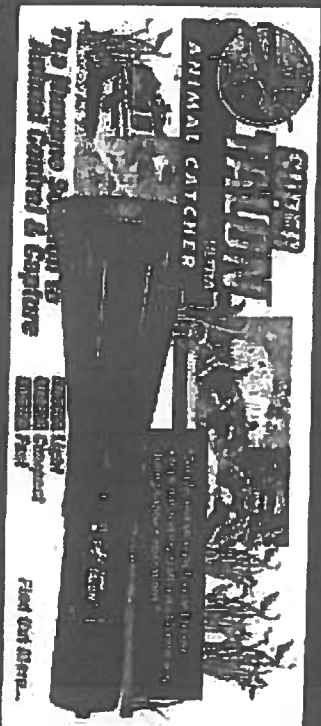
- Now after all of that, I am going to tell you that the most dangerous thing you can do is judge a dog based on media reports or size and shape of a dog.
- As law enforcement officers, how dangerous can it be if you judge a human based on appearance?
- From 2007-2008 the Indianapolis Department of Public Safety had reports of 2,301 dog bites. Only 165 (7.2%) of those were considered serious. Those 165 dog bites were inflicted by 34 different breeds.
- In 2007 only 10 (5.5%) of all reported dog bites in Washington D.C., were considered serious. Those 10 bites were inflicted by 9 different breeds.

Dogs Will Bite The First Thing They Can Grab

- Use what you have on you, and offer it to the dog.
 - Flashlight, Clipboard, Baton, etc.
 - Once a dog bites down on something, they will usually not release to re-bite.
 - You are not pray, you are necessity, so the dog will generally not bite down and shake. They will Bite and Hold.
- If you have nothing to use but yourself, offer your forearm.
 - If you must offer a body part, this is the safest. Protect your body, your neck, and your legs. Offer your forearm like you are blocking a football player. Arm in front of you, elbow out and wrist turned so the inside of your fist is toward your body. Prepare your body for the hit, so you do not fall to the ground.
 - NEVER KICK AT A DOG! Is all that does is causes more aggression from the dog, and the dog will grab your leg no matter how quick you think you are. If he has any size, he will pull you off your feet, then you are on the ground and vulnerable.

Use your Taser

- If it is still necessary to use more force, your Taser is an option.
 - The Chicago Police Department is trained to use their Tasers in an attack. Instead of holding the Taser upright, you will need to turn it on it's side. In this case you get to play gangster.
 - Titan and several other companies make **Stun Batons**. What are your thoughts on carrying a device such as this? They can go from 500,000 volts up to 7.5 million volts.
 - There is also the **Super Talon Animal Catcher**. Each net is equipped with a series of steel grapples that lock the net around the animal to be captured making it virtually impossible for it to shake off the net or run far. The extend reach and high power projection of the net from the launcher makes it possible to catch the fastest animals "on the fly."



8/17/2017

Police and Dog Encounters | COPS Learning Portal

Police and Dog Encounters

TACTICAL STRATEGIES AND EFFECTIVE TOOLS

POLICE & DOG

TO KEEP OUR COMMUNITIES SAFE AND HUMANE

ENCOUNTERS

An Overview: Assessing the Situation

Communicating with Dogs: Police and Dog Body Language

Tactical Considerations

Use of Force Considerations

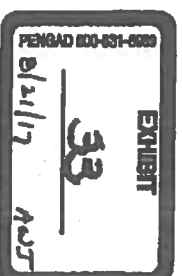
Legal Considerations: Liability, Reporting and Documentation

Play all

The Problem of Dog-Related Incidents and Encounters (<http://ric-zai-inc.com/Publications/cops-p206-pub.pdf>)



<http://www.cops.usdoj.gov/>



<http://cops.igps.uillinois.edu/resources/police-dog-encounters>

30(b)(6) - 1A_074

Course Content

When is use of force necessary?

The use of force is potentially necessary when the following scenario occurs:

1. overcoming a subject's resistance to arrest
2. protecting the officer from bodily harm
3. protecting the suspect and bystanders from injury
4. preventing an escape

Remember context is everything! Is the use of force reasonable, and ask the question, "would another officer in the same situation agree with the assessment of danger"?

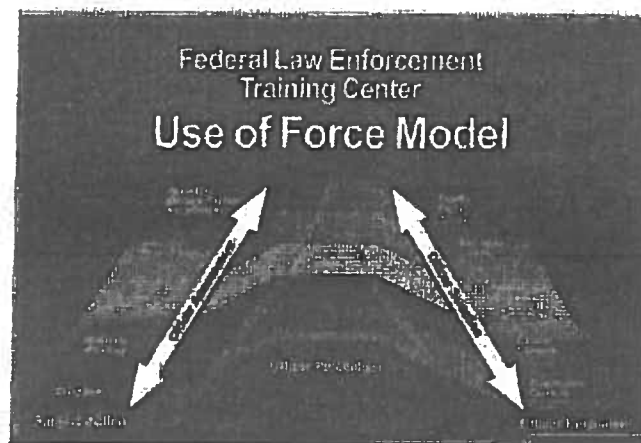


Course Content

Model of Use of Force

Many of the tools used to control human suspects are effective with dogs such as:

- Baton
- Taser (ECD)
- Verbal and body language



Course Content

Force?

- Most dog bites are not full attacks, but rather a brief bite or bites (no violent shaking) intended to warn the person
- Intermediate force is appropriate
- Only after a dog has attacked, and the attack continues for several seconds with the dog shaking the officer or individual, is lethal force an appropriate response to the threat of serious bodily injury



Exhibit 34

Officer Hill's body cam
video

DVD

Submitted directly to
Judge Gritzner's chambers

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

Gabriel Steele, individually,)
as Executor of the Estate of)
Autumn Steele, and as next of)
friend for his minor child)
G.S.; Sean Schoff, as next of)
friend for his minor child)
K.S.; and Gina Colbert,)
individually,) Case No. 3:16-cv-105
)
Plaintiffs,)
)
vs.)
)
City of Burlington and)
Officer Jesse Hill,)
)
Defendants.)

DEPOSITION OF JESSE HILL, taken on
Wednesday, August 2, 2017, commencing at
9:00 a.m., at 321 North 3rd Street, Burlington,
Iowa, before Angela Weible-Jones, Certified
Shorthand Reporter of the State of Iowa,
pursuant to the within stipulation.

Angela Weible-Jones, CSR, RPR, CRR
Carson Reporting, Inc.
118 - 3rd Avenue, Southeast, Suite 301
Cedar Rapids, Iowa 52401
(319) 366-7450

STEELE, et al vs CITY OF BURLINGTON, et al
JESSE HILL - August 2, 2017

2	4
<p>1 APPEARANCES:</p> <p>2 Dave O'Brien, of Dave O'Brien Law,</p> <p>3 Attorney at Law, 1500 Center Street,</p> <p>4 Northeast, Cedar Rapids, Iowa, 52402,</p> <p>5 Attorney for the Plaintiffs.</p> <p>6</p> <p>7 Trent A. Henkelvig, of Henkelvig Law,</p> <p>8 Attorney at Law, 314 North 4th Street,</p> <p>9 Burlington, Iowa, 52601, Attorney for the</p> <p>10 Plaintiffs.</p> <p>11 Martha L. Shaff, of Betty, Neuman & McMahon,</p> <p>12 P.L.C., Attorneys at Law, 1900 East 54th</p> <p>13 Street, Davenport, Iowa, 52807-2708,</p> <p>14 Attorney for the Defendants.</p> <p>15</p> <p>16 ALSO PRESENT: Gina Colbert</p> <p>17 Gabriel Steele</p> <p>18</p> <p>19 WITNESS</p> <p>20 Jesse Hill</p> <p>21</p> <p>22 I N D E X</p> <p>23 EXAMINATION</p> <p>24 PAGE</p> <p>25 D(By Mr. O'Brien) 5</p> <p>C(By Ms. Shaff) 109</p> <p>RD(By Mr. O'Brien) 111</p>	<p>1 E X H I B I T S</p> <p>2 NUMBER EXHIBIT M I</p> <p>3 20 Hill Personnel File, 94 94</p> <p>4 Defendants 115, 118, 122-123,</p> <p>5 132-134, 140, 156-157, 159, 161,</p> <p>6 163, 166, 184-185, 191</p> <p>7</p> <p>8 21 Hill Performance Evaluation 99 99</p> <p>9 Report for 8/23/15-8/22/16,</p> <p>10 Defendants 220-221</p> <p>11</p> <p>12 22 Hill Performance Evaluation 100 100</p> <p>13 Report for 8/23/14-8/22/15,</p> <p>14 Defendants 222-223</p> <p>15</p> <p>16 23 3/5/15 Kramer Memo. 103 103</p> <p>17 Defendants 225</p> <p>18</p> <p>19 24 5/19/15 Kramer Memo. 103 103</p> <p>20 Defendants 226</p> <p>21</p> <p>22 25 5/26/16 Kramer Memo. 104 104</p> <p>23 Defendants 227</p> <p>24</p> <p>25 26 7/31/15 Benard Memo. 106 106</p> <p>Defendants 230</p> <p>26</p> <p>27</p> <p>28 S T I P U L A T I O N</p> <p>29 "The deposition of Jesse Hill is being taken</p> <p>30 at this time and place pursuant to the Federal Rules</p> <p>31 of Civil Procedure and may be used for all purposes</p> <p>32 authorized by said Rules."</p> <p>33</p> <p>34</p> <p>35</p>
3	5
<p>1 E X H I B I T S</p> <p>2 NUMBER EXHIBIT M I</p> <p>3 5 Photocopied Color Photographs 29 29</p> <p>4 (10 pages)</p> <p>5</p> <p>6 6 Photocopied Color Photograph 32 33</p> <p>7 (1 page)</p> <p>8</p> <p>9 7 Photocopied Color Photographs 42 42</p> <p>10 (6 pages)</p> <p>11</p> <p>12 8 Photocopied Color Photographs 43 43</p> <p>13 (2 pages)</p> <p>14</p> <p>15 9 1/9/15 Hill Supplemental 50 50</p> <p>16 Narrative Report</p> <p>17</p> <p>18 10 Webb, Rank, Mellinger Interview 59 59</p> <p>19 Notes</p> <p>20</p> <p>21 11 1/9/15 Iowa DCI George Narrative 68 68</p> <p>22 Follow-up; Recorded Interview</p> <p>23 Transcript</p> <p>24</p> <p>25 12 Screen Prints from Hill Body 71 72</p> <p>Camera (14 pages)</p> <p>26</p> <p>27 13 Diagram/Notes 80 80</p> <p>28</p> <p>29 14 Diagram 81 81</p> <p>30</p> <p>31 15 Diagram 81 81</p> <p>32</p> <p>33 16 Hill Authorization for Release 85 85</p> <p>34 of Personal Medical Information,</p> <p>35 1/6/15 Great River Medical Center</p> <p>Medical Record</p> <p>36</p> <p>37 17 Vicious Animal Investigation of 87 87</p> <p>"Sammy"</p> <p>38</p> <p>39 18 1/7/15 Kramer Supplemental 87 88</p> <p>40 Narrative Report</p> <p>41</p> <p>42 19 Reports Related to a 10/11/14 91 91</p> <p>43 Incident, Defendants 210-219</p> <p>44</p> <p>45</p>	<p>1 JESSE HILL was called as a witness and,</p> <p>2 being first duly sworn, testified as follows:</p> <p>3 DIRECT EXAMINATION</p> <p>4 BY MR. O'BRIEN:</p> <p>5 Q. Would you state your name for the record,</p> <p>6 please?</p> <p>7 A. Full name?</p> <p>8 Q. Yes.</p> <p>9 A. Jesse Lee Hill the third.</p> <p>10 Q. And you're a police officer for the City of</p> <p>11 Burlington?</p> <p>12 A. Yes, sir.</p> <p>13 Q. All right. And we met briefly before the</p> <p>14 deposition started. My name's Dave O'Brien. And you</p> <p>15 understand that I represent Gina Colbert, the estate</p> <p>16 of Autumn Steele, Gabe Steele and Gina's [sic] two</p> <p>17 minor children in a wrongful death claim in a case</p> <p>18 against you and the City of Burlington?</p> <p>19 A. Yes, sir.</p> <p>20 Q. All right. And you understand that I'm here</p> <p>21 to ask you about that?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What could you have done differently to</p> <p>24 avoid the tragic death of Autumn Steele?</p> <p>25 A. I don't think I could have done anything</p>

STEELE, et al vs CITY OF BURLINGTON, et al
JESSE HILL - August 2, 2017

6	<p>1 differently. Under the circumstances, I did what I</p> <p>2 felt was reasonable at the time.</p> <p>3 Q. All right. And so if the same factual</p> <p>4 circumstances arose again, you would conduct yourself</p> <p>5 in the same manner?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Are law enforcement officers allowed to use</p> <p>8 more force than reasonably necessary to make an</p> <p>9 arrest?</p> <p>10 A. Can you repeat the question, sir?</p> <p>11 Q. Sure. Any time -- If you don't understand a</p> <p>12 question, have me repeat it before you give an</p> <p>13 answer. And I assume you've had your deposition</p> <p>14 taken before as an officer.</p> <p>15 A. A couple times, yes.</p> <p>16 Q. All right. Well, let's go through the</p> <p>17 rules then. We want to make sure we don't talk at</p> <p>18 the same time. I tend to talk fast enough anyway, so</p> <p>19 Angie will have a hard enough time. I'll wait until</p> <p>20 you complete your answer before I pose another</p> <p>21 question.</p> <p>22 A. Okay.</p> <p>23 Q. And try to make sure that you wait until I</p> <p>24 complete my answer before you start to talk.</p> <p>25 A. Okay.</p>	8
7	<p>1 Q. Fair enough?</p> <p>2 A. Yes, sir.</p> <p>3 Q. All right. And then you also want to make</p> <p>4 sure that if the answer's yes or no, say yes or no.</p> <p>5 Avoid uh-huhs and huh-uhs because those can get</p> <p>6 mis-transcribed. Fair enough?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then obviously just tell us the truth.</p> <p>9 Fair enough?</p> <p>10 A. Fair enough.</p> <p>11 Q. All right. Are law enforcement officers</p> <p>12 allowed to use more force than reasonably necessary</p> <p>13 to make an arrest?</p> <p>14 A. I don't think I'm apt to really answer that</p> <p>15 question. I can't answer for all officers.</p> <p>16 Q. Well, you as a law enforcement officer, are</p> <p>17 you allowed to use more force than reasonably</p> <p>18 necessary to make an arrest?</p> <p>19 A. I don't believe so, sir.</p> <p>20 Q. In making an arrest, are you allowed to</p> <p>21 needlessly endanger the arrestee?</p> <p>22 MS. SHAFF: Objection, vague. You can still</p> <p>23 answer.</p> <p>24 A. Repeat that again.</p> <p>25 Q. In making an arrest, are you allowed to</p>	9
	<p>1 needlessly endanger the arrestee?</p> <p>2 A. That's a difficult question. I believe it's</p> <p>3 up to the arrestee if he's -- how cooperative he is</p> <p>4 being with wanting to be arrested at the time.</p> <p>5 Q. And so if the arrestee's not cooperative,</p> <p>6 you can needlessly endanger them?</p> <p>7 MS. SHAFF: Objection, misstatement of his</p> <p>8 testimony. You can still answer.</p> <p>9 A. I don't believe we can endanger them, but we</p> <p>10 have to -- if he's needing to be arrested, then we</p> <p>11 have to do whatever needs necessary to get him -- get</p> <p>12 handcuffs on him, sir.</p> <p>13 Q. In making an arrest, are you allowed to</p> <p>14 needlessly endanger bystanders?</p> <p>15 A. I would say no.</p> <p>16 Q. Do you agree that law enforcement officers</p> <p>17 may only use the force a reasonable officer would use</p> <p>18 in like circumstances?</p> <p>19 A. I would agree with that.</p> <p>20 Q. Do you agree that all arrests must be</p> <p>21 documented, including all important details?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you agree that in filling out reports, it</p> <p>24 is important for law enforcement officers to be</p> <p>25 complete?</p>	

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22	<p>1 sir –</p> <p>2 Q. Sure.</p> <p>3 A. – so I make sure I answer correctly.</p> <p>4 Q. Sure. Your injury – The injury you</p> <p>5 suffered in this case can be described as nothing</p> <p>6 more than extremely minor; isn't that true?</p> <p>7 A. I would say minor, yes.</p> <p>8 Q. In fact you wouldn't even have gone to the</p> <p>9 emergency room for such an injury except that you had</p> <p>10 just shot and killed someone; isn't that true?</p> <p>11 A. It's policy that if you're injured in the</p> <p>12 line of duty, you have to go get it checked out.</p> <p>13 Q. Even if all the injury is is a dog jumping</p> <p>14 on you?</p> <p>15 A. Well, there was a bite mark, sir.</p> <p>16 Q. All right. And would you agree with me that</p> <p>17 in order to be bitten by a dog – if you're wearing</p> <p>18 pants, in order to be bitten by a dog on the thigh,</p> <p>19 that the dog would have to penetrate your pants?</p> <p>20 A. I believe so.</p> <p>21 Q. And you know that in this case the dog did</p> <p>22 not cause a hole in your pants, did not penetrate</p> <p>23 your pants, right?</p> <p>24 A. I was bitten somehow with a mark, sir.</p> <p>25 Q. Is it possible that the dog simply jumped on</p>	24	<p>1 MS. SHAFF: Well, I'm going to object to the</p> <p>2 extent that he doesn't have the ability to listen to</p> <p>3 video and compare it to the transcript. But you can</p> <p>4 still answer the question to the best of your</p> <p>5 ability.</p> <p>6 A. Of what I see, I do not see I verbally said</p> <p>7 that I was bitten, no.</p> <p>8 Q. Okay. And you described what happened as</p> <p>9 the, quote, fucking dog jumped on me on a couple of</p> <p>10 occasions in that transcript. Do you recall that?</p> <p>11 A. I do.</p> <p>12 Q. All right. And you at various times defined</p> <p>13 that jumping on you as the dog attacked you. Those</p> <p>14 are words you used, right?</p> <p>15 A. That is correct.</p> <p>16 Q. But you never said the dog bit you?</p> <p>17 A. I did not.</p> <p>18 Q. And in fact when the – when the DCI went up</p> <p>19 to investigate this and took pictures of your</p> <p>20 injuries at the hospital and took pictures of your</p> <p>21 pants at the hospital, they were not able to locate</p> <p>22 any perforation of your trousers; isn't that true?</p> <p>23 A. I was not aware of that, no.</p> <p>24 (Exhibit 3 was marked for identification</p> <p>25 by the reporter.)</p>
23	<p>1 you and a paw – with a claw –</p> <p>2 A. No.</p> <p>3 Q. – put a little mark in your thigh?</p> <p>4 A. I was bitten, sir.</p> <p>5 Q. You never said you were bitten at the scene</p> <p>6 not even once, did you?</p> <p>7 A. I can't recall. I don't believe I did,</p> <p>8 but . . .</p> <p>9 Q. Have you – Have you watched the video of</p> <p>10 your body camera?</p> <p>11 A. I have.</p> <p>12 Q. All right.</p> <p>13 (Exhibit 2 was marked for identification</p> <p>14 by the reporter.)</p> <p>15 Q. I'd like to hand you a copy of Plaintiffs'</p> <p>16 Exhibit 2. And I'm going to tell you for the record</p> <p>17 that I asked the court reporter to type up as best</p> <p>18 she could the statements that were made on your body</p> <p>19 camera.</p> <p>20 A. Okay.</p> <p>21 Q. And this is what we typed up. I want you to</p> <p>22 look through it and tell me if you recall – if you</p> <p>23 think that anything's wrong or incorrect and if you</p> <p>24 recall whether you claimed at any point in time at</p> <p>25 the scene that you were bitten by the dog.</p>	25	<p>1 Q. I'd like to hand you a copy of Exhibit 3.</p> <p>2 Do you recognize that as a note from Agent</p> <p>3 Matt George of the Iowa Division of Criminal</p> <p>4 Investigation?</p> <p>5 A. Are you asking me that, sir?</p> <p>6 Q. Yes.</p> <p>7 A. This is the first time I've ever seen this.</p> <p>8 Q. All right. Well, do you remember Mr. George</p> <p>9 coming up to the hospital and taking pictures of your</p> <p>10 alleged bite and your pants?</p> <p>11 A. I do.</p> <p>12 Q. All right. And if you look at the second</p> <p>13 paragraph, he's saying that on January 6 – which was</p> <p>14 the date of Autumn's death, correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. He says he visually inspected your duty</p> <p>17 pants, the ones you were wearing, right?</p> <p>18 A. Yep. Yes, sir.</p> <p>19 Q. And if you go to the third sentence, it</p> <p>20 says, quote, I did not find a rip or tear, however, I</p> <p>21 did find an area located on the left thigh area where</p> <p>22 the fabric was raised slightly. This area was about</p> <p>23 the size of a BB. Did I read that correctly?</p> <p>24 A. That's what it says, yes.</p> <p>25 Q. Now, is it your claim that Agent George was</p>

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42	<p>1 Q. Do you know if the county attorney here,</p> <p>2 prior to making a decision about whether to charge</p> <p>3 you criminally or not, listened to those videos,</p> <p>4 audios or just read Officer Merryman's report of what</p> <p>5 those contained?</p> <p>6 MS. SHAFF: Objection, speculation.</p> <p>7 A. No, I have not.</p> <p>8 Q. You don't know if she did or she didn't?</p> <p>9 A. She did or did not watch -- no, I didn't --</p> <p>10 No, I don't know what she watched.</p> <p>11 Q. And to this day you've never listened to</p> <p>12 those audiotapes of the three eyewitnesses, right?</p> <p>13 A. No, sir.</p> <p>14 (Exhibit 7 was marked for identification</p> <p>15 by the reporter.)</p> <p>16 Q. I'd like to hand you Deposition Exhibit 7.</p> <p>17 Do you see that?</p> <p>18 A. Yep. Yes, sir.</p> <p>19 Q. And these are pictures that were taken by</p> <p>20 Agent George of the DCI; is that right?</p> <p>21 A. That's correct.</p> <p>22 Q. And these show you as you were dressed at</p> <p>23 the time of the incident --</p> <p>24 A. Yes.</p> <p>25 Q. -- is that correct?</p>	44	<p>1 this incident; isn't that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And you have found, because of prior</p> <p>4 experience, a Taser to be an effective deterrent if</p> <p>5 you think a dog's coming after you, right?</p> <p>6 A. Not necessarily, sir.</p> <p>7 Q. Well, you've used your Taser before on a</p> <p>8 dog, haven't you?</p> <p>9 A. That's correct.</p> <p>10 Q. Successfully, correct?</p> <p>11 A. I guess you could say that.</p> <p>12 Q. It solved the problem, didn't it?</p> <p>13 A. Sure.</p> <p>14 Q. All right. And is anywhere depicted on the</p> <p>15 first page your pepper spray, your spray? Where is</p> <p>16 that? Circle it, please.</p> <p>17 A. On the left-hand side there (indicating).</p> <p>18 Q. All right. So it's the red canister on the</p> <p>19 far left-hand side?</p> <p>20 A. That's correct.</p> <p>21 Q. And you had that in your utility belt?</p> <p>22 A. That's correct.</p> <p>23 Q. And it was functional at the time of this</p> <p>24 incident, was it not?</p> <p>25 A. I believe so.</p>
43	<p>1 A. Yes, it does.</p> <p>2 Q. And I want you to look carefully through</p> <p>3 those pictures and identify for me anywhere where you</p> <p>4 can show us that there are signs of a struggle that</p> <p>5 you were involved in.</p> <p>6 A. I don't believe I see what you're saying,</p> <p>7 sir, but I don't see -- I see myself.</p> <p>8 Q. Right. And it looks like you're dressed</p> <p>9 about ready to go out on patrol. I don't see any</p> <p>10 evidence or sign that you've been involved in any</p> <p>11 sort of struggle whatsoever. If you disagree with</p> <p>12 that, please tell me what page I should look at, and</p> <p>13 focus my attention on where you think I should look.</p> <p>14 A. I don't see any, sir.</p> <p>15 Q. All right.</p> <p>16 (Exhibit 8 was marked for identification</p> <p>17 by the reporter.)</p> <p>18 Q. I've handed you a copy of Deposition</p> <p>19 Exhibit 8, which is a -- two-page pictures of your</p> <p>20 utility belt and its contents. Do you see that?</p> <p>21 A. Yep. Yes, sir.</p> <p>22 Q. And on the front page, can you take this red</p> <p>23 pen and circle your Taser?</p> <p>24 A. (Witness complies.)</p> <p>25 Q. And you were carrying a Taser at the time of</p>	45	<p>1 Q. And you're aware that pepper spray is a very</p> <p>2 effective deterrent for dogs, aren't you?</p> <p>3 A. Some, yes.</p> <p>4 Q. All right. And in fact did you know the</p> <p>5 postal service carries that kind of thing, a</p> <p>6 deterrent spray that they use to -- with their daily</p> <p>7 encounters with dogs?</p> <p>8 A. I've heard of it, yeah.</p> <p>9 Q. All right. And you had both of those items</p> <p>10 readily available on your utility belt at the time of</p> <p>11 this incident, correct?</p> <p>12 MS. SHAFF: Objection, vague. Go ahead and</p> <p>13 answer it.</p> <p>14 A. They were on my belt, yes.</p> <p>15 Q. How long were you at the emergency room?</p> <p>16 A. I can't answer that question, sir. I have</p> <p>17 no idea.</p> <p>18 Q. Do you think it was accurate to describe</p> <p>19 what was going -- what treatment you were receiving</p> <p>20 at the emergency room as treatment for</p> <p>21 non-life-threatening injuries?</p> <p>22 A. Yeah, I believe so.</p> <p>23 Q. Where did you go to high school?</p> <p>24 A. Keokuk Senior High School.</p> <p>25 Q. What year did you graduate?</p>

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50	<p>1 A. To my best ability, yes.</p> <p>2 Q. So nothing jumped out at you as I described</p> <p>3 that incorrectly or wrong or I didn't have that</p> <p>4 right, nothing like that?</p> <p>5 A. Not that I'm aware of, no.</p> <p>6 Q. Okay.</p> <p>7 (Exhibit 9 was marked for identification</p> <p>8 by the reporter.)</p> <p>9 Q. And the report that you reviewed to prepare</p> <p>10 for the deposition, is that identified as Exhibit 9?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And anything in that report that you found</p> <p>13 and believe to be inaccurate or incorrect in any way?</p> <p>14 A. It looks to be how I put it, sir.</p> <p>15 Q. And in that report you didn't say flat out</p> <p>16 you were bitten. You said, quote, I felt the</p> <p>17 sensation of being bit on my upper left thigh area.</p> <p>18 Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. And that accurately described what you felt</p> <p>21 at that time; is that right?</p> <p>22 A. That's what I put, sir.</p> <p>23 Q. And you filled this out shortly after the</p> <p>24 incident, didn't you?</p> <p>25 A. It was a couple of days, I think.</p>	52	<p>1 A. I'm a hundred percent positive.</p> <p>2 Q. Were you worried about the dog as you were</p> <p>3 getting out of your patrol cruiser?</p> <p>4 A. It was in my mind, but it was not my main</p> <p>5 focus at the time.</p> <p>6 Q. So you could have pulled your Taser out at</p> <p>7 that point or your pepper spray out to be prepared if</p> <p>8 the dog became a problem, couldn't you?</p> <p>9 A. Possibly.</p> <p>10 Q. You just didn't think of it though, huh?</p> <p>11 A. It was not my concern at the time, sir.</p> <p>12 Q. Well, you do have kind of a fear of dogs,</p> <p>13 don't you?</p> <p>14 A. I own two dogs. I have respect for dogs,</p> <p>15 but I'm not afraid of them, no.</p> <p>16 Q. Well, you're leery of dogs, aren't you?</p> <p>17 A. I have a mutual respect for dogs, yes.</p> <p>18 Q. Well, didn't you describe in your recorded</p> <p>19 statement to the DCI that you were leery of dogs?</p> <p>20 A. I guess that's the word I used at the time,</p> <p>21 yes.</p> <p>22 Q. And in fact your leerness went beyond just</p> <p>23 what you would expect of anybody to be a little</p> <p>24 concerned about a dog. It went back further than</p> <p>25 that, didn't it?</p>
51	<p>1 Q. Did you have a -- Did you have a chance to</p> <p>2 review the body camera video before you filled out</p> <p>3 your report identified as Deposition Exhibit 9?</p> <p>4 A. I believe I did.</p> <p>5 Q. So you really had a chance to make sure</p> <p>6 everything was complete and accurate, didn't you?</p> <p>7 A. To the best of my ability, sir, yes.</p> <p>8 Q. Because typically in an arrest sequence you</p> <p>9 wouldn't go back and review video and audio of the</p> <p>10 arrest. You'd fill a report out within an hour or</p> <p>11 two of the arrest, wouldn't you?</p> <p>12 A. Usually, just depending on the circumstance.</p> <p>13 Q. And you might file a supplemental report</p> <p>14 later --</p> <p>15 A. Possible.</p> <p>16 Q. -- in a typical arrest sequence?</p> <p>17 A. Possible.</p> <p>18 Q. And you observed the black and brown</p> <p>19 German Shepherd outside while you were still in your</p> <p>20 patrol cruiser, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Did you pull your gun out as you were</p> <p>23 getting out of the patrol cruiser?</p> <p>24 A. No, sir.</p> <p>25 Q. Are you sure about that?</p>	53	<p>1 MS. SHAFF: Objection, confusing, vague.</p> <p>2 A. I don't understand what you're trying to ask</p> <p>3 me, sir.</p> <p>4 Q. And I only have one copy of this, but do you</p> <p>5 recall saying that I own a dog but it's with my mom</p> <p>6 right now, I love my dog, but when it comes to other</p> <p>7 people's, I kind of -- I'm leery about them, you</p> <p>8 know, just because you never know what the dogs are</p> <p>9 thinking? Do you recall telling them that?</p> <p>10 MS. SHAFF: What page are you on?</p> <p>11 MR. O'BRIEN: 34.</p> <p>12 A. Yeah, I recall saying that.</p> <p>13 Q. You declined to call it a phobia. You said</p> <p>14 you're just kind of leery of other people's animals.</p> <p>15 Do you recall saying that?</p> <p>16 A. I do.</p> <p>17 Q. And then the question was, has this been a</p> <p>18 cautious leery or is -- like an over-the-top leery, I</p> <p>19 mean, is it a normal leery, or is it like what you</p> <p>20 would think would be above what's normal. And your</p> <p>21 answer was I can't really answer that. Do you recall</p> <p>22 that?</p> <p>23 A. I do.</p> <p>24 Q. So it's possible that your leerness of</p> <p>25 dogs -- other people's dogs is over-the-top leery,</p>

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54	<p>1 not just what other people would be concerned about?</p> <p>2 MS. SHAFF: Objection, speculation,</p> <p>3 argumentative.</p> <p>4 A. I don't know how other people consider dogs.</p> <p>5 I mean, I can only speak for myself.</p> <p>6 Q. And that's what you said in the interview,</p> <p>7 you don't know if your -- if your leerness is over</p> <p>8 the top or not. You couldn't answer that question,</p> <p>9 right?</p> <p>10 A. I don't think anybody can answer that</p> <p>11 question, sir.</p> <p>12 Q. Now, if you were leery of dogs, why didn't</p> <p>13 you pull your pepper spray out when you saw the dog</p> <p>14 as you were still in your cruiser?</p> <p>15 A. Because the dog at the time was not my</p> <p>16 focus, sir.</p> <p>17 Q. Yeah, but the dog was in the area, right?</p> <p>18 A. That's correct.</p> <p>19 Q. Wouldn't a reasonable officer think, hey,</p> <p>20 that dog might get interested in me intervening to</p> <p>21 break up this scuffle between this married couple and</p> <p>22 I better be prepared to deal with it? Isn't that</p> <p>23 what a reasonable officer would do?</p> <p>24 MS. SHAFF: Objection, speculation.</p> <p>25 A. Possible, sir.</p>	56	<p>1 A. Yes, I recall saying get the dog.</p> <p>2 Q. But you didn't give him any opportunity to</p> <p>3 actually do that before you started firing; isn't</p> <p>4 that true?</p> <p>5 MS. SHAFF: Objection, speculation,</p> <p>6 misstatement of the record.</p> <p>7 A. Everything happened pretty fast, sir.</p> <p>8 Q. Right. But I mean, you gave him an order to</p> <p>9 get the dog out of here, right?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. Is that yes?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And right after you gave that order, you</p> <p>14 started firing; isn't that true?</p> <p>15 A. I don't know --</p> <p>16 MS. SHAFF: Objection, misstatement of the</p> <p>17 record.</p> <p>18 A. -- the time frame, but it was -- I don't</p> <p>19 know the time in between it, but it was fairly quick</p> <p>20 in between, yes.</p> <p>21 Q. And you understand when you give people an</p> <p>22 order, you got to give them time to comply with the</p> <p>23 order, right?</p> <p>24 A. That's correct.</p> <p>25 Q. And can we agree that you did not give</p>
55	<p>1 Q. Well, in the future if you're facing this</p> <p>2 same situation, that's what you're going to do, isn't</p> <p>3 it?</p> <p>4 A. There's a chance --</p> <p>5 MS. SHAFF: Objection --</p> <p>6 A. -- sir.</p> <p>7 MS. SHAFF: -- speculation.</p> <p>8 Q. I mean, you wouldn't want to make the same</p> <p>9 mistake twice, would you?</p> <p>10 MS. SHAFF: Objection, misstatement of the</p> <p>11 record, argumentative.</p> <p>12 A. It was unfortunate. I would not want to</p> <p>13 deal with this again, no.</p> <p>14 Q. And you'd make darn sure you pull your Taser</p> <p>15 out or your pepper spray in order to deal with a</p> <p>16 situation like this in the future; isn't that true?</p> <p>17 MS. SHAFF: Objection, speculation.</p> <p>18 A. I can't answer that, sir.</p> <p>19 Q. And you wish you would have done it that</p> <p>20 day, don't you?</p> <p>21 MS. SHAFF: Objection, speculation.</p> <p>22 A. I can't answer that, sir.</p> <p>23 Q. Now, you did make -- According to the</p> <p>24 report, you did give Gabe an order to get the dog out</p> <p>25 of here, right?</p>	57	<p>1 Gabe Steele time to comply with your order to get his</p> <p>2 dog under control?</p> <p>3 A. I understand that the dog was coming after</p> <p>4 me, sir.</p> <p>5 Q. Okay. I understand that you believe you</p> <p>6 were justified in not giving him time, but I just</p> <p>7 want to clarify, we're in agreement that you didn't</p> <p>8 give him time, correct?</p> <p>9 A. Sure.</p> <p>10 Q. All right. Now, from the time that you</p> <p>11 pulled up in your cruiser and walked over towards</p> <p>12 Autumn and Gabe and [REDACTED] isn't it true that none</p> <p>13 of the three of those people were free to leave that</p> <p>14 scene until you were done with your investigation?</p> <p>15 A. I believe so.</p> <p>16 Q. Yeah, I mean, you weren't going to let --</p> <p>17 You weren't going to let Autumn just walk away, were</p> <p>18 you?</p> <p>19 A. No. I would need to speak to her, correct.</p> <p>20 Q. Yeah, I mean, you had a job to do, right?</p> <p>21 A. Of course.</p> <p>22 Q. And the same with Gabe, you had to talk to</p> <p>23 him, right?</p> <p>24 A. I would have liked to, yes.</p> <p>25 Q. And the same with [REDACTED] you didn't want</p>

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62	<p>1 Q. That's in the transcript. We can pull it</p> <p>2 out if you want me to.</p> <p>3 A. I answered the question, sir.</p> <p>4 Q. And you defined that jumping up at other</p> <p>5 times as attacking. But that's the extent of your</p> <p>6 description of what the dog did to you, he jumped up</p> <p>7 on you, and you described that as an attack, correct?</p> <p>8 MS. SHAFF: Well, objection, misstatement of</p> <p>9 the record.</p> <p>10 A. That's not what I said, sir.</p> <p>11 Q. Well, that's the only thing you said in your</p> <p>12 transcript; isn't that true?</p> <p>13 MS. SHAFF: Objection, vague.</p> <p>14 (Attorney O'Brien handed a document to the</p> <p>15 witness.)</p> <p>16 A. I've seen this already, and it -- Yes,</p> <p>17 that's what it says in the transcript, yes.</p> <p>18 Q. Mr. Rank goes on to say, to me it looked no</p> <p>19 different than if my dog jumped on somebody. I</p> <p>20 didn't hear the dog bark. I didn't hear the dog</p> <p>21 growl. He admits he wasn't close enough. Do you</p> <p>22 still want to maintain that this dog attacked you?</p> <p>23 MS. SHAFF: Objection, argumentative.</p> <p>24 A. The dog attacked me, sir.</p> <p>25 Q. This eyewitness also goes on to say -- Did</p>	64	<p>1 that was excessive. Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. All right. He says he didn't even believe</p> <p>4 the dog knocked you over, he just thought you</p> <p>5 stumbled and slipped on the ice. Do you see that?</p> <p>6 A. Yeah, I see that.</p> <p>7 MS. SHAFF: Objection, I think it's a</p> <p>8 misstatement. There's nothing there about --</p> <p>9 A. He said he was -- I was falling.</p> <p>10 Q. Fair enough. He didn't believe the dog</p> <p>11 knocked you over. Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. Do you still want to maintain that the dog</p> <p>14 attacked you?</p> <p>15 MS. SHAFF: Objection, argumentative.</p> <p>16 A. I never said the dog knocked me over.</p> <p>17 Q. So you agree with him the dog didn't knock</p> <p>18 you over?</p> <p>19 A. There was nothing in the record ever saying</p> <p>20 the dog knocked me over.</p> <p>21 Q. All right. So I just want to make sure I'm</p> <p>22 clear then. The dog did not knock you over, you fell</p> <p>23 down because you slipped or fell or some reason; is</p> <p>24 that right?</p> <p>25 A. That is correct.</p>
63	<p>1 the dog continue to go after him at that point, and</p> <p>2 he said no. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you still want to maintain that the dog</p> <p>5 attacked you?</p> <p>6 MS. SHAFF: Objection, argumentative.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Now, the good news for you is all the</p> <p>9 eyewitnesses who had -- who had some observation of</p> <p>10 this incident all thought you believed that -- all</p> <p>11 believed that you were trying to shoot the dog.</p> <p>12 Right?</p> <p>13 A. That's what --</p> <p>14 Q. And that's what you were trying to do, isn't</p> <p>15 it?</p> <p>16 A. It was.</p> <p>17 Q. All right. And nobody's accusing you of</p> <p>18 intentionally pulling your gun out and shooting</p> <p>19 Autumn, right?</p> <p>20 A. I'd hope not.</p> <p>21 Q. And you didn't do that, did you?</p> <p>22 A. No, I didn't.</p> <p>23 Q. All right. Mr. Rank went on to say when</p> <p>24 he -- after he pulled his gun out, it was pretty</p> <p>25 clear he was trying to shoot the dog, but he thinks</p>	65	<p>1 Q. And Ms. Mellinger, the third and fourth</p> <p>2 pages, she says she saw the dog just standing by him,</p> <p>3 by the guy. Do you see that?</p> <p>4 A. I see it.</p> <p>5 Q. She does not describe the dog as being</p> <p>6 aggressive. And she says that when the shots were</p> <p>7 fired -- I'm looking at the bottom -- she was</p> <p>8 thinking why, what the heck, why would they shoot</p> <p>9 her. And I thought maybe she had a weapon or</p> <p>10 something, a gun. That's the only thing I could</p> <p>11 think of. Do you see that?</p> <p>12 A. Yes, I see that.</p> <p>13 Q. On the last page she says I saw the dog just</p> <p>14 kind of standing by the guy, but I didn't see it</p> <p>15 acting aggressive or barking or anything. I just saw</p> <p>16 him standing there. Do you see that?</p> <p>17 A. I see it.</p> <p>18 Q. Do you still want to maintain that the dog</p> <p>19 attacked you?</p> <p>20 MS. SHAFF: Objection, argumentative.</p> <p>21 A. Yes.</p> <p>22 Q. Now, when you approached Autumn Steele and</p> <p>23 Gabe Steele, she was hanging on -- Gabe was hanging</p> <p>24 on to the fence, and she was on his back kind of</p> <p>25 reaching around him punching him in the face; is that</p>

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70	<p>1 Q. Well, you knew she had gotten arrested</p> <p>2 yesterday, the day before, right?</p> <p>3 A. I did that day of the incident, yeah.</p> <p>4 Q. And you knew she got out of jail that day,</p> <p>5 right?</p> <p>6 A. Yeah, I guess so, that day, yeah.</p> <p>7 Q. But you didn't have any understanding that</p> <p>8 she was distraught as she was standing there grabbing</p> <p>9 on to Gabe's back and reaching around and hitting</p> <p>10 him?</p> <p>11 MS. SHAFF: Objection, speculation.</p> <p>12 A. I had no idea what the circumstance was at</p> <p>13 the time, sir.</p> <p>14 Q. Now, you've been at this house before,</p> <p>15 right?</p> <p>16 A. One other time.</p> <p>17 Q. And you knew they had a dog, right?</p> <p>18 A. I knew of it, I think. I don't recall</p> <p>19 seeing it the day I was there.</p> <p>20 Q. Right. But you do recall -- and it's in</p> <p>21 your statement -- that Gabe asked you about the dog,</p> <p>22 and that's how you knew they had one, right?</p> <p>23 A. Asked me about the dog when?</p> <p>24 Q. He asked you to make sure to tell Autumn to</p> <p>25 feed and take care of the dog?</p>	72	<p>1 video and I hit print screen, and I print out</p> <p>2 whatever looks like something I want to ask you</p> <p>3 questions about. And I have my computer just print</p> <p>4 it out, and then I put it together in sequence.</p> <p>5 Okay?</p> <p>6 A. Okay.</p> <p>7 Q. Do you see that?</p> <p>8 A. (Witness nods head.)</p> <p>9 Q. And that's what -- I want to tell you for</p> <p>10 the record that's what Exhibit 12 is. All right?</p> <p>11 A. I understand.</p> <p>12 Q. So these are just print screen grabs from</p> <p>13 your body cam video in sequence. Fair enough?</p> <p>14 A. Fair enough.</p> <p>15 Q. All right. And so -- And I can't state for</p> <p>16 certain that I was able to stop it right at the first</p> <p>17 frame of your video, but I tried as close as I could,</p> <p>18 and this was essentially the first thing I got. Does</p> <p>19 that look about what you saw when you arrived on the</p> <p>20 scene after you turned your body cam on?</p> <p>21 A. For the most part, yes.</p> <p>22 Q. All right. Now, it's pretty white here, but</p> <p>23 is there a dog in the picture? Do you see a dog down</p> <p>24 there next to them?</p> <p>25 A. Would that be right over here (indicating)?</p>
71	<p>1 A. I recall that now, yes.</p> <p>2 Q. So when you -- You had been at that house</p> <p>3 before, and you knew they had a dog because of that</p> <p>4 prior incident, right?</p> <p>5 A. That's correct.</p> <p>6 Q. And while you were there that day, you</p> <p>7 didn't have any trouble with the dog that caused you</p> <p>8 to believe that there was a problem with the dog,</p> <p>9 right?</p> <p>10 A. I don't recall even seeing the dog, sir.</p> <p>11 Q. Now I'm going to hand you a copy of</p> <p>12 Deposition Exhibit 12.</p> <p>13 (Exhibit 12 was marked for identification</p> <p>14 by the reporter.)</p> <p>15 Q. And I'm going to tell you for the record</p> <p>16 that this is something that I put together from the</p> <p>17 body cam video that -- of yours. Okay?</p> <p>18 A. Okay.</p> <p>19 Q. And I'm not trying to trick you. I just</p> <p>20 don't like to cross-examine people based on video</p> <p>21 because it's hard to know exactly what frame they're</p> <p>22 talking about when they answer a question. Do you</p> <p>23 get what I'm saying?</p> <p>24 A. I guess so.</p> <p>25 Q. And so what I do is I just go through the</p>	73	<p>1 I can't tell. It's kind of --</p> <p>2 Q. Yeah, it's hard -- Let's go to the second</p> <p>3 page. And nothing really shows up behind that tree</p> <p>4 right there either, is there?</p> <p>5 A. I can't see it.</p> <p>6 Q. All right. But this does show Gabe with his</p> <p>7 back to Autumn, right --</p> <p>8 A. That's correct.</p> <p>9 Q. -- holding [REDACTED] And Autumn has her arm</p> <p>10 up, doesn't she?</p> <p>11 A. Yes.</p> <p>12 Q. All right. Then if you go to the third</p> <p>13 page, you can clearly see the dog standing right</p> <p>14 behind Autumn, can't you?</p> <p>15 A. That's correct.</p> <p>16 Q. So as you were approaching, you knew that</p> <p>17 not only was there a dog present, but there was a dog</p> <p>18 right in the immediate area of where Autumn and Gabe</p> <p>19 were having this interaction, right?</p> <p>20 A. At the time I -- I knew the dog was in the</p> <p>21 area, but I was not focused on the dog, no.</p> <p>22 Q. Well, but he's sitting right there, right?</p> <p>23 A. He's there in the picture, yes.</p> <p>24 Q. Okay. Right next to them, right?</p> <p>25 A. He's there in the picture, sir.</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

Gabriel Steele, individually,)
as Executor of the Estate of)
Autumn Steele, and as next of)
friend for his minor child)
G.S.; Sean Schoff, as next of)
friend for his minor child)
K.S.; and Gina Colbert,)
individually,) Case No. 3:16-cv-105
Plaintiffs,)
vs.)
City of Burlington and)
Officer Jesse Hill,)
Defendants.)

DEPOSITION OF BRANDON BEAUCHAMP, D.O.,
taken on Wednesday, August 23, 2017, commencing
at 10:28 a.m., at the Burlington Public Library,
210 Court Street, Burlington, Iowa, before
Angela Weible-Jones, Certified Shorthand Reporter
of the State of Iowa, pursuant to the within
stipulation.

Angela Weible-Jones, CSR, RPR, CRR
Carson Reporting, Inc.
118 - 3rd Avenue, Southeast, Suite 301
Cedar Rapids, Iowa 52401
(319) 366-7450

5:1

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BRANDON BEAUCHAMP, D.O. - August 23, 2017

6	8
<p>1 Medical Center since approximately 2009, 2010?</p> <p>2 A. 2009, correct.</p> <p>3 Q. Did you meet with anyone to prepare for</p> <p>4 today's deposition?</p> <p>5 A. No, I did not.</p> <p>6 Q. Did you review any documents other than</p> <p>7 Exhibit 55, which is sitting in front of you, medical</p> <p>8 records from your hospital?</p> <p>9 A. I did.</p> <p>10 Q. What other documents did you review?</p> <p>11 A. A copy of the same medical record as</p> <p>12 Exhibit 55.</p> <p>13 Q. Anything else?</p> <p>14 A. No.</p> <p>15 Q. All right. Now, when you were treating</p> <p>16 Officer Hill on January 6, 2015, did you know at that</p> <p>17 time that he had been involved -- where he shot and</p> <p>18 killed Autumn Steele?</p> <p>19 A. Yes.</p> <p>20 Q. All right. And I ask that question because</p> <p>21 I -- the next question, I want to make sure if you</p> <p>22 are able to testify from memory about what went on</p> <p>23 that day or if you need to look at the records in</p> <p>24 order to refresh your recollection. And I'm guessing</p> <p>25 that if you knew a death had been involved that you</p>	<p>1 the history that you're provided in order to do your</p> <p>2 examination and then arrive at whatever treatment</p> <p>3 decisions you make?</p> <p>4 A. Yes.</p> <p>5 Q. All right. What history were you provided</p> <p>6 by Officer Hill on January 6, 2016?</p> <p>7 A. That he was bit by a dog.</p> <p>8 Q. Anything else?</p> <p>9 A. That he was bit by a dog to his left leg.</p> <p>10 Q. Was he claiming any current pain at that</p> <p>11 time?</p> <p>12 A. He complained of pain to his left leg and</p> <p>13 back, from what I recall.</p> <p>14 Q. All right. Was it -- Can you describe the</p> <p>15 level of pain that he was describing?</p> <p>16 A. Described as moderate.</p> <p>17 Q. All right. And he -- So he claimed that he</p> <p>18 had a bite injury to his left thigh and also a lower</p> <p>19 back injury; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. And did you treat him for those injuries?</p> <p>22 A. I did.</p> <p>23 Q. All right. When you were treating him, did</p> <p>24 you find evidence of a dog bite?</p> <p>25 A. Yes.</p>
7	9
<p>1 might have some memory of that, that might be a</p> <p>2 little bit more out of the ordinary than a dog bite</p> <p>3 treated at the emergency room.</p> <p>4 A. Correct.</p> <p>5 Q. All right. So you do have an independent</p> <p>6 memory of that day?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And did the record -- Do the</p> <p>9 records, when you reviewed them, reflect and</p> <p>10 reinforce what your memory was of your treatment of</p> <p>11 Officer Hill that day?</p> <p>12 A. Yes.</p> <p>13 Q. In medical terminology what is a history?</p> <p>14 A. History, what happened or what has happened</p> <p>15 to the patient prior to coming in.</p> <p>16 Q. Is that something that typically the patient</p> <p>17 provides you as part of your interview with them and</p> <p>18 treatment?</p> <p>19 A. Yes.</p> <p>20 Q. And is that important?</p> <p>21 A. Yes.</p> <p>22 Q. Why is it important?</p> <p>23 A. It helps you -- leads you down the path of</p> <p>24 the correct diagnosis.</p> <p>25 Q. And you typically rely on the accuracy of</p>	<p>1 Q. What evidence of a dog bite did you find?</p> <p>2 A. There was an abrasion to his left anterior</p> <p>3 thigh.</p> <p>4 Q. All right. And did that include a puncture</p> <p>5 wound?</p> <p>6 A. No, it did not.</p> <p>7 Q. So there was no puncture at all?</p> <p>8 A. Correct.</p> <p>9 Q. If you -- if Jesse Hill would have told you</p> <p>10 as part of his history not that the dog bit him but</p> <p>11 that the dog jumped up on him, would that change --</p> <p>12 would that have changed your diagnosis of a dog bite?</p> <p>13 MS. SHAFF: Objection, foundation,</p> <p>14 speculation.</p> <p>15 A. Yes.</p> <p>16 Q. And so -- And just so I'm clear on this, you</p> <p>17 diagnose it as a dog bite because that's what he told</p> <p>18 you, not because you made some independent analysis</p> <p>19 and arrived at a forensic assessment of this is a dog</p> <p>20 bite?</p> <p>21 A. Correct.</p> <p>22 Q. And you didn't even see a puncture wound?</p> <p>23 A. There was no puncture wound. There was an</p> <p>24 abrasion.</p> <p>25 Q. And there was no blood?</p>

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BRANDON BEAUCHAMP, D.O. - August 23, 2017

10	<p>1 A. No bleeding.</p> <p>2 Q. Fair to say it was pretty minor?</p> <p>3 A. There was an abrasion to the thigh. It</p> <p>4 required no repair.</p> <p>5 Q. Not even a Band-Aid?</p> <p>6 A. I don't even recall if we put a Band-Aid on.</p> <p>7 I do not know that.</p> <p>8 Q. There was –</p> <p>9 A. I don't know.</p> <p>10 Q. But there was no bleeding, right?</p> <p>11 A. Correct.</p> <p>12 Q. And did you treat him for a back – for the</p> <p>13 back sprain?</p> <p>14 A. I did.</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 Q. All right. And is that – I've got three</p> <p>21 items. And I apologize if I mispronounce them.</p> <p>22 [REDACTED]</p> <p>23 A. That was for the bite.</p> <p>24 Q. And what does that do?</p> <p>25 A. [REDACTED]</p>	12	<p>1 A. Correct.</p> <p>2 Q. No radiology?</p> <p>3 A. Correct.</p> <p>4 Q. And no cardiology?</p> <p>5 A. Correct.</p> <p>6 MR. O'BRIEN: All right. Thank you. I have</p> <p>7 no further questions.</p> <p>8 THE WITNESS: Okay.</p> <p>9 CROSS-EXAMINATION</p> <p>10 BY MS. SHAFF:</p> <p>11 Q. Doctor, is it necessary for there to be a</p> <p>12 puncture wound for it to be classified as a dog bite?</p> <p>13 A. Absolutely not.</p> <p>14 Q. And did you think that Officer Hill was</p> <p>15 giving you – I mean, did you disagree with the</p> <p>16 history he had given you?</p> <p>17 A. No, I did not.</p> <p>18 Q. Was the abrasion consistent with a dog bite?</p> <p>19 A. It could have been.</p> <p>20 Q. And the abrasion appeared to be relatively</p> <p>21 new, I'll use that word, kind of –</p> <p>22 A. Yes.</p> <p>23 MS. SHAFF: Okay. That's all I have then.</p> <p>24 Thank you.</p> <p>25</p>
11	<p>1 Q. And you gave that to him because he told you</p> <p>2 he had been bitten?</p> <p>3 A. Correct.</p> <p>4 [REDACTED]</p> <p>5 A. [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 A. Correct.</p> <p>8 Q. And what's that for?</p> <p>9 A. [REDACTED]</p> <p>10 Q. All right. And when you were done treating</p> <p>11 him, you identified his risk factors as being none?</p> <p>12 A. Yes.</p> <p>13 Q. And you told him that he could go to</p> <p>14 follow-up care, if needed, to his family physician?</p> <p>15 A. Correct.</p> <p>16 Q. All right. Am I right in understanding that</p> <p>17 you did not do any x-rays?</p> <p>18 A. I did not.</p> <p>19 Q. I'm looking at page 17 of your Exhibit 55.</p> <p>20 And you might be able to – You might want to look at</p> <p>21 a different page, but I want to ask about this major</p> <p>22 tests and procedures. There was – None of that was</p> <p>23 done; is that right?</p> <p>24 A. Correct.</p> <p>25 Q. No lab – No labs were ordered?</p>	13	<p>1 REDIRECT EXAMINATION</p> <p>2 BY MR. O'BRIEN:</p> <p>3 Q. Doctor, that does get to a follow-up from my</p> <p>4 perspective. If you are treating someone for a dog</p> <p>5 bite to their thigh, would you expect that the bite,</p> <p>6 in order to cause an injury, would penetrate the</p> <p>7 pants the person was wearing?</p> <p>8 MS. SHAFF: Objection –</p> <p>9 A. Not necessarily.</p> <p>10 Q. It might, it might not?</p> <p>11 A. Correct.</p> <p>12 MR. HENKELVIG: What clothes was he wearing?</p> <p>13 MR. O'BRIEN: Well –</p> <p>14 MR. HENKELVIG: Street clothes or uniform?</p> <p>15 MR. O'BRIEN: – I know the answer to that,</p> <p>16 so I'm not going to ask him. Thank you. I have no</p> <p>17 further questions.</p> <p>18 MS. SHAFF: I have nothing else.</p> <p>19 MR. O'BRIEN: All right. I appreciate your</p> <p>20 time. Thank you.</p> <p>21 MS. SHAFF: Thank you very much.</p> <p>22 THE WITNESS: Thank you.</p> <p>23 (Deposition concluded at 10:39 a.m.)</p> <p>24</p> <p>25</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

Gabriel Steele, individually,)
as Executor of the Estate of)
Autumn Steele, and as next of)
friend for his minor child)
G.S.; Sean Schoff, as next of)
friend for his minor child)
K.S.; and Gina Colbert,)
individually,) Case No. 3:16-cv-105
)
Plaintiffs,)
)
vs.)
)
City of Burlington and)
Officer Jesse Hill,)
)
Defendants.)

DEPOSITION OF ANGELA VAUGHAN, taken
on Tuesday, December 12, 2017, commencing at
9:30 a.m., at the Burlington Public Library,
210 Court Street, Burlington, Iowa, before
Angela Weible-Jones, Certified Shorthand Reporter
of the State of Iowa, pursuant to the within
stipulation.

Angela Weible-Jones, CSR, RPR, CRR
Carson Reporting, Inc.
118 - 3rd Avenue, Southeast, Suite 301
Cedar Rapids, Iowa 52401
(319) 366-7450

STEELE, et al vs. CITY OF BURLINGTON, et al
ANGELA VAUGHAN - December 12, 2017

14	<p>1 conversations more than once. But I don't know that</p> <p>2 they just came out and asked.</p> <p>3 Q. If they had asked, would you have done it?</p> <p>4 A. Absolutely.</p> <p>5 Q. And then I take it you were approached after</p> <p>6 Autumn Steele's death about doing some additional</p> <p>7 training for the Burlington Police Department?</p> <p>8 A. Yes, wanted it — My concern with the first</p> <p>9 training was it wasn't exactly what I wanted. It was</p> <p>10 more focused on kind of dogs and what they do, but</p> <p>11 not exactly how to react with them, so I never was</p> <p>12 really pleased with how that training went. So I had</p> <p>13 actually started putting together something anyway</p> <p>14 slowly, because it takes a lot — You know, I've done</p> <p>15 this 53 years, so to try to make sure you're getting</p> <p>16 information to the average person is a little bit of</p> <p>17 a challenge.</p> <p>18 Q. So the training —</p> <p>19 A. So then —</p> <p>20 Q. The training that you ultimately gave to the</p> <p>21 Burlington Police Department was something that you</p> <p>22 started well before January 6, 2015?</p> <p>23 A. I had been working on something, yes.</p> <p>24 Q. And you eventually put a document together</p> <p>25 that's been produced in this case that you used to</p>	16	<p>1 Q. All right. Some of the material you put</p> <p>2 together afterwards, after January 6th of 2015; is</p> <p>3 that right?</p> <p>4 A. That's the date that Autumn — that happened</p> <p>5 with Autumn?</p> <p>6 Q. Yes.</p> <p>7 A. This was all put together afterwards.</p> <p>8 Now — Okay.</p> <p>9 Q. Go ahead.</p> <p>10 MS. SHAFF: Well, I think she's answered the</p> <p>11 question.</p> <p>12 MR. O'BRIEN: All right. That's fine. I'll</p> <p>13 ask another one.</p> <p>14 MS. SHAFF: Just answer the question.</p> <p>15 THE WITNESS: Yeah.</p> <p>16 Q. (By Mr. O'Brien) You put — everything in</p> <p>17 Exhibit 32 was prepared after August — or excuse</p> <p>18 me — January 6th, 2015?</p> <p>19 A. Yes.</p> <p>20 Q. All right. And you had started putting some</p> <p>21 training materials together, but this is — this is</p> <p>22 different?</p> <p>23 A. Yes. There may be some information in here</p> <p>24 of things that I had pulled or drawn from, but this</p> <p>25 was done after that date.</p>
15	<p>1 outline your training of the Burlington Police</p> <p>2 Department?</p> <p>3 A. Yes, the PowerPoint presentation.</p> <p>4 Q. I'm going to hand you a copy of Exhibit 32.</p> <p>5 A. Okay.</p> <p>6 Q. And I want to tell you for the record, that</p> <p>7 is not everything that was in the document that you</p> <p>8 prepared and was provided to me. I picked out the</p> <p>9 parts that I thought were directly relevant to this</p> <p>10 case and included them in Exhibit 32. Would you look</p> <p>11 through that —</p> <p>12 A. Sure.</p> <p>13 Q. — and see if that is — includes documents</p> <p>14 that you prepared?</p> <p>15 A. Yep, it looks like everything's there — or</p> <p>16 everything's correct.</p> <p>17 Q. Now, after going through Exhibit 32, would I</p> <p>18 be correct in understanding that all of the</p> <p>19 training — suggestions and the training that you</p> <p>20 provided to Burlington police officers sometime after</p> <p>21 Autumn Steele's death, all of that was available and</p> <p>22 could have been provided to them say on January 3rd</p> <p>23 of 2015 if they had asked you to do so?</p> <p>24 A. No, they wouldn't — not all of this would</p> <p>25 be available.</p>	17	<p>1 Q. And when were you first approached about</p> <p>2 doing that training after Autumn Steele's death?</p> <p>3 A. Pretty quick. I can't be for certain.</p> <p>4 Within two weeks let's say.</p> <p>5 Q. A few weeks?</p> <p>6 A. Yeah. It was pretty quickly.</p> <p>7 Q. And you ended up putting together Exhibit 32</p> <p>8 as a part — in response to that question?</p> <p>9 A. Yes.</p> <p>10 Q. And if you had been asked to put together a</p> <p>11 dog training module for the Burlington Police</p> <p>12 Department on December 30th of 2014, you could have</p> <p>13 put the same material together at that time; isn't</p> <p>14 that true?</p> <p>15 A. Yes, yes.</p> <p>16 Q. I mean, there's nothing in Exhibit 32 in</p> <p>17 terms of some breakthrough about dog obedience —</p> <p>18 A. No.</p> <p>19 Q. — that — that only —</p> <p>20 MS. SHAFF: Let him finish the question.</p> <p>21 Q. Yeah — that only became available and known</p> <p>22 to you after January 6, 2015?</p> <p>23 A. Correct.</p> <p>24 Q. This — Everything in Exhibit 32 is material</p> <p>25 and suggestions that you were aware of prior to that</p>

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18	<p>1 time?</p> <p>2 A. Correct.</p> <p>3 Q. And -- but you had not put it together in</p> <p>4 the format that it's in --</p> <p>5 A. Correct.</p> <p>6 Q. -- in Exhibit 32? All right. And I want to</p> <p>7 go through that training because I want to make sure</p> <p>8 I just -- I understand it. One of the important</p> <p>9 things you start off in the beginning is that</p> <p>10 officers should be cognizant of the fact that dogs</p> <p>11 might be present, and they need to prepare themselves</p> <p>12 if they -- if they have reason to believe a dog will</p> <p>13 be present.</p> <p>14 A. Correct, to look for signs.</p> <p>15 Q. And what are some of those signs that they</p> <p>16 should look for?</p> <p>17 A. A fenced in yard with signage on it, dog</p> <p>18 bowls, dog toys, just things that would give them</p> <p>19 some awareness that there is a dog present on site.</p> <p>20 Q. You talk about in the training that dogs</p> <p>21 actually smell fear. What -- Explain that for us.</p> <p>22 What -- I think you mean in a literal sense, not in a</p> <p>23 figurative --</p> <p>24 A. No --</p> <p>25 Q. -- sense.</p>	20	<p>1 the same way.</p> <p>2 Q. Does it make them more aggressive and want</p> <p>3 to bite?</p> <p>4 A. It depends on the circumstances. It could.</p> <p>5 Q. Now, I think you note in the -- And you can</p> <p>6 refer to your records anytime you want to. And if</p> <p>7 there's something that's not in there, let us --</p> <p>8 that you want to talk about in responding to a</p> <p>9 question, let me know, because I've got the rest of</p> <p>10 your training module somewhere in here, and we can</p> <p>11 dig it out --</p> <p>12 A. Okay.</p> <p>13 Q. -- fair enough? You note in there that</p> <p>14 there's been a significant decrease in dog bites in</p> <p>15 the last ten years or so, reported dog bites.</p> <p>16 A. Correct.</p> <p>17 Q. And I think you even said that in New York</p> <p>18 City there was -- I don't know how long ago it was,</p> <p>19 but it went from 37,000 down to like 3,600 or</p> <p>20 something like that.</p> <p>21 A. Correct.</p> <p>22 Q. Do you know what that's attributable to?</p> <p>23 A. In certain areas I think there's better</p> <p>24 education. We're a little more aware and cognizant</p> <p>25 of some of the situations that have gone on. Some</p>
19	<p>1 A. -- absolutely literal. Dogs actually will</p> <p>2 smell -- they will pick up on your senses through the</p> <p>3 hormones that your body produces, and it's out of</p> <p>4 your breath. Okay? So if you ever watch Westminster</p> <p>5 on TV, you'll notice that at ringside they have a</p> <p>6 bowl of candy sitting on every judging table. That's</p> <p>7 for people who are handling their dogs to put the</p> <p>8 candy in their mouth so when they're stressed, the</p> <p>9 dogs are not picking up on that while they're showing</p> <p>10 and so that they can react positively to the</p> <p>11 experience. Okay?</p> <p>12 Q. So if somebody is leery around dogs, the dog</p> <p>13 can pick up on that?</p> <p>14 A. Absolutely.</p> <p>15 Q. And they do pick up on it?</p> <p>16 A. Absolutely.</p> <p>17 Q. And how does that make a dog react if they</p> <p>18 have -- get the scent that somebody they're dealing</p> <p>19 with is leery about them?</p> <p>20 A. It can make them uncomfortable, just like it</p> <p>21 would a person. If you're meeting somebody for the</p> <p>22 first time and they're standoffish and leery of you</p> <p>23 and acting odd, you tend to feel a little more</p> <p>24 uncomfortable about that person than someone that</p> <p>25 comes up and is bubbly. So a dog will pick up on it</p>	21	<p>1 areas are, some areas are not. So if you broke it</p> <p>2 down nationwide, you would see there's strengths and</p> <p>3 weaknesses in certain areas.</p> <p>4 Q. And you also said that the overwhelming</p> <p>5 majority of dog bites are minor?</p> <p>6 A. Correct.</p> <p>7 Q. In terms of physical injury?</p> <p>8 A. Correct.</p> <p>9 Q. I think you even noted that 2 percent of dog</p> <p>10 bites that go to an -- go to an ER end in hospital</p> <p>11 admission.</p> <p>12 A. Correct.</p> <p>13 Q. All right. You also noted that fatalities</p> <p>14 are extremely rare; is that right?</p> <p>15 A. Correct.</p> <p>16 Q. Typically associated with either children or</p> <p>17 elderly?</p> <p>18 A. Correct.</p> <p>19 Q. And I think you noted that there's no</p> <p>20 documented incident of a police officer in the</p> <p>21 United States of America being killed by a dog.</p> <p>22 A. Correct.</p> <p>23 Q. Has that changed at all since you wrote that</p> <p>24 module?</p> <p>25 A. No.</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

Gabriel Steele, individually,)
as Executor of the Estate of)
Autumn Steele, and as next of)
friend for his minor child)
G.S.; Sean Schoff, as next of)
friend for his minor child)
K.S.; and Gina Colbert,)
individually,) Case No. 3:16-cv-105
)
Plaintiffs,)
)
vs.)
)
City of Burlington and)
Officer Jesse Hill,)
)
Defendants.)

DEPOSITION OF DARREN J. GRIMSHAW, taken
on Monday, August 21, 2017, commencing at
9:04 a.m., at the Burlington Public Library,
210 Court Street, Burlington, Iowa, before
Angela Weible-Jones, Certified Shorthand Reporter
of the State of Iowa, pursuant to the within
stipulation.

Angela Weible-Jones, CSR, RPR, CRR
Carson Reporting, Inc.
118 - 3rd Avenue, Southeast, Suite 301
Cedar Rapids, Iowa 52401
(319) 366-7450

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10		12
1	Q. And if we're talking about this and going	1 questions about it. Fair enough?
2	through this and you come to believe that there is	2 A. Fair.
3	something in here that you want to refer to that's	3 Q. Okay. And then you said something about
4	missing, please let me know, and we'll get the full	4 there was a third training --
5	one out. Fair enough?	5 A. Yes.
6	A. Okay. Yep.	6 Q. -- module that was put in place? What was
7	Q. All right. So tell me a little bit about	7 that?
8	Angie Vaughan. How did you come to retain her	8 A. So a lot of our training we try to update on
9	services to provide a training module for dealing	9 a regular basis, annually, biannually. Some of it's
10	with canines?	10 required. Some of it is not. Some of it's mandated
11	A. So immediately following the incident, we	11 by State code. Some is not. We last year -- When I
12	had discussions that we needed to provide some	12 say last year, I mean at the end of 2016, we
13	training obviously to our officers immediately. So I	13 contracted with an agency called PoliceOne Academy.
14	found some police/canine encounter training online	14 It's an online training module or facility that we're
15	with the Department of Justice. We fulfilled that	15 able to use to bring current events and to bring
16	training online. But then we felt like we wanted	16 additional training to our officers at their
17	some hands on with just a physical presence of an	17 convenience online while they're either off duty or
18	instructor to follow up with that also.	18 on duty, when they have time.
19	Angie Vaughan is our safety director for the	19 We go through those training modules and
20	City of Burlington. I know -- I can't speak to all	20 look at either areas that we believe we need more
21	of it, but I know that she has a long history with	21 training in, we need updated training, we need to
22	training, breeding, housing canines over the last	22 recertify on training. So as we were going through
23	thirty years probably. And she came and said that	23 that training, we realized that it had been almost
24	she had done some instruction in the past, that she	24 two years since our last canine training with all of
25	had worked with a lot of different handlers and that	25 our officers, so in May of this year -- April or
	11	13
1	she would be willing to put on some additional	1 May this year, we identified another training module
2	training, as a safety director, for our officers.	2 on PoliceOne Academy, another online training that's
3	Q. And did she do that in person?	3 approximately 45 minutes to an hour in length that we
4	A. Yes, she did.	4 mandated all of our officers watch as well. So that
5	Q. And she's local, she lives in this area?	5 was our third updated training.
6	A. She does.	6 Q. And I don't know that I have any information
7	Q. And she volunteered to do some additional	7 on that. I was provided documentation with regard to
8	training for you?	8 two of the trainings that we already talked about,
9	A. Yes.	9 Exhibits 32 and 33. So let me ask you a general
10	Q. You referenced another training module from	10 question, if you recall. Was there anything
11	the Department of Justice, the FBI?	11 significantly different about this updated training
12	A. I don't believe it was put on by the FBI. I	12 that your officers received different from what they
13	know the Department of Justice sponsored the online	13 would have received in reviewing Exhibits 32 and 33?
14	training, but I don't remember exactly who put the	14 A. I would say no.
15	training together. I don't remember that.	15 Q. So --
16	(Exhibit 33 was marked for identification	16 MS. SHAFF: And, Dave, just so you
17	by the reporter.)	17 understand, we have copyright issues with being able
18	Q. I'm going to hand you a copy of Deposition	18 to try to download it for you, but we can give you
19	Exhibit 33 and ask you if you recognize that.	19 the site where it's at, and you can, I think, access
20	A. Yes, I do.	20 it. But it won't let us print it. It won't let us
21	Q. All right. And same caveat, this is not	21 get it because I think they want money.
22	everything that was in the training module that was	22 A. Sure. Yeah, we pay for it, so --
23	provided.	23 Q. And that's fair enough. And since you
24	A. Sure.	24 didn't -- since we're not talking about any
25	Q. It's the material I picked out because I had	25 significant differences --

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<p style="text-align: right;">14</p> <p>1 A. Sure.</p> <p>2 Q. -- in how officers are being trained, I'm</p> <p>3 not really too concerned about it. It is fair to say</p> <p>4 that Exhibits 32 and 33 set out the training that you</p> <p>5 now provide and accurately describe the training that</p> <p>6 officers receive in Burlington --</p> <p>7 A. Correct.</p> <p>8 Q. -- for dealing with dogs?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And that is not training that was --</p> <p>11 that was provided to officers prior to January 6 of</p> <p>12 2015?</p> <p>13 A. Not by the Burlington Police Department.</p> <p>14 Q. All right.</p> <p>15 A. I just don't know the curriculum with the</p> <p>16 Iowa Law Enforcement Academy enough to know if it</p> <p>17 matches the type of content that's in these</p> <p>18 trainings.</p> <p>19 Q. And just to follow up on that, this type of</p> <p>20 material was available prior to January 6, 2015, was</p> <p>21 it not?</p> <p>22 A. I would say yes.</p> <p>23 Q. All right. Now, going through the</p> <p>24 exhibit -- Let's go through Exhibit 33. And if I</p> <p>25 understand correctly, this is the first training</p>	<p style="text-align: right;">16</p> <p>1 ascending order from the least amount of force</p> <p>2 necessary to handle a situation to the greatest</p> <p>3 amount of force?</p> <p>4 A. That model's changed. Now it's a continuum,</p> <p>5 not a suggested path. Now it's a continuum based on</p> <p>6 the threat at the time.</p> <p>7 Q. Certainly on the continuum, if I recall</p> <p>8 correctly, most police departments have verbal,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then they might have restraints, and</p> <p>12 then they might have batons and then Tasers and</p> <p>13 ultimately get down to use of deadly force?</p> <p>14 A. Yes.</p> <p>15 Q. And certainly an officer doesn't have to go</p> <p>16 through the list if somebody's coming at him with a</p> <p>17 knife or pointing a gun in his direction, right?</p> <p>18 A. Correct.</p> <p>19 Q. You can always go to the level of force</p> <p>20 that's necessary in order to handle the situation?</p> <p>21 A. Correct.</p> <p>22 Q. But the rule is you're supposed to use the</p> <p>23 least amount of force necessary to handle the</p> <p>24 situation?</p> <p>25 A. Yes, I would say that would be a fair</p>
<p style="text-align: right;">15</p> <p>1 module that you went through post Autumn Steele</p> <p>2 incident for -- required of your police officers in</p> <p>3 Burlington for training with a dog?</p> <p>4 A. Correct.</p> <p>5 Q. And this included watching a video and then</p> <p>6 being provided some PowerPoint presentations on the</p> <p>7 video or some narrative descriptions of what the</p> <p>8 video showed; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And this was online training?</p> <p>11 A. Yes.</p> <p>12 Q. And we're talking about Exhibit 33?</p> <p>13 A. Yes.</p> <p>14 Q. And turning to page -- Bate stamp</p> <p>15 page number 86, which is just a few pages in -- do</p> <p>16 you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And it talks about course content, model of</p> <p>19 use of force. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And typically for training of officers on</p> <p>22 use of force, you use a use of force continuum, do</p> <p>23 you not?</p> <p>24 A. Yes.</p> <p>25 Q. And the use of force continuum is in</p>	<p style="text-align: right;">17</p> <p>1 assessment, yes.</p> <p>2 Q. So you don't want to use your gun because</p> <p>3 somebody is -- has punched you in the face?</p> <p>4 A. Correct.</p> <p>5 Q. Now, if they get you on the ground and have</p> <p>6 a choke hold, different set of -- scenario, right?</p> <p>7 A. Correct.</p> <p>8 Q. And I ask the question about the continuum</p> <p>9 because I notice this one starts at the top with</p> <p>10 baton, Taser and then says verbal and body language.</p> <p>11 And that doesn't appear to be in order to me. Would</p> <p>12 you agree with that?</p> <p>13 A. I would agree.</p> <p>14 Q. And typically you would expect an officer to</p> <p>15 try, if it would handle the situation, to use verbal</p> <p>16 and body language first; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And between a baton and Taser, which would</p> <p>19 you consider higher on the level -- on the use of</p> <p>20 force continuum?</p> <p>21 A. Baton.</p> <p>22 Q. Okay. So they -- they'd use the Taser</p> <p>23 before they'd use the baton if the Taser would handle</p> <p>24 the situation?</p> <p>25 A. Yes.</p>

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18	<p>1 Q. All right. And then the baton after that?</p> <p>2 A. Yes.</p> <p>3 Q. And certainly then the use of their service</p> <p>4 weapon, deadly force would be after that?</p> <p>5 A. Yes.</p> <p>6 Q. And —</p> <p>7 A. If the situation allowed for it. There may</p> <p>8 be a circumstance where I would use the baton first,</p> <p>9 but it would depend on if I needed leverage, if I</p> <p>10 needed to block something more than use it as a</p> <p>11 striking instrument. But yes, in most instances I</p> <p>12 would say the Taser first, then the baton.</p> <p>13 Q. Okay. And where would pepper spray fall</p> <p>14 into that continuum?</p> <p>15 A. Probably between the Taser and the baton.</p> <p>16 Q. Taser first, then pepper spray, then baton?</p> <p>17 A. Yes.</p> <p>18 Q. Is it possible — You hesitated for a little</p> <p>19 bit. Is it possible that the pepper spray might even</p> <p>20 come before the Taser in terms of the use of force</p> <p>21 continuum?</p> <p>22 A. Again, it would be an assessment of the</p> <p>23 current situation. The Taser is an effective means</p> <p>24 that leaves no — you know, it puts you in a position</p> <p>25 that it eliminates the threat more effectively</p>	20	<p>1 I could have an injury on one hand or the other. So</p> <p>2 I would say yes, but there are circumstances that may</p> <p>3 prevent you from easily accessing those items.</p> <p>4 Q. And I appreciate the caveat. And if I</p> <p>5 understand what you're saying, the whole idea is to</p> <p>6 have this stuff readily available. You would expect</p> <p>7 that in most situations it would be, but there would</p> <p>8 be circumstances where that would not be the case?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Fair enough?</p> <p>11 A. Fair.</p> <p>12 Q. All right. Now let's go to the next page.</p> <p>13 Officers were trained after the Autumn Steele</p> <p>14 incident that most dog bites are not full attacks;</p> <p>15 isn't that right?</p> <p>16 A. Correct.</p> <p>17 Q. And that usually it's a brief bite or bites,</p> <p>18 right?</p> <p>19 A. Correct.</p> <p>20 Q. And no violent shaking of the head, the</p> <p>21 dog's head?</p> <p>22 A. In most instances you're correct.</p> <p>23 Q. All right.</p> <p>24 A. Yes.</p> <p>25 Q. And in those situations where it's just a</p>
19	<p>1 without any long-term physical damage or injury. The</p> <p>2 pepper spray has a tendency sometimes to affect a</p> <p>3 wider group of people, including officers, innocent</p> <p>4 bystanders. The pepper spray can be ineffective more</p> <p>5 so than the Taser. So again, I would have to look at</p> <p>6 each scenario separately and give you an answer. To</p> <p>7 just carte blanche say yes would be tough to do.</p> <p>8 Q. In terms of location on a police officer's</p> <p>9 utility belt, would you agree with me that an officer</p> <p>10 should be able to get out any of these items in an</p> <p>11 emergency situation and use them as necessary?</p> <p>12 A. Certainly.</p> <p>13 Q. Baton, Taser, pepper spray, they all should</p> <p>14 be readily available to an officer to use as he saw</p> <p>15 fit in handling and controlling a situation, right?</p> <p>16 A. The quick answer to that is yes. But again,</p> <p>17 not knowing the circumstances, it's hard to say yes</p> <p>18 in all instances it should. If I'm handcuffing</p> <p>19 someone and I have ahold of a handcuff and they start</p> <p>20 resisting, my right hand or my left hand could be</p> <p>21 occupied at the time. It could be difficult for me</p> <p>22 to obtain something on the left-hand side of my belt.</p> <p>23 I mean, there's a lot of variables, so to just</p> <p>24 carte blanche say yes — You want it accessible, but</p> <p>25 sometimes you may not be able to easily retrieve it.</p>	21	<p>1 bite and no — a hold and shaking of the head, the</p> <p>2 intermediate force is applicable, that's how officers</p> <p>3 are now trained, right?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And you would agree with me,</p> <p>6 would you not, that that's not what Officer Hill did</p> <p>7 in the Autumn Steele situation, is it?</p> <p>8 A. Can you say that one more time for me?</p> <p>9 Q. Sure. You would agree with me that that's</p> <p>10 not what Officer Hill did in this situation with</p> <p>11 Autumn Steele?</p> <p>12 MS. SHAFF: Objection, form.</p> <p>13 Q. He didn't follow this training?</p> <p>14 A. Did he have — He did not have this training</p> <p>15 that we provided prior to the incident, that I'm</p> <p>16 aware of, unless it was provided at the Iowa Law</p> <p>17 Enforcement Academy.</p> <p>18 Q. And I understand that.</p> <p>19 A. The decision for him to draw his weapon was</p> <p>20 obviously based on whatever his thought process was</p> <p>21 at that time. On the training course content, the</p> <p>22 recommendation obviously by the training would be</p> <p>23 another alternative, but that's in a broad sense.</p> <p>24 And what I mean by in a broad sense, all training we</p> <p>25 receive as law enforcement officers is used to</p>

60

Other evidence

Officer Timothy

Merriman body Camera
video

DVD submitted directly to
Judge Gritzner's chambers.