



Roll Call Number

Agenda Item Number

43

December 17, 2007

Date

PUBLIC HEARING ON DANGEROUS ANIMAL APPEAL OF CODY FLEMING

WHEREAS, Cody Fleming, 6509 SW 18th Street, filed an application for appeal before the City Council of the City Hearing Officer's decision upholding the Chief Humane Officer's declaration of his dog as a dangerous animal; and

WHEREAS, Mr. Fleming requested an opportunity to address the City Council regarding his appeal; and

WHEREAS, Mr. Fleming has been provided with the opportunity to address the City Council on the matter of his appeal; NOW, THEREFORE,

BE IT RESOLVED (Choose one of the two alternatives):

Alternative One: That the order of the hearing officer be upheld and Mr. Fleming's dog be declared a dangerous animal and that it be humanely destroyed.

MOVED BY _____ TO UPHOLD DECLARATION AND TO HUMANELY DESTROY THE ANIMAL.

Alternative Two: That the order of the hearing officer be reversed and Mr. Fleming's dog not be declared dangerous.

MOVED BY _____ TO REVERSE DECLARATION.

FORM APPROVED:

K. Massier
Katharine Massier
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

December 12, 2007

Cody Fleming
6509 SW 16th Street
Des Moines, IA 50315

Dear Mr. Fleming:

This is to acknowledge your written request of December 10, 2007, requesting an appeal before the City Council of the Hearing Officer's decision regarding declaration of Scarface as a "dangerous animal."

Your hearing has been scheduled for the City Council Meeting on December 17, 2007. The meeting starts at 4:30 p.m. Enclosed is a copy of the Administrative Hearing transcript.

If you have any questions regarding this matter, please contact me at 283-4209.

Sincerely,



Diane Rauh
City Clerk

DR:kh

cc: Hearing Officer
Assistant City Attorney
Sgt. Scott Raudabaugh-Animal Control
Chief Bradshaw

12-10-07

43

To whom it may concern:

I Cody Fleming would like to appeal the dangerous dog hearing for my dog Scarface.

Cody Fleming

6509 SW 16 St.
Des Moines IA, 50315

FILED

DEC 16 PM 12:39

CLERK
DES MOINES, IOWA

December 5, 2007

Cody Fleming
6509 SW 16th Street
Des Moines IA 50315

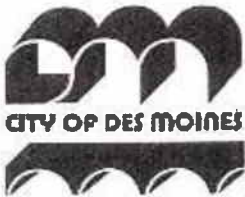
RE: Administrative Hearing – Declaration of Dangerous Animal

Dear Mr. Fleming:

The City of Des Moines scheduled an Administrative Hearing on November 27, 2007 at 1:00 p.m. regarding the declaration of your brown and white neutered, Pit Bull dog, (Scarface) to be a “dangerous animal” by Sergeant Scott Raudabaugh, Chief Humane Officer for the City of Des Moines Animal Control Unit.

Sergeant Raudabaugh entered the following documents into evidence:

- City Exhibit A - Letter to Cody Fleming from Sergeant Scott Raudabaugh, dated November 21, 2007, declaring his Pit Bull dog to be a “Dangerous Animal.”
- City Exhibit B – Proof of Service of Dangerous Animal Letter dated November 21, 2007.
- City Exhibit C – Animal Incident Investigation Report, Case #07-44453, dated November 15, 2007 (4 pages).
- City Exhibit D – Supplemental Animal Incident Investigation Report, Case #07-44453, dated November 15, 2007 (2 pages).
- City Exhibit E – Supplemental Report of the Des Moines Police Department on November 15, 2007.
- City Exhibit F – Des Moines Police Department Request for Examination, dated November 15, 2007 (with pictures).
- City Exhibit G – Animal History Report on Case #07-44453 by City Veterinarian Gregory Berry.
- City Exhibit H – Information provided to City Clerk’s Office for licensing of Cody Fleming’s dog (3 pages).
- City Exhibit I – Animal History Report dated April 14, 2005 (4 pages).
- City Exhibit J – Section 18-41 Definitions (Des Moines Municipal Code).
- City Exhibit K – Section 18-196 Definitions (Des Moines Municipal Code).
- City Exhibit L – Section 18-203 Immediate Seizure or Destruction of Animals (Des Moines Municipal Code).
- City Exhibit M – Section 18-202 Seizure, Impoundment and Disposition of Dangerous Animals.



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DES MOINES, IOWA 50309-1991
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515-283-1645
dm.gov.org

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BUSINESS LICENSES

ALL-AMERICAN CITY
1949, 1976, 1981,
2003

Cody Fleming
December 5, 2007
Page Two

Sergeant Raudabaugh said City Exhibit G contains a notation from Dr. Berry that he was unable to measure Mr. Fleming's dog due to the dog's aggressiveness. Sergeant Raudabaugh stated that Mr. Fleming's dog has a current City dog license and insurance, and also referred to City Exhibit I, dated April 14, 2005. On this date, Mr. Fleming's dog was picked up by Animal Control and impounded for not having a proper City license. Mr. Fleming subsequently obtained a City license and the dog was released.

Sergeant Raudabaugh referenced relevant sections of the City of Des Moines Municipal Code and said Section 18-41 refers to the definition of a vicious dog, which this dog is by breed. Section 18-196 contains the definition of a dangerous dog. Sergeant Raudabaugh stated the following two parts of this section apply in this case:

- (2) Did bite or claw once causing injuries above the shoulders of a person
- (3) Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence

Sergeant Raudabaugh then referenced Section 18-203 and said he mistakenly submitted this section into evidence, as it does not directly apply.

Section 18-202 was then discussed by Sergeant Raudabaugh and he said if his declaration of a dangerous dog is upheld, this section identifies what is to be done with the dog.

Sergeant Raudabaugh said that on November 14, 2007, Mr. Cody Fleming's dog, Scarface, was hiding under a bed while he and his girlfriend argued. At one point Mr. Fleming stepped on the dog's paw and the dog reacted by biting Mr. Fleming on the arm, causing injuries. It was reported that Mr. Fleming then punched his dog, probably in reaction to the previous bites, and the dog reacted by biting Mr. Fleming in the face. The photographs entered show the wounds. Sergeant Raudabaugh said that when the Animal Control Officer originally met with Mr. Fleming at Broadlawn's Hospital, Mr. Fleming's initial statement was untrue. A Police Officer got involved in the investigation and Mr. Fleming was then truthful by proving the correct information.

Sergeant Raudabaugh said because of the circumstances involving the bite, he declared Mr. Fleming's dog to be dangerous. Stepping on a dog's paw would probably cause some sort of reaction, but jumping up and repeatedly biting someone's arm seems unreasonable, according to Sergeant Raudabaugh. Sergeant Raudabaugh said that a dog's reaction to being punched is



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Cody Fleming
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undetermined but it seemed a bit unusual for the dog to jump up and bite that person in the face. Sergeant Raudabaugh said he feels this dog is a bit of a ticking time bomb. Even though Mr. Fleming contacted Sergeant Raudabaugh and asked him for a second chance for his dog, Sergeant Raudabaugh said he is concerned not only for the safety of Mr. Fleming, but for Mr. Fleming's family, friends and the citizens of Des Moines, and that is why he declared Mr. Fleming's dog to be a dangerous animal.

Cody Fleming attended the Hearing and stated he and his girlfriend were yelling and arguing pretty loudly and the dog got scared. Mr. Fleming said that when he accidentally stepped on the dog's paw, his dog bit his arm. After punching his dog, he had bent down and Mr. Fleming said he thinks the dog was going to bite him in the arm again, but bit him in the face. Mr. Fleming said at the hospital he did not want to fill out a report, but he finally said it was a neighborhood dog. He said he lied because his dog means a lot to him. Mr. Fleming said his dog is not a people-friendly dog. He said he and his girlfriend are alone most of the time and don't have many friends. Mr. Fleming said when his dog is outside he is in a body harness and there is no way the dog can get loose. Mr. Fleming said he was originally told his dog would be placed in an in-home quarantine. Mr. Fleming said he has a business and most evenings has several thousands of dollars in the home and that is why he purchased his dog.

Sergeant Raudabaugh said that on three separate occasions he went back to the dog kennel area and each time he approached the kennel, the dog growled and took a defensive stance. He said Mr. Fleming's statement that his dog is not people friendly is an accurate statement as to how the dog reacted to him each time. Dr. Berry indicated the dog reacted the same way to him and his staff. Sergeant Raudabaugh said the possibility always exists for home quarantine. From the time the initial report was made until the dog was impounded, Sergeant Raudabaugh said it gave him time to determine if home quarantine was possible. Pit Bull breed dogs are not normally home quarantined because of the liability associated with the potential of another bite and the actions taken by the Animal Control Unit would be significant.

I am ruling that Cody Fleming's Pit Bull dog named Scarface, is a dangerous dog. The reasons for this determination are as follows:

- Mr. Fleming's dog is a "vicious" dog as defined by Section 18-41.
- Mr. Fleming's dog is a "dangerous" dog as defined by Section 18-196.



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ALL-AMERICAN CITY
1843, 1978, 1981,
2003

Cody Fleming
December 5, 2007
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- Mr. Fleming failed to control or restrain his dog at the time of the attack.
- Mr. Fleming's dog exhibited vicious propensities to the City Veterinarian and his staff and upon three occasions to Sergeant Raudabaugh.

Also, by Mr. Fleming's own admission, his dog is not a people-friendly dog and the reason he purchased him in the first place was for protection because large amounts of monies were kept in the household.

I am further ruling that Cody Fleming's Pit Bull dog, Scarface, be destroyed in a humane manner by the Chief Humane Officer.

If you disagree with this decision, you have three (3) days to appeal the decision to the City Council. The appeal must be made in writing to the City Clerk's Office, and state the reason for the appeal. If you have any questions regarding the appeal or compliance procedure, please contact Animal Control at 248-6051.

Sincerely,



LeAnn Ducey
Hearing Officer

Enclosures

Cc: Diane Rauh, City Clerk
Police Chief Bradshaw
Sergeant Scott Raudabaugh



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ALL-AMERICAN CITY
1948, 1978, 1981,
2003

November 21, 2007

Mr. Cody Fleming
6509 SW 16th Street
Des Moines, Iowa

Mr. Fleming,

On November 14, 2007 your brown and white colored Pit Bull breed dog named "Scarface" was hiding under a bed while you and your girlfriend argued. At one point you stepped on your dog's paw and your dog reacted by attacking and biting your arm, which caused injuries. You then punched your dog and your dog reacted by attacking and biting your face, which caused injuries.

Subsequently an Animal Control Officer impounded your dog for quarantine at the animal shelter. On three different occasions I have entered the dog kennel area and observed your dog, each time it immediately growled and took a defensive stance.

Because your Pit Bull breed dog reacted in the manner that it did it is being declared a "Dangerous Animal," in accordance with the dangerous animal ordinance.

An Administrative Hearing to review the circumstances of the "Dangerous Animal" declaration has been scheduled for 1:00 P.M. on Tuesday, November 27, 2007 in the City Council Chambers in the Des Moines City Hall at 400 Robert D. Ray Drive.

Your dog will remain in impound pending a decision by the Hearing Officer.

If you have any questions please call me at (515) 248-6052 or the animal shelter at (515) 284-6905 or the City Clerk's Office at (515) 283-4209.

Sincerely,


Sergeant Scott Raudabaugh,
Chief Humane Officer

cc: City Clerk's Office



ANIMAL CONTROL
POLICE DEPARTMENT
1416 S.W. 14TH STREET
DES MOINES, IOWA 50320-1010
(515) 242-6723

AL - AMERICA CITY 1949, 1876, 1381

B



Animal Control

DOCUMENT SERVICE

Case number: 2007-44453

ARL number (If known): A03854910

Animal owner's name: COBY FLEMING

Address: 6509 SW 11TH ST.

Name of person receiving document: Coby Fleming

Their signature: X Coby Fleming

Date and time served: 11/21/07 2:11

Animal Control Officer serving document: Blankenship

Animal Control Officer's identification number: 7232

Type of document served: DANGEROUS

ANIMAL LETTER

10/11
ACU

Animal Incident Investigation Report NOV 15 PM 4:09
Des Moines, Iowa Police Department

CITY EXHIBIT
C

32. District: 3		33. Beat: 32		1. Impounded animal AHRJARI# number:		2. DMPD case number: 07-44453	
Impounded or bite animal				3. Victim's name (Last, First M.I.): FLEMING, CODY A.		(Human victim or society)	
34. Animal type: Cat <input type="checkbox"/> Dog <input checked="" type="checkbox"/> Other <input "scarface"<="" :="" td="" type="checkbox"/> <td colspan="2">4. Race: WM</td> <td colspan="2">5. Sex: M</td> <td colspan="2">6. Age: 2 1/2</td>		4. Race: WM		5. Sex: M		6. Age: 2 1/2	
35. Animal breed: PITBULL		7. Date of birth: 08/24/85		8. Ethnicity: <input type="checkbox"/> H <input checked="" type="checkbox"/> N <input type="checkbox"/> O		9. Society: Sob. <input checked="" type="checkbox"/> I	
36. Animal color: BRO, WHT		10. Residence address: 6509 SW 16TH				(City and/or state if not Des Moines or Iowa)	
37. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>		11. Residence phone number: 265-4246		12. Business or cellular phone number: 556-2604			
38. Microchip: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> (Records Personnel: Enter M/C# as a serial number)		13. Place of employment or school: ANKENY AREA REDEMPTION		14. Type and location of injury: PUNCTURES, BOTH FOREARMS + FACE			
M/C#: 455A057C31		15. Medical treatment: BGN EIR		16. Reporting person's name (Last, First M.I.): # 3			
40. Rabies tag: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> R/T#: 759683		17. Race: WM		18. Sex: M		19. Age: 2 1/2	
41. Date of vaccination: 10/22/07		20. Date of birth: 08/24/85		21. Ethnicity: <input type="checkbox"/> H <input checked="" type="checkbox"/> N <input type="checkbox"/> O		22. Society: Sob. <input checked="" type="checkbox"/> I	
42. Date of vaccination expiration: 10/22/08		23. Residence address: # 10		24. Residence phone number: # 11			
43. Veterinarian: 460		25. Business or cellular phone number: # 12		26. Location of incident (address): 6509 SW 16TH			
44. License: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Lic#: 07-14294		27. Location type: RESIDENTIAL		28. Date and time incident occurred: 11/14/07 0900			
45. Other identifiers (Collar, tattoo, etc.): COLLAR + TAGS		29. Date and time incident reported: 0918		30. Classification: ANIMAL BITE			
46. Impounded or bite animal owner's name (Last, First M.I.): # 3		31. Residence address: # 10		32. Residence phone number: # 11			
47. Residence phone number: # 11		33. Place of employment or school: # 13		34. Business or cellular phone number: # 12			
48. Animal owner notification: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>		35. Date and time of notification: # 28		36. Person making notification: # 28			
49. Witness name (Last, first): N/A		37. Residence address: (City and/or state if not Des Moines or Iowa)		38. Daytime or cellular phone number:			
50. Witness name (Last, first): N/A		39. Residence address: (City and/or state if not Des Moines or Iowa)		39. Daytime or cellular phone number:			
51. Investigative notifications and/or photographs taken: Detective: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Ident. Technician: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> ACO Supervisor: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Photographs taken by ACO or PO: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>							
Victim animal		52. Victim animal AHRJARI# number: Impounded: No <input type="checkbox"/> Yes <input type="checkbox"/> AHRJARI#: N/A		53. Animal type: Cat <input type="checkbox"/> Dog <input type="checkbox"/> Other <input type="checkbox"/>		54. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>	
55. Animal breed: N/A		56. Animal color: N/A		57. Animal fur length: Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>			
58. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>		59. Rabies tag: No <input type="checkbox"/> Yes <input type="checkbox"/> R/T#: N/A		60. Date of vaccination: N/A			
61. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> M/C#: N/A		62. Date of vaccination expiration: N/A		63. Veterinarian: N/A			
64. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#: N/A		65. Type and location of injury: N/A		66. Medical treatment: N/A			
67. Containment/quarantine location: N/A		68. Victim animal owner's name (Last, First M.I.): N/A					
69. Residence address: (City and/or state if not Des Moines or Iowa)		70. Residence phone number:		71. Business or cellular phone number:			
72. Reporting officer: K. LEMON I.D. No: 7812		73. Status: <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed		74. Copies made by: N/A		75. Referred to: <input checked="" type="checkbox"/> Animal Control	
76. Second officer: N/A I.D. No: N/A		<input type="checkbox"/> Case file <input type="checkbox"/> Suspended <input type="checkbox"/> Unfounded		<input type="checkbox"/> Detectives <input type="checkbox"/> PIO		<input type="checkbox"/> Chief <input type="checkbox"/> CPS	
77. Supervisor approving report: N/A I.D. No: 4770		78. Reviewer: N/A		79. Other: N/A			

11/17/07
TOME 1305

Animal Incident Investigation Report
Des Moines, Iowa Police Department

82. Suspect or offender one (1) name (Last, first Middle):
83. Arrested: No Yes
84. Warrant needed: No Yes
85. Charges filed: No Yes

90. Race: 91. Sex: 92. Age: 93. Date of birth: 94. Ethnicity: H NH
95. Height: 96. Weight: 97. Hair color: 98. Eye color:

99. Residence address: (City and/or state if not Des Moines or Iowa)

100. Residence or alternate phone number: 101. Driver license number or social security number: 102. State: 103. Sobriety: Sob. H.B.D.

104. Citation number and crime: 105. Citation number and crime:

106. Suspect or offender two (2) name (Last, First Middle):
107. Arrested: No Yes
108. Warrant needed: No Yes
109. Charges filed: No Yes

110. Race: 111. Sex: 112. Age: 113. Date of birth: 114. Ethnicity: H NH
115. Height: 116. Weight: 117. Hair color: 118. Eye color:

119. Residence address: (City and/or state if not Des Moines or Iowa)

120. Residence or alternate phone number: 121. Driver license number or social security number: 122. State: 123. Sobriety: Sob. H.B.D.

124. Citation number and crime: 125. Citation number and crime:

126. Narrative:
VICTIM (FLEMING) WAS ARGUEING WITH HIS GIRLFRIEND (ANGELA WIAND). HE STATES THERE WAS MUCH YELLING + SLAMMING OF DOORS DURING THE ARGUEMENT, CAUSING FLEMINGS PIT BULL TO BECOME NERVOUS + AGITATED. ARGUEMENT ENDED WITH THE GIRLFRIEND LEAVING + SLAMMING THE DOOR ON THE WAY OUT, + THE PIT BULL HIDING UNDER THE BED. VICTIM STEPPED ON THE DOGS PAW WHILE IT HID UNDER THE BED, CAUSING IT TO COME OUT FROM UNDER BED + GRAB FLEMING BY THE ARM. HE PUNCHED THE DOG, IT RESPONDED BY BITING HIM ON THE CHIN. FLEMING GRABBED THE DOG BY BOTH HANDS + "THREW" IT IN THE BATHROOM + SHUT THE DOOR. HE RECEIVED PUNCTURE WOUNDS TO BOTH FOREARMS AS WELL AS HIS FACE.
ON INITIAL CONTACT WITH FLEMING, HE STATED THAT HE WAS BITTEN BY A STRAY DOG THAT HE HAD NEVER SEEN BEFORE WHILE STARTING HIS TRUCK + THEN GETTING OUT. THIS INFORMATION WAS FOUND TO BE FALSE AFTER SPEAKING WITH

125. Date of this report:
11/14/07

SUPPLEMENTAL REPORT
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee FLEMING, COREY		2. Arrest Yes/No N/A	3. Case No. 07-44453
4. Date this Report 11/14/07		5. Date Original Occurrence 11/14/07	
<input type="checkbox"/> Form used to Report Follow up Investigation or Supplemental Information	Officer Case Invest. Photos Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	6. Current offense or Incident Classification ANIMAL BITE	
Taken by SPRAFKA		8. Multiple Clear Up? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (list other case numbers in narrative)	
7. Kind of Report Contained <input type="checkbox"/> Follow up or Supplemental or Prosecution <input type="checkbox"/> Traffic Accident	<input type="checkbox"/> Witness Statement <input checked="" type="checkbox"/> Offense <input type="checkbox"/> Arrest	11. Value of Property Recovered and Type \$ N/A	
9. Page No. 3 of 4	10. Traffic Citation No. N/A		
INSTRUCTIONS FOR FOLLOWUP OR SUPPLEMENTAL USAGE Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory number. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at left, if any.			

ITEM NO.	<p>TRIAGE NURSE (MARILY HARTER), WHILE BEING TREATED FLEMING TOLD HER HE "DIDNT WANT TO REPORT THE BITE & THAT "THE DOG IS NEVER OUT". SHE THOUGHT HE ALSO MAY HAVE SAID SOMETHING ABOUT BEING AT "A FRIENDS HOUSE".</p> <p>THIS INFORMATION WAS FORWARDED TO ACU SUPERVISOR (SCOTT RAUDABAUGH) VIA PBY. HE SENT POLICE OFFICER (LARRY VANGINKLE) UP TO BGN E/R TO ASSIST IN RE INTERVIEWING FLEMING. AFTER BEING ADVISED HE COULD BE ARRESTED FOR GIVING FALSE INFORMATION, FLEMING RELUCTANTLY ADMITTED THAT HE WAS INJURED BY HIS OWN DOG. WAS ASSISTED BY IDENT TECHNICIAN (SPRAFKA) WHO TOOK PHOTOGRAPHS OF BITE WOUNDS TO VICTIMS FACE & ARMS.</p> <p>FLEMING WAS STILL BEING TREATED FOR HIS INJURIES BY BGN STAFF AT THE TIME THIS REPORT WAS MADE.</p>			
14. Reporting Officer K. LEMON	No. 717	15. Status (check one) <input type="checkbox"/> Suspended <input checked="" type="checkbox"/> Open <input type="checkbox"/> Ex. Closed <input type="checkbox"/> Closed	17. Unit Referred To Acc	18. UCR Disposition
Second Officer	No.	Supervisor Approving [Signature]	19. Reviewer [Signature]	No.



SUPPLEMENTAL REPORT
Des Moines Iowa Police Department

1 Complainant, Driver #1, Victim, or Arrestee
FLEMING, COREY

2 Arrest No.
N/A

3 Case No.
07-4445

Form used as Continuation Sheet for Current Report

4 Date this Report
11,14,07

5 Date Original Occurrence
11,14,07

Form used to Report Follow up Investigation or Supplemental Information

Officer Case Invest.
Photos Yes No
Taken by **SRAKERA**

6 Correct offense or Incident Classification
ANIMAL BITE

7 Kind of Report Continued
 Follow up or Supplemental or Prosecution
 Traffic Accident

Witness Statement
 Offense
 Arrest

8 Multiple Clear Up?
 No
 Yes (list other case numbers in narrative)

9 Page No.
4 of **4**

10 Traffic Citation No.
N/A

11 Value of Property Recovered and Type
S N/A

INSTRUCTIONS FOR FOLLOWUP OR SUPPLEMENTAL USAGE

Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory number. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at left, if any.

ITEM NO. **HIS PIT BULL "SCARFACE" APPEARS TO BE CURRENT ON RABIES VACC., PET LICENSE & LIABILITY INSURANCE ACCORDING TO CITY CLERK'S RECORDS. MORE FOLLOWUP NEEDED TO IMPOUND & QUARANTINE DOG.**

OFFICE USE ONLY

14 Reporting Officer K. LEMON		15 Status (check one) <input type="checkbox"/> Suspended <input checked="" type="checkbox"/> Open <input type="checkbox"/> Ex. Closed <input type="checkbox"/> Closed		17 Unit Referred To: ACU		18 UCR Disposition	
No. 7072		Supervisor Approving <i>[Signature]</i>		19 Reviewer		No.	

2007 NOV 15 PM 4:55

CITY EXHIBIT

SUPPLEMENTAL

D

Animal Incident Investigation Report
Des Moines, Iowa Police Department

32. District: 3		33. Beat: 32		1. Impounded animal AHR/ARL number:		2. DMPD case number: 07-44453													
34. Animal type: Cat <input type="checkbox"/> Dog <input checked="" type="checkbox"/> Other <input type="checkbox"/>				3. Victim's name (Last, First M.I.): Fleming, Cody				(Human victim or society)											
35. Animal breed: pitbull				4. Race: W		5. Sex: M		6. Age: 22		7. Date of birth: 8-24-85		8. Ethnicity: H <input type="checkbox"/> NH <input checked="" type="checkbox"/>		9. Sobriety: Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>					
36. Animal color: brn/white				10. Residence address: 6509 SW 16th				11. Residence phone number: 265-4246				12. Business or cellular phone number: 556-2604							
37. Animal fur length: Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>				13. Place of employment or school: Ankeny Area Redemption				14. Type and location of injury: punctures - chin, neck, ARMS				15. Medical treatment: B6H EJR							
38. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>				16. Reporting person's name (Last, First M.I.): Fleming, Cody				17. Race: W		18. Sex: M		19. Age: 22		20. Date of birth: 8-24-85		21. Ethnicity: H <input type="checkbox"/> NH <input checked="" type="checkbox"/>		22. Sobriety: Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>	
39. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> (Records Personnel: Enter MIC# as a serial number) MIC#: 455A057C31				23. Residence address: 6509 SW 16th				24. Residence phone number: 265-4246		25. Business or cellular phone number: 556-2604				26. Location of incident address: 6509 SW 16th					
40. Rabies tag: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> RT#: 759683				27. Location type: residential				28. Date and time incident occurred: 14 Nov 07 0800		29. Date and time incident reported: 14 Nov 07 0918				30. Crime/incident type: Animal Bite					
40A. Date of vaccination: 10-22-07				40B. Date of vaccination expiration: 10-22-08				31. Classification:				41. License: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Lic#: 07-14294							
41. License:				42. Other identifiers (Color, tattoo, etc.):				43. Confinement/quarantine location: N2				44. Impounded or bite animal owner's name (Last, First M.I.): Fleming, Cody							
42. Other identifiers (Color, tattoo, etc.):				45. Residence address: 6509 SW 16th				46. Residence phone number: 265-4246		47. Place of employment or school: Ankeny Area Redemption				48. Business or cellular phone number: 556-2604					
43. Confinement/quarantine location: N2				49. Animal owner notification: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>				49A. Date and time of notification: 11-15-07		49B. Person making notification: 1050 Howser/Lemon		49C. Means of notification: 7226 7212 personal		50. Witness' name (Last, First): /					
44. Impounded or bite animal owner's name (Last, First M.I.): Fleming, Cody				51. Residence address: (City and/or state if not Des Moines or Iowa)				52. Daytime or cellular phone number:		53. Witness' name (Last, First): /				54. Residence address: (City and/or state if not Des Moines or Iowa)					
45. Residence address: 6509 SW 16th				55. Daytime or cellular phone number:				56. Investigative notifications and/or photographs taken: Detective: No <input type="checkbox"/> Yes <input type="checkbox"/> Ident. Technician: No <input type="checkbox"/> Yes <input type="checkbox"/> ACO Supervisor: No <input type="checkbox"/> Yes <input type="checkbox"/> Photographs taken by ACO or PO: No <input type="checkbox"/> Yes <input type="checkbox"/>				57. Victim animal AHR/ARL number: Impounded: No <input type="checkbox"/> Yes <input type="checkbox"/> AHR/ARL#:				58. Animal type: Cat <input type="checkbox"/> Dog <input type="checkbox"/> Other <input type="checkbox"/>			
46. Residence phone number: 265-4246				59. Animal breed:				59. Animal color:		60. Animal fur length: Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>				61. Rabies tag: No <input type="checkbox"/> Yes <input type="checkbox"/> RT#:					
47. Place of employment or school: Ankeny Area Redemption				62. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>				63. Date of vaccination:		63B. Date of vaccination expiration:				64. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> MIC#:					
48. Business or cellular phone number: 556-2604				64. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> MIC#:				65. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:		65. License:				66. Type and location of injury:					
49. Animal owner notification: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>				65. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:				66. Type and location of injury:		67. Medical treatment:				68. Confinement/quarantine location:					
50. Witness' name (Last, First): /				66. Type and location of injury:				67. Medical treatment:		68. Confinement/quarantine location:				69. Victim animal owner's name (Last, First M.I.):					
51. Residence address: (City and/or state if not Des Moines or Iowa)				69. Victim animal owner's name (Last, First M.I.):				70. Residence address: (City and/or state if not Des Moines or Iowa)		71. Residence phone number:		72. Business or cellular phone number:							
52. Daytime or cellular phone number:				70. Residence address: (City and/or state if not Des Moines or Iowa)				71. Residence phone number:		72. Business or cellular phone number:				73. Reporting officer: Howser 7226					
53. Witness' name (Last, First): /				73. Reporting officer: Howser 7226				74. Status: <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed		75. Copies made by:		76. Referred to: <input type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:							
54. Residence address: (City and/or state if not Des Moines or Iowa)				74. Status: <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed				75. Copies made by:		76. Referred to: <input type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:				77. Second officer: Lemon 7212					
55. Daytime or cellular phone number:				75. Copies made by:				76. Referred to: <input type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:		77. Second officer: Lemon 7212				78. Supervisor approving report: [Signature] 4770					
56. Investigative notifications and/or photographs taken: Detective: No <input type="checkbox"/> Yes <input type="checkbox"/> Ident. Technician: No <input type="checkbox"/> Yes <input type="checkbox"/> ACO Supervisor: No <input type="checkbox"/> Yes <input type="checkbox"/> Photographs taken by ACO or PO: No <input type="checkbox"/> Yes <input type="checkbox"/>				76. Referred to: <input type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:				77. Second officer: Lemon 7212		78. Supervisor approving report: [Signature] 4770				79. Reviewed by: [Signature]					

Animal Incident Investigation Report

Des Moines, Iowa Police Department

81. DMPO case number:

07-44453

82. Suspect or offender gnd (1) name (Last, first Middle):83. Arrested:
No Yes 84. Warrant needed:
No Yes 85. Charges filed:
No Yes

86. Race:

87. Sex:

88. Age:

89. Date of birth:

90. Ethnicity:
H NH

91. Height:

92. Weight:

93. Hair color:

94. Eye color:

95. Residence address:

(City and/or state if not Des Moines or Iowa)

96. Residence or alternate phone number:

97. Driver license number or social security number:

97A. State:

98. Sobriety:
Sob. H.B.D.

99. Citation number and crime:

100. Citation number and crime:

101. Suspect or offender gnd (2) name (Last, First Middle):102. Arrested:
No Yes 103. Warrant needed:
No Yes 104. Charges filed:
No Yes

105. Race:

106. Sex:

107. Age:

108. Date of birth:

109. Ethnicity:
H NH

110. Height:

111. Weight:

112. Hair color:

113. Eye color:

114. Residence address:

(City and/or state if not Des Moines or Iowa)

115. Residence or alternate phone number:

116. Driver license number or social security number:

116A. State:

117. Sobriety:
Sob. H.B.D.

118. Citation number and crime:

119. Citation number and crime:

120. Narrative:

Went to 6509 SW 116th to quarantine bite dog. Spoke with Cody Fleming, victim/owner. Mr Fleming loaded dog on truck, leading on a red leash. Mr. Fleming was angry and walked away stopping at his vehicle and beating on it with his fists, he then went into his house slamming the door. ACO Lemon went to front door and left a dispo with Mr. Fleming.

When dog was unloaded at shelter, the leash was cut off for the dogs safety and our safety. It could not be taken off in the normal manner due to the dogs aggression.

121. Date of this report:

11-15-07

E

SUPPLEMENTAL REPORT
Des Moines Iowa Police Department

1. Complainant, Driver #1, Victim, or Arrestee FLEMING, CODY	2. Arrest No. N/A	3. Case No. 07-44453
Form used as Continuation Sheet for Current Report	4. Date this Report 14 NOV 2007	5. Date Original Occurrence 14 NOV 2007
<input checked="" type="checkbox"/> Form used to Report Followup Investigation or Supplemental Information	6. Current offense or incident Classification DOG BITE Changed Yes	
7. Kind of Report Continued Followup or Supplemental or Prosecution Traffic Accident	Witness Statement Offense Arrest	8. Multiple Clear Up? No Yes (list other case numbers in narrative)
9. Page No. 1 of 1	10. Traffic Citation No. UNK	11. Value of Property Recovered and Type \$ UNK

INSTRUCTIONS FOR FOLLOWUP OR SUPPLEMENTAL USAGE	Under narrative, record your activity and all developments in the case subsequent to last report. Describe and record value of any property recovered, names and arrest numbers of any persons arrested. Explain any offense classification change. Clearly show disposition of recovered property and inventory number. Recommend to supervisor case status and to reviewer UCR disposition. Indicate "Item Number Continued" at left, if any.
Item No.	DISPATCHED: WEDNESDAY 1046 ARRIVAL: 1054 DEPARTURE: 1112 VICTIM: CODY FLEMING BGH ROOM E114 DOG BITE I met with the victim, CODY FLEMING a white male DOB: 8-24-85 who stated that on this date approximately 8am at his home, 6509 SW 16 th Street, where he was attacked and bitten by his pet pit bull dog. I took an overall color digital image for identification purposes, scaled and un-scaled images were taken of the following: CHIN AND LEFT OF CHIN: sutured bite and scratches RIGHT ARM: MULTIPLE PUNCTURES AND SCRATCHES ON THE FOREARM, WRIST AND HAND LEFT ARM: MULTIPLE PUNCTURES AND SCRATCHES ON FOREARM AND UPPER OUTER ARM SOME OF THE BITES WERE SUTURED, OTHERS WERE NOT. Present throughout was Animal Control Officer KEVIN LEMON. I took no further action.

2007 NOV 15 AM 8:42

14. Reporting Officer L. SPRAFKA	No. 8613	15 Status (check one) Ex. Closed Suspended Open Closed	13. Date/Time Typed No.	Reproduced No.	17. Unit Referred To A.C.	18. UCR Disposition
Second Officer	No.	Supervisor Approving Sgt. M. Delaney	No.	19. Reviewer [Signature]	No.	

07-55-20
REQUEST # _____

DES MOINES POLICE DEPARTMENT
REQUEST FOR EXAMINATION

CITY
EXHIBIT

F

TO: IDENTIFICATION SECTION
FROM: AERIAL CONTROL UNIT
VICTIM: ~~SPRINT COPY~~

DATE: 15 NOV 07
CASE NO: 07-44453
CRIME: LOK BITE

One Property Report Number per Request: Frame Item Number(s): _____

Suspect/Witnesses/Elimination Prints

	S	W	E	DMPD #	DOB
1. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
2. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
3. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
4. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
5. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

EXAMINATION REQUESTED:

To D.C.I.
Complete the Reverse Side

In-House Processing

- Process Evidence for Latent Prints
- Fingerprint Comparisons
- Photographs
- Prints 1-SET
- Negatives
- Video Copy/Freeze Frame #

SGT. RAUND BAUGH #4770
Officer Submitting Request

SGT. RAUND BAUGH #4770
Supervisor Approving Request

TO: SGT. RAUND BAUGH

DATE: 11-16-07

RESULTS OR REQUESTED EXAMINATION:

1 SET OF PHOTOS PRINTED.

Sgt. S.T. 8605
Examining Technician

11-16-07 15:45:11

07-44453

14 NOV 2007

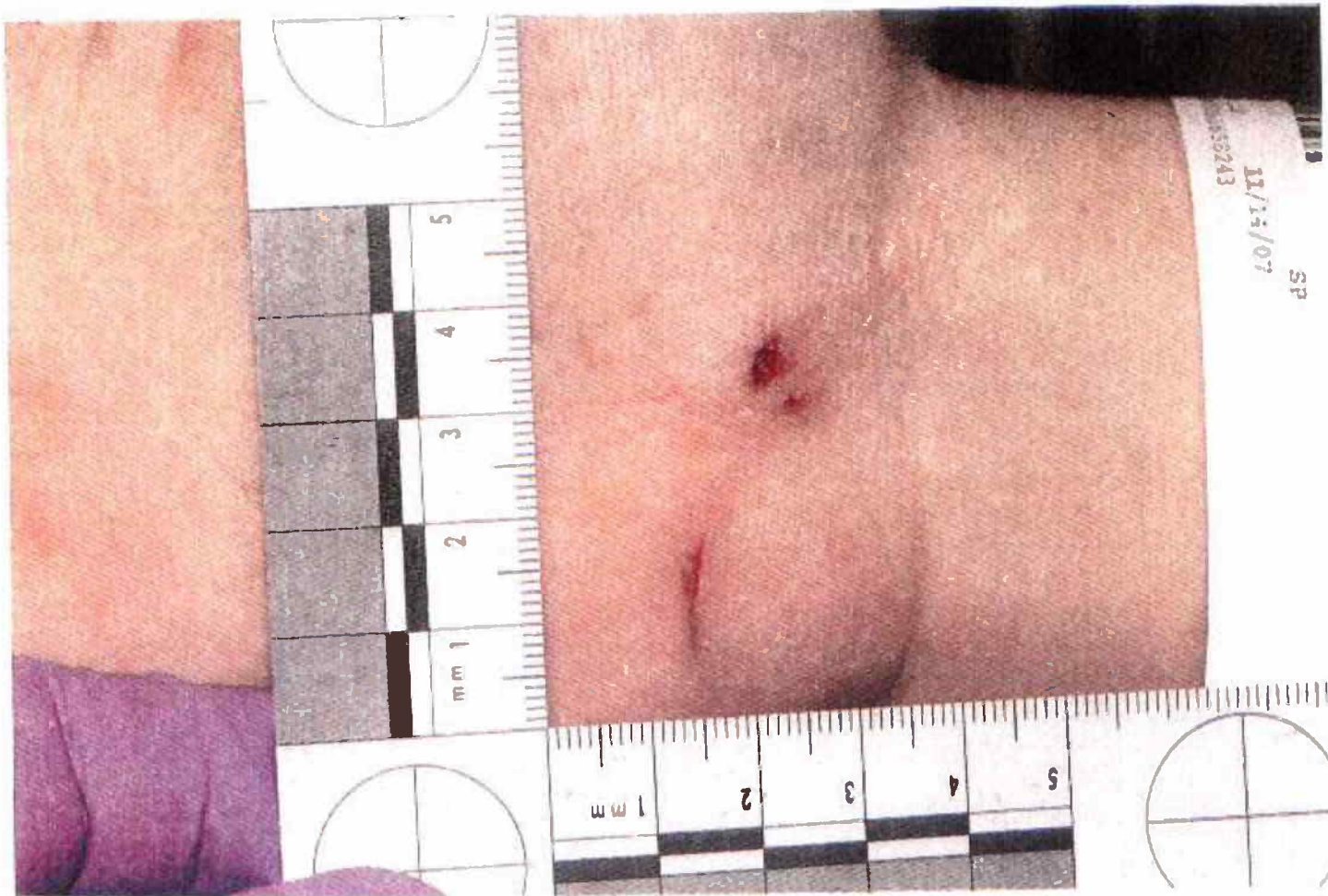
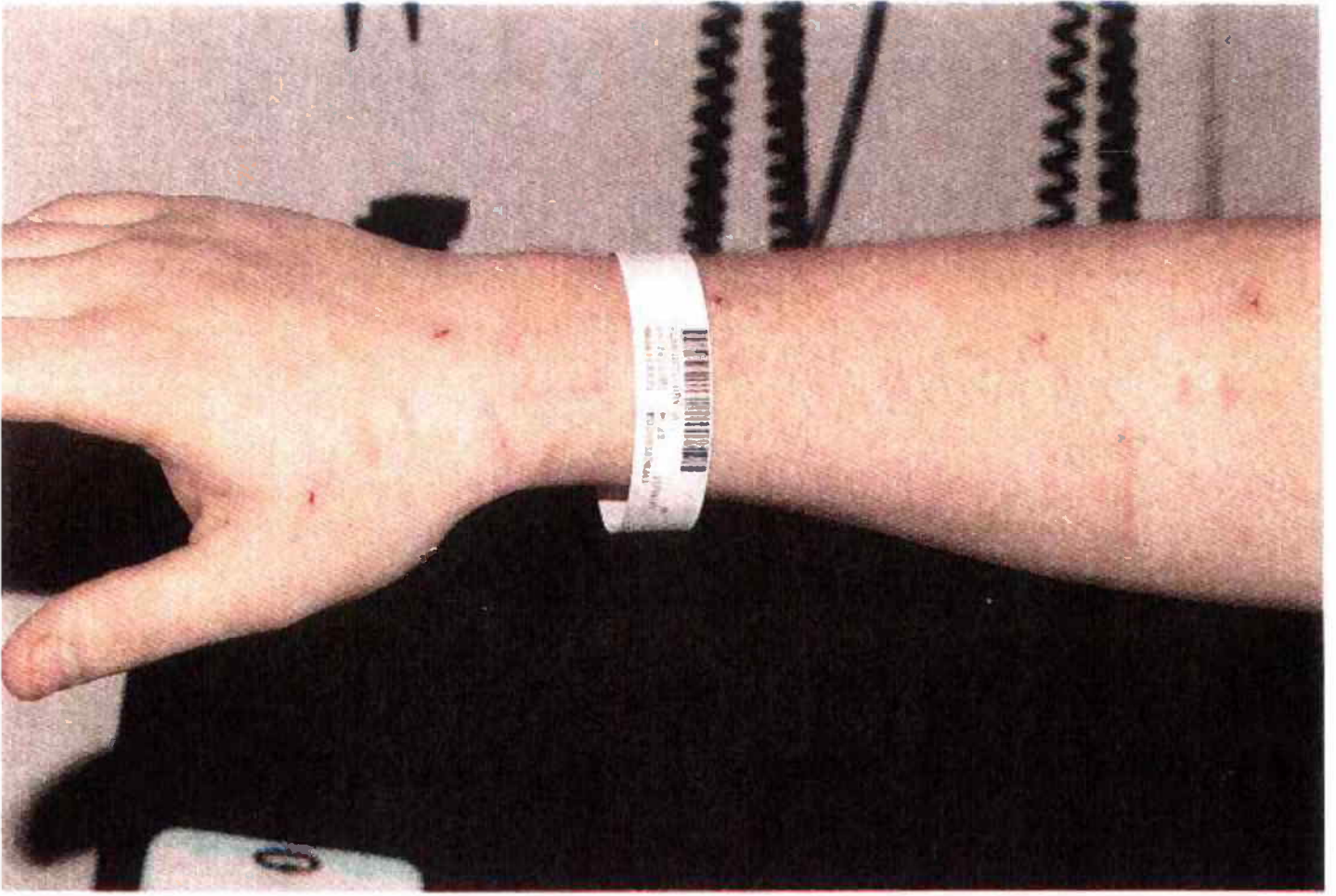
BGH R 114

DOG BITE

L. SPRAFKA

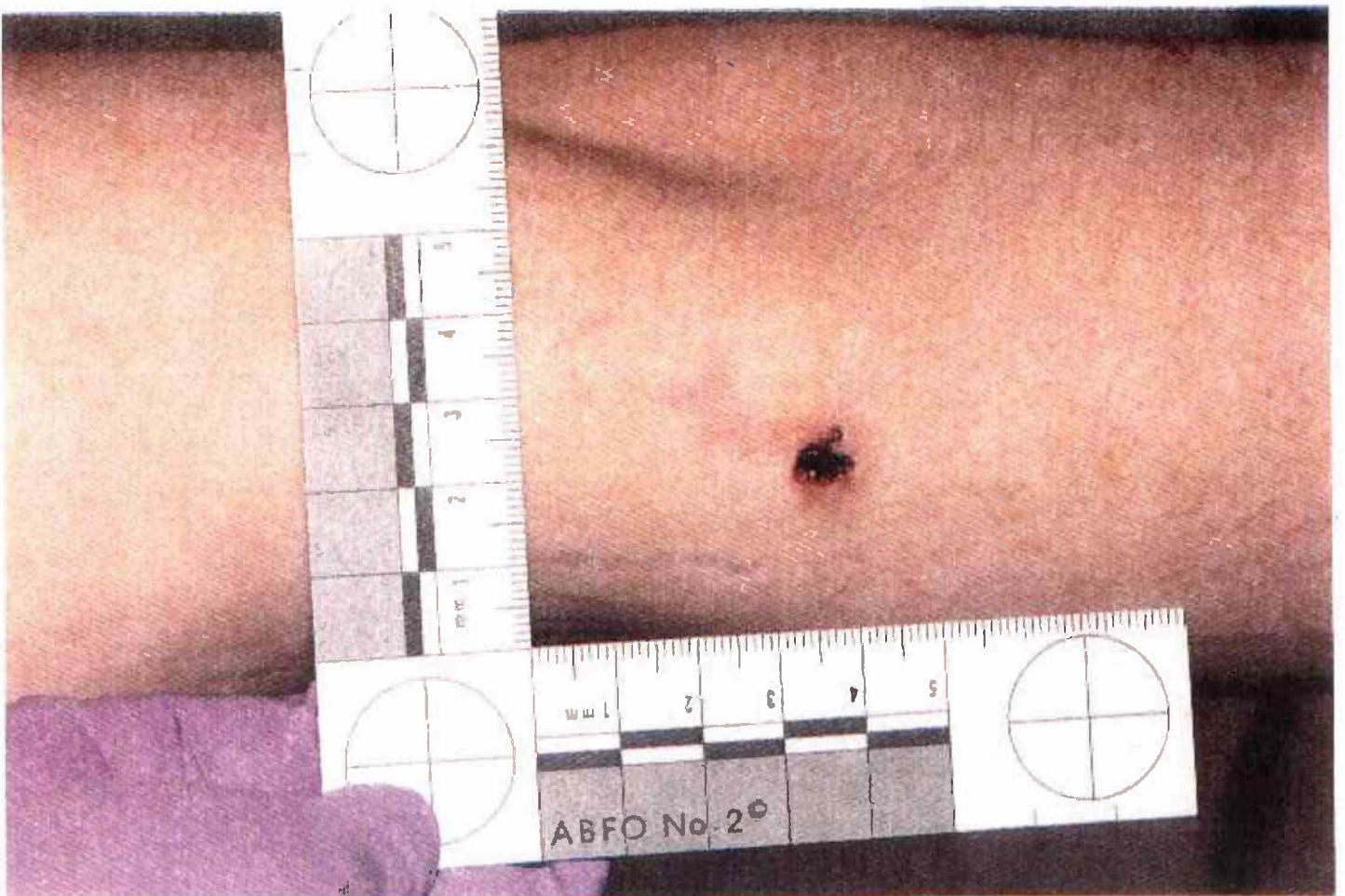
8613



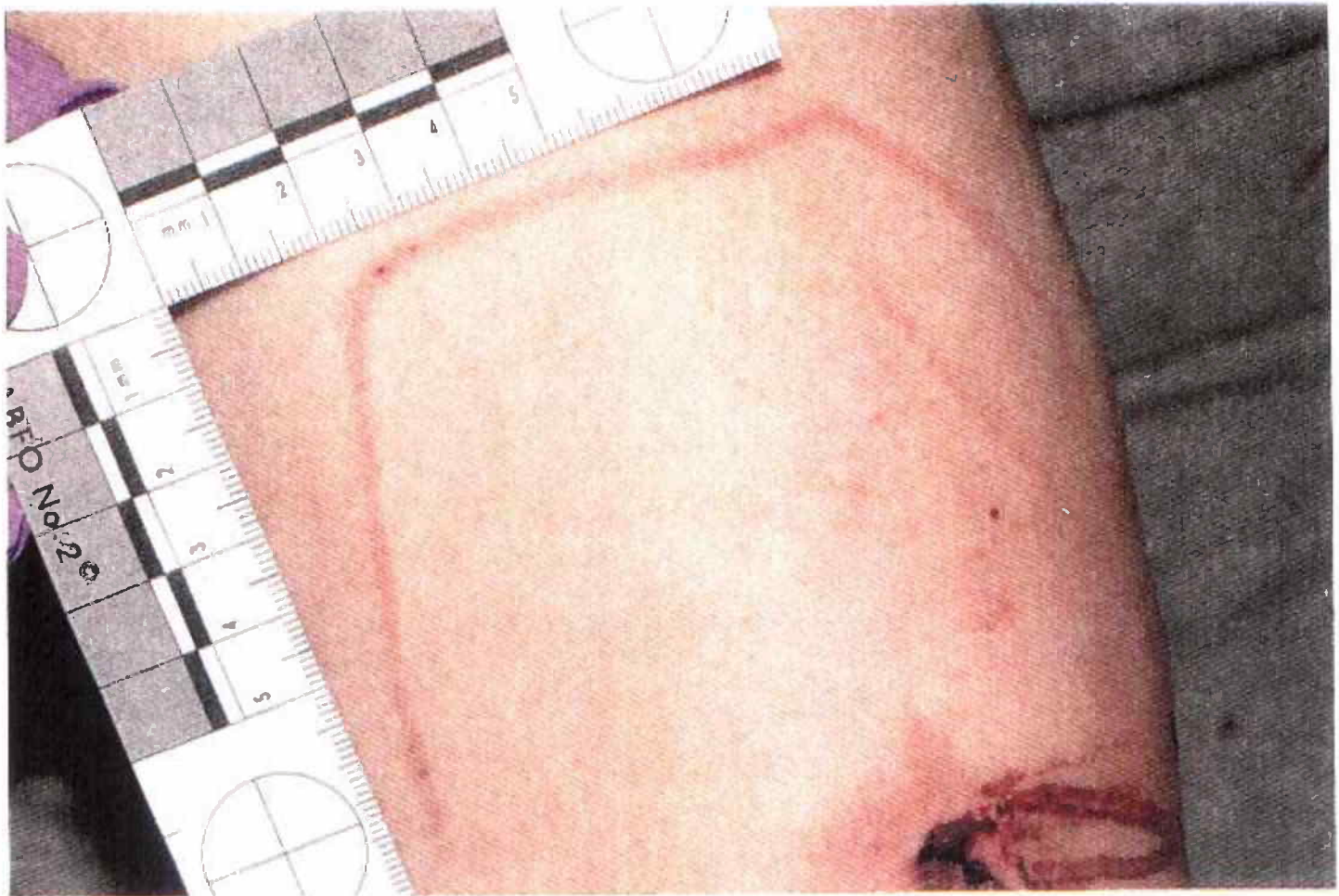


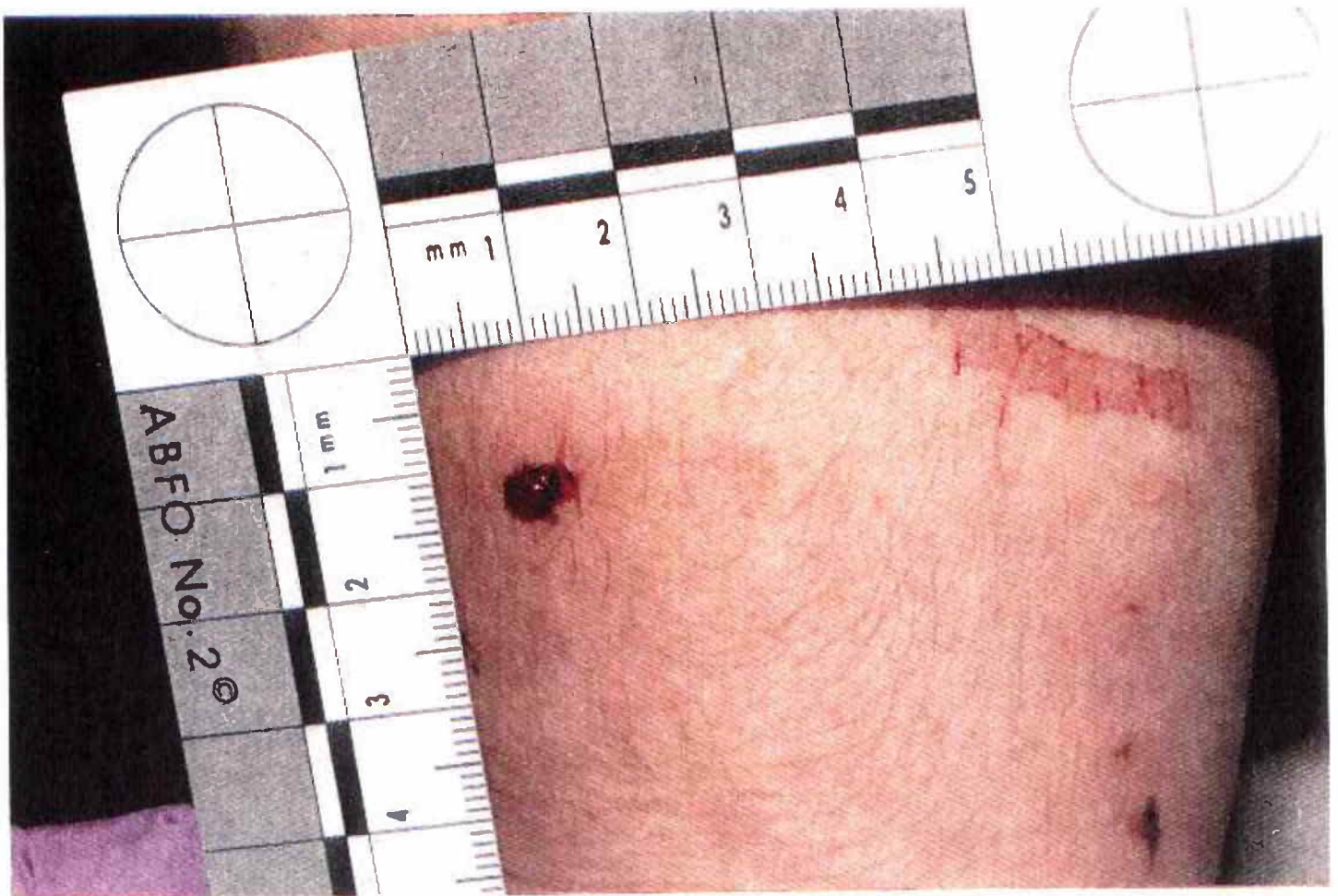






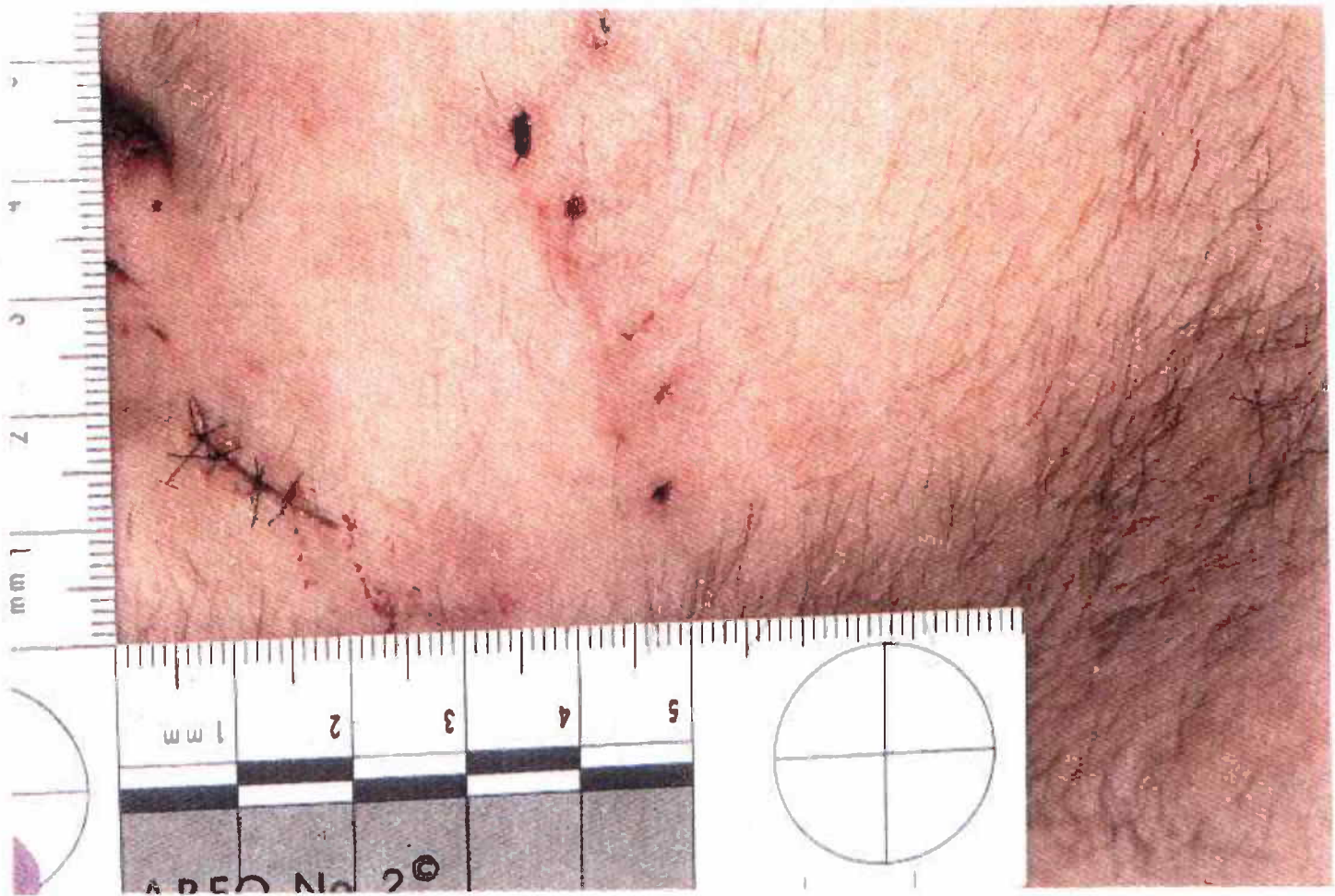














"Scarface"

Fleming, Cody
ARL# A03854910

CITY
EXHIBIT

G

Microchip
455 A057031
city traces to DM Animal shelter

CITY OF DES MOINES
ANIMAL CONTROL UNIT

DATE: 11-15-07

REFERENCE: ANIMAL HISTORY REPORT # 07-44453

TO WHOM IT MAY CONCERN:

I have examined this dog and found it to have the predominant characteristics of the American Staffordshire Terrier breed. This decision is based on the following physical features of the dog:

- HEAD: MEDIUM LENGTH
 - DEEP TROUGH
 - BROAD SKULL
 - PRONOUNCED CHEEK MUSCLES
 - MUZZLE: MEDIUM LENGTH
 - JAWS WELL DEFINED
 - BLACK NOSE
 - BACK: FAIRLY SHORT
 - SLIGHT SLOPING FROM WITHERS TO RUMP
 - BODY: WELL SPRUNG RIBS
 - FORELEGS SET RATHER FAR APART
 - CHEST DEEP AND BROAD
 - LEGS: STRAIGHT FRONT LEGS
 - HINDQUARTERS WELL MUSCLED
 - MODERATE SIZE FEET
 - COLOR: tant white
- SHOULDERS: STRONG
 - MUSCULAR
 - NECK: HEAVY
 - SLIGHTLY ARCHED
 - TAPERS FROM BACK OF SKULL TO SHOULDERS
 - TAIL: LOW SET
 - TAPERS TO FINE POINT
 - NOT CURLED OVER BACK
 - COAT: SHORT
 - CLOSE
 - GLOSSY
 - EYES: DARK AND ROUND
 - LOW DOWN IN SKULL
 - SET FAR APART
 - SIZE: _____ INCHES AT SHOULDERS
 - _____ LBS.

} unable to get due to dog's behavior

COMMENTS: male
- unable to get exam due to dog's aggressiveness
- over 6 mos old

Jay W Benz

KF
ACU

CITY
EXHIBIT

H

City of Des Moines
Office of the City Clerk
PO Box 10325
Des Moines, IA 50306-0326



Please check here if you have changes to any information below.

Location: 1521 E 17TH CT
Project: ZOO2005-00555

Phone: 515- 265 4246

CODY FLEMING
1521 E 17TH CT
DES MOINES, IA 50316



6509 S.W. 16th St.
Des Moines IA 50315

2007 CITY OF DES MOINES ANIMAL LICENSE

License due January 1, \$50 penalty added to each license after March 31
DON'T WAIT - APPLY TODAY

*Money order
02/12/07
80*

Name	Species	Breed	Gender	Rabies Tag	Date Expires	Spay/Neuter Cat/only	Amount Enclosed	Official Use Only
------	---------	-------	--------	------------	--------------	----------------------	-----------------	-------------------

ZOO2005-00555

SCARFACE	Dog	PIT BULL	Male	760955	04/06/2008		35	14294
ANGEL	Dog	BULLDOG	Female	694414	10/25/2006		35	14293

*760951 10/30/06
10/30/08*

Macrea Park

Regulations regarding Animals defined as Vicious under City of Des Moines Municipal Code:

Licensing Procedure

1. Provide current rabies certificate.
2. Provide written proof of spaying/neutering, if applicable, to qualify for a reduced fee.
3. Provide certificate of insurance, policy declaration or current homeowner's/renter's policy page, providing personal liability insurance coverage, with a minimum liability amount of \$100,000. If a certificate of insurance or policy is not immediately available, a binder indicating the above coverage may be accepted for up to thirty days.
4. Provide a letter from the applicant's insurance agent, on the agency's letterhead, stating that the insured's vicious dog, by name, is specifically covered by the policy in force. Such letter must be provided annually when the policy is renewed.

Compliance Form

I, Cody Fleming 6509 SW 16th St Des Moines IA agree to license my dog,
Name and Address
Surface Pit bull 56315 in accordance with City of Des Moines Municipal Code.
Name and Breed

In complying with the Ordinance I agree to: (Please read and initial each of the following items)

CF-A

Keep my dog in the house at all times unless the dog is securely leashed with a leash no longer than six (6) feet in length and under the actual physical control of a person eighteen (18) years of age or older.

CF-B

Keep my dog securely enclosed and locked in a pen or kennel having secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. All pens or kennels must have a secure bottom, floor or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet.

CF-C

Keep \$100,000 liability coverage protecting against animal bites in effect at all times, and I understand that failure to do so will result in the license being suspended and the animal will be impounded.

1. Name of insurance agency: State Farm

2. Name of agent: Rick Barnes Agent's Phone: 562-2200-8255

CF-D

Display the current City license and rabies tag on the dog at all times.

These requirements are subject to inspection by Des Moines Animal Control Officers.

Cody Fleming
Signature

1-24-07
Date

FILED
 JAN 10 PM 2:56
 CITY CLERK
 DES MOINES, IOWA



Cody Fleming
6509 SW 16th St
Des Moines, IA 50315-5440

11/22/2006

To Whom It May Concern:

Cody Fleming has a State Farm Homeowner's Insurance Policy, Policy #15-C7-7472-4.

The Homeowner's Policy has an effective date of 12/09/06 and will renew again 12/09/07.

The current Homeowner's Policy has coverage L, Personal Liability Coverage, in the amount of \$100,000. Personal Liability offers coverage if a claim is made or a suit is brought against an insured for damages because of bodily injury or property to which this coverage applies.

Enclosed is a Homeowner's Policy Booklet that describes in detail what State Farm Insurance for Homeowner's covers.

Cody Fleming has informed our office that he does own a Pit-Bull named 'Scar Face' and that the Pit-Bull resides on his property.

Let us know if you have any further questions or concerns regarding what State Farm Homeowner's Insurance covers.

Sincerely,

Elizabeth Wilbur
Agent Staff
Rick Barnes, State Farm Insurance
13435 University Ave.
Clive, IA 50325

11/27/07 - insurance is good per Elizabeth Wilbur
80

ANIMAL HISTORY REPORT

ANIMAL CONTROL UNIT
DES MOINES, IOWA POLICE DEPARTMENT
PART 1

2007-44453



08661

VO

10. DISTRICT 3		11. CONTRACT AGENCY NA		1. OWNER'S NAME FLEMING, CODY		2. CASE NUMBER	
12. TYPE OF ANIMAL dog		13. BREED / TYPE Pitbull		3. OWNER'S ADDRESS 1513 Des Moines #1		4. RES. PHONE 265 4246	
14. COLOR(S) tan / wh		15. HAIR LENGTH S <input checked="" type="checkbox"/> M <input type="checkbox"/> L <input type="checkbox"/>		5. LOCATION OF INCIDENT 1615 SE 14th 50316		6. DATE / TIME 4/14/05 1105	
16. SEX MALE <input checked="" type="checkbox"/> FEMALE <input type="checkbox"/>		17. SPAYED / NUTERED <input type="checkbox"/>		7. LOCATION OF CAPTURE 1615 SE 14th		8. DATE / TIME 4/14/05 1105	
17. UNIQUE IDENTIFIERS W "Scarf" I				9. CLASSIFICATION Vicious dog			
18. TRACE IDENTIFIERS COLLAR <input checked="" type="checkbox"/> LICENSE NO. <input type="checkbox"/> TATTOO <input type="checkbox"/> VACCINE NO. <input type="checkbox"/> NAME TAG <input type="checkbox"/> MICROCHIP <input type="checkbox"/>				CITY EXHIBIT I			
19. OWNER NOTIFIED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> ATTEMPTED <input type="checkbox"/>				20. NOTIFYING PERSON BIS -		21. DATE / TIME 4/14/05 1105	
22. NOTIFICATION MEANS PERSONAL <input checked="" type="checkbox"/> REPRINT INFORMATION <input type="checkbox"/> VIA TELEPHONE <input type="checkbox"/>				23. REPORTING PERSON A. Stropes 219			
24. APPROVED BY				25. STATUS OF REPORT OPEN <input type="checkbox"/> CLOSED <input type="checkbox"/>			

PART II		ADMISSION	
26. IDENTIFICATION NO. CAGE NO. RUN NO. Iso 2 MICROCHIP #		27. EXAM: NORMAL <input type="checkbox"/> ABNORMAL <input type="checkbox"/> HEALTH ABNORMALITIES: 4/14 Vacc Rabies, DPC + P.X + microchip TREATMENT 44.0 14 18. Age 6 mo	
28. OTHER-DESCRIBE OTHER PLACE OF CONFINEMENT			

PART III		RELEASE		29. SUSPENSE DATE 4-22-05	
30. DISPOSITION RETURN TO OWNER <input checked="" type="checkbox"/> SPECIMEN EXAM FOR RABIES <input type="checkbox"/> SCIENTIFIC RESEARCH <input type="checkbox"/> RETURN TO NATURAL HABITAT <input type="checkbox"/> ADOPTION <input type="checkbox"/> DESTROYED <input type="checkbox"/> OTHER <input type="checkbox"/>			31. FEES COLLECTED IMPOUND 1ST 2ND 3RD \$ CARE AND KEEP DAYS \$ LICENSE # 17684 \$ 35.00 RABIES VACCINE# V50419 \$ 15.00 VETERINARIAN EXPENSE \$ SCIENTIFIC RESEARCH \$ OTHER microchip \$ 40.00 ADOPTION \$ TOTAL: \$ 140.00		
32. APPROVED BY APD 219		33. DATE / TIME 4/14/05 1515		34. DESTROYED BY	
35. DATE / TIME		36. I HEREBY ACKNOWLEDGE RECEIPT OF THE ANIMAL DESCRIBED IN THIS REPORT. THIS ANIMAL IS: 0 YEARS 6 MONTHS OLD			

SIGNATURE Cody Fleming		37. OTHER IDENTIFIER 455A057C31 	
ADDRESS 1513 Des Moines st Apt 1		38. FEES COLLECTED BY APD	
DATE 4-14-05		39. RECEIPT NO. 32922	
		40. DATE / TIME COLLECTED 4/14/05	

KF ACU

CITY OF DES MOINES
ANIMAL CONTROL UNIT

DATE: 4-14-05

REFERENCE: ANIMAL HISTORY REPORT # 08661

TO WHOM IT MAY CONCERN:

I have examined this dog and found it to have the predominant characteristics of the American Staffordshire Terrier breed. This decision is based on the following physical features of the dog:

HEAD: MEDIUM LENGTH
 DEEP TROUGH
 BROAD SKULL
 PRONOUNCED CHEEK MUSCLES

MUZZLE: MEDIUM LENGTH
 JAWS WELL DEFINED
 BLACK NOSE

BACK: FAIRLY SHORT
 SLIGHT SLOPING FROM
WITHERS TO RUMP

BODY: WELL SPRUNG RIBS
 FORELEGS SET RATHER
FAR APART
 CHEST DEEP AND BROAD

LEGS: STRAIGHT FRONT LEGS
 HINDQUARTERS WELL MUSCLED
 MODERATE SIZE FEET

COLOR: Brown/whit m.

COMMENTS:

SHOULDERS: STRONG
 MUSCULAR
NECK: HEAVY
 SLIGHTLY ARCHED
 TAPERS FROM BACK OF
SKULL TO SHOULDERS
TAIL: LOW SET
 TAPERS TO FINE POINT
 NOT CURLED OVER BACK
COAT: SHORT
 CLOSE
 GLOSSY
EYES: DARK AND ROUND
 LOW DOWN IN SKULL
 SET FAR APART
SIZE: 18 INCHES AT SHOULDERS
44 LBS.

Age: 6 mo.


JERRY L. SCHRÖDER, DVM
CITY VETERINARIAN



Regulations regarding Animals defined as Vicious under City of Des Moines Municipal Code:

Licensing Procedure

1. Provide current rabies certificate.
2. Provide written proof of spaying/neutering, if applicable, to qualify for a reduced fee.
3. Provide certificate of insurance, policy declaration or current homeowner's/renter's policy page, providing personal liability insurance coverage, with a minimum liability amount of \$100,000. If a certificate of insurance or policy is not immediately available, a binder indicating the above coverage may be accepted for up to thirty days.
4. Provide a letter from the applicant's insurance agent, on the agency's letterhead, stating that the insured's vicious dog, by name, is specifically covered by the policy in force. Such letter must be provided annually when the policy is renewed.

Compliance Form

I, Cody Fleming 1513 Des Moines St, agree to license my
Name and Address
dog, Scarface Pit Bull, in accordance with City of Des
Name and Breed
Moines Municipal Code. In complying with the Ordinance I agree to:

(Please read and initial each of the following items)

- CF A. Keep my dog in the house at all times unless the dog is securely leashed with a leash no longer than six (6) feet in length and under the actual physical control of a person eighteen (18) years of age or older.
- CF B. Keep my dog securely enclosed and locked in a pen or kennel having secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. All pens or kennels must have a secure bottom, floor or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet.
- CF C. Keep \$100,000 liability coverage protecting against animal bites in effect at all times, and I understand that failure to do so will result in the license being suspended and the animal will be impounded.
- CF D. Have an identification microchip implanted under my dog's skin, if an identification microchip is not already implanted.

These requirements are subject to inspection by Des Moines Animal Control Officers.

Cody Fleming
Signature/Date

J

Sec. 18-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief of police means the legally designated chief of the police department or a designated representative.

Director of public health means the county health center director or a designated representative acting in behalf of the city.

Dog means and includes both male and female animals of the canine species.

Owner means any person owning, keeping or harboring a dog.

Vicious dog means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation;
- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite;
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;
- (6) Staffordshire terrier breed of dog;
- (7) The American pit bull terrier breed of dog;
- (8) The American Staffordshire terrier breed of dog; or
- (9) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.

(C42, §§ 114-6, 114-9; O 5385, 5506; C54, § 5-19; O.6002; C62, § 5-19; C75, § 7-13; O.9097; C79, § 7-13; O.9828; C85, § 7-13; O.11,095; C91, § 7-13; O.11,914)

Cross references: Definitions generally, § 1-2.

Sec. 18-196. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous animal means any animal, including a dog, except for an illegal animal per se, as listed in the definition of illegal animal, that has bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that the animal:

- (1) Has bitten or clawed a person on two separate occasions within a 12-month period;
- (2) Did bite or claw once causing injuries above the shoulders of a person;
- (3) Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or
- (4) Has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

Illegal animal means:

- (1) Any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so.
- (2) Any animal declared to be illegal by the board of health or the city manager or his or her designee.
- (3) Any nondomesticated member of the order Carnivora which as an adult exceeds the weight of 20 pounds.
- (4) The following animals, which shall be deemed to be illegal animals per se:
 - a. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats.
 - b. Wolves, coyotes and foxes.
 - c. Badgers, wolverines, weasels, skunks and mink.
 - d. Raccoons.
 - e. Bears.
 - f. Monkeys and chimpanzees.
 - g. Bats.
 - h. Alligators, crocodiles and caimans.
 - i. Scorpions.
 - j. Snakes and reptiles that are venomous.
 - k. Snakes that are constrictors over six feet in length.
 - l. Gila monsters.
 - m. Opossums.
 - n. All apes, baboons and macaques.
 - o. Piranhas.

(C79, § 7-44; O.10,541; C85, § 7-44; O.10,886, 11,095; C91, § 7-44)

L

Sec. 18-203. Immediate seizure or destruction of animals.

Any animal found at large which displays dangerous tendencies, or which is an illegal animal, or which has been previously declared vicious or is vicious by breed according to article II, section 18-41 (6), (7), (8), or (9) of this chapter and has bitten without provocation a person or a domestic animal while such vicious dog was not properly confined or leashed may be processed as a dangerous animal under section 18-202 of this article, and the animal may be immediately seized anywhere within the city unless the animal is so dangerous that it cannot safely be apprehended, in which case the chief humane officer, his or her designee, or any police officer is authorized to destroy it immediately.

(C85, § 7-51; O.11.095; C91, § 7-51; O.14.415, 14.462)

M

Sec. 18-202. Seizure, impoundment and disposition of dangerous animals.

(a) The chief humane officer or his or her designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined in this article, may initiate proceedings to declare such animal a dangerous animal. A hearing on the matter shall be conducted by the city manager or his or her designee. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of the hearing. The notice shall set forth the description of the animal in question and the basis for the allegation of dangerousness. The notice shall also set forth that if the animal is determined to be dangerous it may be ordered destroyed or the owner may be given the option to cause it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service. A notice that a dog is a dangerous animal may include as an alternative an allegation that a dog is a vicious dog under sections 18-41 and 18-59 of this chapter, and the hearings shall proceed together under this section.

(b) If, after hearing, the city manager or his or her designee determines that an animal is dangerous, the city manager or his or her designee shall either order the animal destroyed in a humane manner by the chief humane officer, or order the person owning, sheltering, harboring or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the animal is ordered to be destroyed by the chief humane officer such order shall be carried out after the appeal period in subsection (c) of this section has expired. If the animal is ordered to be destroyed by the owner, such order must be complied with within three days of its issuance, otherwise the city manager or his or her designee is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the order of the city manager or his or her designee was issued has not appealed such order to the city council, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.

(c) The order to destroy a dangerous animal issued by the city manager or his or her designee may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three days after receipt of the order to destroy the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the city manager or his or her designee.

(d) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. The hearing may be continued for good cause. The hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing or any continued session thereof.

(e) If the city council affirms the action of the city manager or his or her designee, the city council shall either order the animal destroyed by the chief humane officer, or order that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal shall cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the order to destroy. If the animal is ordered to be destroyed by the chief humane officer the order shall be effective on the fourth day after receipt of the order by the owner unless the county district court has been petitioned to review the order within the first three days after receipt. If the animal is ordered to be destroyed by the owner and such order is not appealed to the county district court and is not

complied with within three days after receipt of the order by the owner, the chief humane officer or his or her designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the county district court for a review of the order, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.

(f) Failure to comply with an order of the city manager or his or her designee issued pursuant to this section and not appealed or of the city council after appeal shall constitute a misdemeanor offense.

(g) Any animal which is alleged to be dangerous and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be dangerous. If the animal is not determined to be dangerous and was found at large, the owner shall only pay those costs attributable to the initial confinement and any required quarantine. If the animal is not determined to be dangerous and was not at large at the time of confinement, the owner shall only pay those costs attributable to any required quarantine.

(C79, § 7-50; O.10,541; C85, § 7-50; O.11,095; C91, § 7-50; O.13,854, 13,977, 14,462, 14,677)

November 21, 2007

Mr. Cody Fleming
6509 SW 16th Street
Des Moines, Iowa

Mr. Fleming,

On November 14, 2007 your brown and white colored Pit Bull breed dog named "Scarface" was hiding under a bed while you and your girlfriend argued. At one point you stepped on your dog's paw and your dog reacted by attacking and biting your arm, which caused injuries. You then punched your dog and your dog reacted by attacking and biting your face, which caused injuries.

Subsequently an Animal Control Officer impounded your dog for quarantine at the animal shelter. On three different occasions I have entered the dog kennel area and observed your dog, each time it immediately growled and took a defensive stance.

Because your Pit Bull breed dog reacted in the manner that it did it is being declared a "Dangerous Animal," in accordance with the dangerous animal ordinance.

An Administrative Hearing to review the circumstances of the "Dangerous Animal" declaration has been scheduled for 1:00 P.M. on Tuesday, November 27, 2007 in the City Council Chambers in the Des Moines City Hall at 400 Robert D. Roy Drive.

Your dog will remain in impound pending a decision by the Hearing Officer.

If you have any questions please call me at (515) 248-6052 or the animal shelter at (515) 284-6905 or the City Clerk's Office at (515) 283-4209.

Sincerely,

Sergeant Scott Raudabaugh,
Chief Humane Officer

cc: City Clerk's Office



ANIMAL CONTROL
POLICE DEPARTMENT
1013 S.E. 14TH STREET
DES MOINES, IOWA 50319-1013
(515) 248-2787

ALL AMERICAN CITY 1949 1875 1841



ADMINISTRATIVE HEARING TRANSCRIPT

November 27, 2007

City v. Fleming
Dangerous Animal

HEARING OFFICER LEANN DUCEY: Good afternoon. My name is LeAnn Ducey and I'm an Administrative Hearing Officer. It is 1:00 p.m. on November 27, 2007 and we are conducting an administrative hearing on a dangerous dog declaration. The appellant is Cody Fleming. When I call you to give testimony today, please come up to the podium, speak into the microphone and state your full name and address for the record. You will then be sworn in. This is an informal hearing and to that matter the hearing is now open. Would the representative from the City please come forward, identify yourself and present any information you have pertaining to this hearing.

SERGEANT SCOTT RAUDABAUGH: My name is Scott Raudabaugh. I am a Des Moines Police Sergeant assigned as the Supervisor of the Animal Control Unit and by City ordinance the Chief Humane Officer for the City of Des Moines.

HEARING OFFICER LEANN DUCEY: Please raise your right hand. Do you Sergeant Scott Raudabaugh, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

SERGEANT SCOTT RAUDABAUGH: Yes.

HEARING OFFICER LEANN DUCEY: Go ahead.

SERGEANT SCOTT RAUDABAUGH: I'd like to first start out by, uh, submitting copies of relevant documents and also photographs of the, of the victim.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: That was bit.

HEARING OFFICER LEANN DUCEY: Thank you. I'll enter these as City Exhibit A.

SERGEANT SCOTT RAUDABAUGH: I've got two additional sets of the same documents I provided to you. One is my copy so to speak and the other one I'll leave up here on the podium for Mr. Fleming to look at if he chooses.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: I'd like to just kinda go through these documents for, for clarity on what they are. The, uh, first document is a copy of the dangerous animal declaration letter that was served on Mr. Fleming. The, uh, second is a document service form that indicates that it was served and the, next four pages are the initial animal bite report that was

made on Case No. 07-44453. The next two are a supplemental report, uh, completed after a follow-up investigation. The, uh, next document is a supplemental report, uh, created by a technician that is assigned to the identification section. The next document is a request for development of photographs. Then the next document is a form completed by the City veterinarian, the current City veterinarian, uh, evaluating the breed of the dog which indicates it's a, it's of the vicious dog breed. I do need to point out that when Dr. Greg Berry evaluated the dog, he made mention of, towards the bottom of that form, that he was unable to measure the dog because of the dog's behavior and, and it's aggressiveness towards him and his staff. After that is a, documents from the City Clerk's Office relevant to licensing of the dog. I checked and found that Mr. Fleming does in fact have a 2007 license on the dog. It appears it was, it was possibly issued January 24, 2007. Uhm, a few days late, but he does have an '07 license and the insurance is good. After that is a, what is previously referred to as animal history reports that were completed on April 14, 2005 in which this dog was impounded because it was not properly licensed in the City of Des Moines as a vicious dog. Uh, and, Mr. Fleming, after the dog was impounded, did comply with the City ordinance and license the dog before getting it out of the animal shelter. After that, uh, is copies of various relevant City ordinances. I'll just refer to some of them and read others. 18-41 refers to the definition of a vicious dog which this dog is by breed. Uh, and also this current bite, it could qualify as, by behavior I believe as well. 18-196 refers to uh, it has two definitions. One for dangerous animal and, and secondly for illegal animal. The illegal doesn't apply in this case. However, uh, dangerous I believe does. I'm gonna read through this. Dangerous animal means any animal, including a dog, except for an illegal animal per se, as listed in the definition of illegal animal, that has bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that: (1) the animal has bitten or clawed a person on two separate occasions within a 12-month period; (2) did bite or claw once causing injuries above the shoulders of a person which no. 2 applies in this case; (3) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence which I believe also applies in this case; or (4) has attacked any domestic animal or fowl on three separate occasions within a 12-month period. The next ordinance is 18-203 which talks about immediate seizure or destruction of animals relevant to the dangerous animal section of the code. There's certainly points of 18-203 that, that can also apply. I'll read through that. Any animal found at large which displays dangerous tendencies, or which is an illegal animal, or which has been previously declared vicious or is vicious by breed according to Article II, Section 18(41)(6), (7), (8), or (9) of this Chapter and has bitten without provocation a person or a domestic animal while such vicious dog was not properly confined or leashed may be processed as a dangerous animal under section 18-202 of this article, and the animal may be immediately seized anywhere within the city unless the animal is so dangerous that it cannot safely be apprehended, in which case the chief humane officer, his or her designee, or any police officer is authorized to destroy it immediately. I misspoke, it doesn't actually apply in this case. Uh, I mistakenly put it in with the documents, but certainly stepping back the definition of a dangerous animal under 18-196 does apply. I apologize for submitting that erroneously. 18-202 talks about seizure impoundment and disposition of dangerous animals. It, it applies in this case as to if you uphold my declaration what is to be done with the dog.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: The reason we're here is on November 14, 2007 Mr. Cody Fleming's brown and white colored pit bull breed dog named Scarface was hiding under a bed while he and his girlfriend argued. It was presented that at one point, uh, Mr. Fleming stepped on the dog's paw and the dog reacted by attacking and biting Mr. Fleming's arm which caused injuries. It was reported that, uh, Mr. Fleming, uh, then punched his dog, probably in reaction to the previous bite and the dog then reacted by attacking and biting Mr. Fleming's face. Both of these bites caused injuries. One to Mr. Fleming's arm and also to his face. I've submitted photographs that were taken by the identification technician that indicate various bites, various, uh, uh, puncture wounds to Mr. Fleming's arms and, uh, lacerations to Mr. Fleming's face that as you can see in the photographs were sutured. I also need to make mention that initially it, uh, when the animal control officer met with Mr. Fleming at Broadlawn's Hospital, Mr. Fleming was, uh, uh, not quite truthful in the initial report. Uhm, subsequently a police officer got involved in assisting in the investigation and Mr. Fleming then was truthful in his, uh, providing his information to us and to the animal control officer as to what happened. Uhm, because of the circumstances of the bite, uhm, I declared it dangerous. Uh, it seems reasonable that, uh, stepping on a dog's paw might cause the dog to yelp or run away or maybe bite a person's leg, any of those things, uh, seem reasonable, but to a jump up and bite somebody's arm and, and uh, bite it repeatedly and, uh, then when Mr. Fleming punched the dog, uh, how a dog reacts to being punched is, is a, is undetermined. Uhm, however, it does seem a bit unusual that a, that a dog would then jump up and bite somebody in the face after being punched. Once again, it seems, it seems very reasonable that a dog after being punched would yelp, run away, maybe bite the person in the arm. Maybe bite the person in the leg. Uh, any variety of thing, but to jump up and bite Mr. Fleming in the face seems, uh, seems a bit unusual. Uh, these two bite occurrences, uh, indicate to me that this dog is a, is a bit of a ticking time bomb. Uh, Mr. Fleming has called and, and called me and expressed his concern for the dog and, and wanted his dog back and, and begged for a second chance and I can appreciate his love of his dog. Uhm, but I feel it's necessary not only to protect him from his own dog but to protect his family and friends and, and all the citizens of Des Moines and that is the reason I declared the dog be a dangerous animal.

HEARING OFFICER LEANN DUCEY: Okay, Thank you.

SERGEANT SCOTT RAUDABAUGH: That's all I have at this point. Thank you.

HEARING OFFICER LEANN DUCEY: Mr. Fleming. Please state your name and address.

CODY FLEMING: My name is Cody Allen Fleming. Address 6509 S.W. 16th Street, Des Moines, Iowa, 50315.

HEARING OFFICER LEANN DUCEY: Please raise your right hand. Do you Cody Fleming, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

CODY FLEMING: Yes I do.

HEARING OFFICER LEANN DUCEY: Do you want to take a minute to look at those papers?

CODY FLEMING: Uh, I, I can browse them.

HEARING OFFICER LEANN DUCEY: Okay. Okay.

CODY FLEMING: I, I just have one, uhm, one, one thing on the a dangerous report that, or, or this sheet, I'm sorry.

HEARING OFFICER LEANN DUCEY: Okay.

CODY FLEMING: I, I'm real nervous.

HEARING OFFICER LEANN DUCEY: That's okay.

CODY FLEMING: Uh, I, I don't know if its miscommunication between us. There's only one problem. When the dog, what exactly happened, me and my girl we were, we were arguing. We were yelling pretty loud.

HEARING OFFICER LEANN DUCEY: Uhm, uh.

CODY FLEMING: The dog got scared and it was underneath the bed and when I stepped on his paw I was by my bed and, uh, when he came up I went to move away from him, like, laying, kinda like on my bed like this and he came up and bit my arm.

HEARING OFFICER LEANN DUCEY: Okay.

CODY FLEMING: The moment he bit my arm I swung at him and, I, I think he'd released by the time I actually punched him but when he came back, he went back for the same arm, but I was in this kind of a state and I moved my arm. He bit my face. The moment he bit my face he released. I picked him up like this and put him in the bathroom.

HEARING OFFICER LEANN DUCEY: Okay.

CODY FLEMING: Uh, when I, when I arrived at Broadlawn's, uhm, I didn't want to fill out a report. I did not want to do none of that. I a, the guy came in and I told him it was a neighborhood dog. I did lie. I lied cause my dog means a lot to me.

HEARING OFFICER LEANN DUCEY: Right.

CODY FLEMING: And, uh, he called the policeman in. The officer came in there. He was extremely disrespectful. I called his sergeant and turned him in. Uh, made a report on him. His sergeant said he would have a talk with him. I was getting sutured. The police officer told me he could not wait 10 minutes for my face to get a stitch before he talked to me. I, I told him I didn't want to talk. I said do I not have, do I just not have any rights just to not, or, don't I have the right to just not say anything right now and he told me no that I didn't have that right. And he said you got, you better tell them right now or you're going to jail. The animal control officer turned over to me and said look if it was your dog he will get a 10-day in-home quarantine and I

said alright. And right there I told him the truth, the whole story. That dog, I, he is not a people friendly dog. Uhm, I'm pretty much a loner. Me and my girlfriend don't have many friends. Stay at home all day. There is no one else in the house but my girlfriend but me. Uh, the dog, he, he has never got loose from me before. When he goes outside he's on a body harness. He's, there's no way for him to get loose from me and believe it or not he actually did, he actually does listen to me very well. Uhm, uh, he's, he's never done this before, never acted like that. Uhm, after they told me the 10-day in-home quarantine, the animal control officer said will you be there later on this afternoon and I'll come by and check on him and I said yea I'll be there all day so come by. He didn't come over until at like 20, after 24 hours after the dog bite happened, the next morning to take my dog. And I was extremely upset with that beings I was lied to by him. Uh, I, I

HEARING OFFICER LEANN DUCEY: I understand.

CODY FLEMING: I, he, I mean he's a pit, he isn't blood thirsty, I mean he, he isn't people friendly. I, I run a business. I, I have large amounts of cash on me, \$3-4,000 every night and that is the main reason I got that dog is I can leave him at home with the money for the work. I mean I did not raise him to be like that. He does not, he ain't a fighting dog. I mean that's just how he is. Uh,

HEARING OFFICER LEANN DUCEY: It was an un, unfortunate set of circumstances I think that brought you here today. Uhm, I'm sure it scared the dog when you, when you stepped on it. Uhm, I understand. Do you have anything else to present today? Okay. Sergeant Raudabaugh, do you have anything? Okay.

SERGEANT SCOTT RAUDABAUGH: Uh, I forgot.

HEARING OFFICER LEANN DUCEY: Okay.

UNIDENTIFIED SPEAKER: I'm sorry (Inaudible).

HEARING OFFICER LEANN DUCEY: Oh, you, you need to come up to the mic. Why don't you let Sergeant Raudabaugh speak and then you can speak again. Go ahead.

SERGEANT SCOTT RAUDABAUGH: Uh, I forgot to mention earlier that on three different occasions I went back to the dog kennel area and each time I approached the dog kennel that Mr. Fleming's dog was in the dog immediately, uhm, growled and took a defensive stance. Certainly Mr. Fleming's comment about the dog not being people friendly was a good, accurate statement as to how the dog reacted to me each and every time and also from the notations on the, on the veterinarian's dog breed evaluation form that the dog reacted the same to, to him and his staff. As far as something else that Mr. Fleming said as far as the home quarantine, uhm, the possibility always exists for possible home quarantine.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: Uh, from the time the initial report was made, uhm, until the dog was impounded, it gave time for me to evaluate the report, the information available, and determine whether a home quarantine was possible. Uh, pit bull breed dogs are not commonly home quarantined because of all the liability associated with the potential of home quarantine and if they were not to be kept under quarantine and another bite were to occur, uh, the liability and, and a scrutiny of the animal control units actions would be, uhm, significant. Uhm, often times pit bulls are kept in quarantine in the animal control shelter for a multitude of reasons but those are just a few of them. Uhm, rarely are they left for home quarantine.

HEARING OFFICER LEANN DUCEY: Okay.

SERGEANT SCOTT RAUDABAUGH: In this case, Mr. Fleming was at the hospital when the animal control officer left. Uhm, and subsequently there was follow-up done and the dog was impounded after that.

HEARING OFFICER LEANN DUCEY: Okay. Thank you.

SERGEANT SCOTT RAUDABAUGH: Thank you.

HEARING OFFICER LEANN DUCEY: Mr. Fleming.

CODY FLEMING: I just want to say that that, that was the main reason why I, I, I lied in the first place at the hospital was because I knew that if he was quarantined with them because my grandma has a, a half pit bull breed dog and, uh, it a, they took him from her and he went through some kind of test to declare not vicious. I, I don't know.

HEARING OFFICER LEANN DUCEY: Probably by the vet. The veterinarian exams them I think to see the breed.

CODY FLEMING: And, uh, I knew that if he went down there because we do have a kennel at home and anybody he don't know and walks up to the kennel he's trapped. He don't have nowhere to go. He gets scared and, uh, I mean, I know him, he'd probably do that outside the kennel to this guy. He don't know him but he does act like that in the kennel and, uh, that's, oh, and, and he also when they took him from me the first time when I went down there, that was days after I received the dog and I was looking to know what I need to do to keep him. It wasn't that there was a problem and they took him.

HEARING OFFICER LEANN DUCEY: Was the dog running at large that first time?

CODY FLEMING: No. That dog has never, ever been off, he's never been 6 feet away from me off a leash.

HEARING OFFICER LEANN DUCEY: Okay.

CODY FLEMING: He was taken down there cause I didn't know what steps you needed go through to get him licensed.

HEARING OFFICER LEANN DUCEY: Okay. Okay.

CODY FLEMING: That's it now.

HEARING OFFICER LEANN DUCEY: Okay. Thank you. Anyone else have anything to present? Okay. Uh, I was presented with a, a quite a bit of, quite a few documents to look over and so I'm not going to make a decision today. Uhm, these cases I like to be very thorough before I do any kind of a ruling. So, uhm, I will be sending a written ruling which would be hand delivered to you. Uhm, I hope by Thursday of this week. And, uhm, upon receipt of that, that will be my final administrative decision. Should you disagree with the decision, you do have the right to file a written appeal within three days to appear before the City Council and there would be documentation in that stating how you needed to handle that. But like I said, I want to review everything very thoroughly before I make any kind of a decision. So with that the hearing is over for today. Thank you both for coming in.