WHO’S AFRAID OF THE BIG BAD HALF-WOLF? A PAPER EXAMINING THE QUESTION OF HOW STATES SHOULD REGULATE WOLF-HYBRIDS.

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ABSTRACT

In recent years there have been two growing trends. First, the trend of municipalities banning the ownership of a variety of dog breeds, particularly the dogs commonly referred to as “pit bulls”. There is also a growing trend in the ownership of what are called “wolf-hybrids”, animals that are bred by mixing wild wolves with domesticated dogs. As this ownership has continued to grow, municipalities are searching for ways to control what many see as ownership of animals they consider to be wild. This raises several questions. First, what exactly makes a hybrid animal a hybrid animal? Second, what biological issues may arise within these breeds which give municipalities concern? Third, are these animals wild, domestic, or somehow both? Fourth, how are states and localities currently regulating the animals, and finally how should they be? Across both the scientific community and the nation the answer to these questions result in a patchwork of varied information, however an ideal solution may still exist for those wishing to either promote or restrict ownership.
I. INTRODUCTION

Many people are confused about what exactly a wolf-hybrid is. When most people think of the animal, many picture a Siberian husky or Alaskan malamute. In many ways, this is not far off. In 1993, the dog was reclassified by experts from *canis canis* to *canis lupus familiaris*, after extensive work was done in examining the DNA of the *canis* family.\(^1\) While this may not seem like that amazing of an advancement, it was, as it reclassified the dog as a cousin of the timber (canis lupus nubilus) and arctic (canis lupus arctos) wolves, and placed all of them as sub-species of the gray wolf, and making the mistaken identity plausible.\(^2\) There are further arguments that even this was still incorrect, and that the DNA evidence instead suggested that dogs should instead be classified exactly the same as the gray wolf, and only be known as a domesticated branch of it.\(^3\) Thus, it is completely understandable why someone would think of a husky or malamute when thinking of a wolf-hybrid. This is also understandable, as these dogs are two of the breeds most often bred with wolves to create hybrids.

But what exactly differentiates a wolf or dog from a wolf-hybrid? How do you know what is a wolf-hybrid, and what is just a very wolfish-looking dog? Many would immediately look at the dog’s physical characteristics, or claims of the breeder or owner, but unfortunately that is very inaccurate, as people are often misled, or worse, purposefully misleading. The only way to 100% conclusively prove if a dog is a wolf, dog, or wolf-hybrid is through genetic testing of the parental lines, which can be both extremely expensive and extremely difficult to

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complete. While DNA testing may seem like the answer, this also presents issues, due to how the two types of DNA, nuclear and mitochondrial, are passed from parents to their offspring.

This is because the mitochondrial DNA is passed only from the mother, and will only show you if the animal has wolf or dog in their DNA on the matriarchal side. On the nuclear DNA side, only the dominant DNA will show in the offspring, and repressive genes will not. Thus, if the male parent is a wolf, and the female a dog, it is possible that a significant amount of dominantly passed genes would be from the dog parent, even though the dog is technically half-and-half.

Thus, two littermates may not have the same distribution of dominant wolf and dog genes, despite having the same parentage. So instead of calling wolf-hybrids things like 82% wolf by saying the mother was 90% wolf and the father 74% dog, these animals are instead classified by their filial number, used only when it is known that a wolf in the animal’s lineage. This term is used to describe the numbers of generations removed from a wolf the current animal is from the wild wolf. Thus, an F1 would be the result from a pure-wolf and pure-dog mating, an F2 would have a wolf as a grandparent, and so on and so forth.

This has led some groups to instead classify the dogs by a mix of the filial numbers, as well as what is referred to as “phenotyping”, a process by which you find the wolfish “content” of the animal. While it is much more subjective, it can be extremely useful if nothing more is known about the animal. There are three categories of content, low/no, mid, and high. Low

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5 Id.
6 Id.
7 Id.
content animals will look the most like dogs, are good in the house, will (usually) come when called, are easier to housebreak, good with smaller animals and children, enjoy outings to new places, and are friendly to most everyone.\textsuperscript{11} High-content animals will look mostly like a wolf, are very destructive of their environment, prefer spending time outdoors, are shy around strangers, not recommended around small animals and children, and are not easily housebroken.\textsuperscript{12} Mid-content animals share a combination of the two sets of traits, or will have inflated or deflated versions of the traits. Some examples of characteristics that differ between the two are a wolf’s narrower chest, large feet with webbed toes, a longer muzzle, no distinct stop between forehead and muzzle, toenails that are black or taupe, longer legs, slanted eyes, black notes and legs, and well-furred ears (with no pink showing), to name a few.\textsuperscript{13} At birth there are also differences, including high-content animals having a darker coloration at birth, no prominent markers, and ears that become fully erect at three weeks.\textsuperscript{14}

However, why does it matter whether it is a dog or a wolf if the two are so similar genetically? The answer is in the small amount of difference between them. Thousands of years ago, when dogs began becoming domesticated, these changes began, and they have made all the difference today. While dogs and wolves both develop the sense of smell at week two, hearing by week four, and vision at week six, wolves begin walking two weeks earlier before dogs at week two instead of four.\textsuperscript{15} Thus, as they begin learning more about their environment, and about what they should and should not fear, and about the people they should or should not bond with,

\begin{itemize}
\item \textsuperscript{11} Id.
\item \textsuperscript{12} Id.
\item \textsuperscript{13} Wolfdog, Dog Breed Info Center, (available at: http://www.dogbreedinfo.com/w/wolfdog.htm) (last visited 3/20/2015).
\item \textsuperscript{14} Id.
\end{itemize}
they are unable to see and hear.\textsuperscript{16} This is crucial for their social development, and their ability “to form interspecies social attachments, such as those with humans.”\textsuperscript{17} What is recommended then, is for higher-content dogs to begin being directly handled by family members as early as 10 days into their life, and at the six to eight week mark for the puppy to be gradually exposed to potentially frightening stimuli, such as vacuums, kids, and loud noises, amongst others.\textsuperscript{18} It is also recommended to take these dogs to other places, circumstances, and conditions they will face as an adult between weeks 8 and 12, in order to allow them to form attachments to both the people and places they will encounter as adults.\textsuperscript{19}

The effects of not giving proper training and socialization can be devastating, and it is these extreme possibilities that cause people to so strongly advocate that the dogs are either properly cared for, or even banned entirely. In 2000, the Center for Disease Control conducted a study about dog related attacks that resulted in human fatalities between 1979 and 1996.\textsuperscript{20} In that time frame there were over 325 human fatalities, with most victims being children. The data was collected from the Humane Society of the United States, as well as media accounts, and focused on those who suffered trauma from bites.\textsuperscript{21} What the study did not include were things such as dying from rabies, dying from strangulation on a leash, or dying in a bicycle or vehicle crash while being chased by a dog.\textsuperscript{22} Also excluded were deaths due to infection from bites, trauma after dying due to being knocked over by a dog, and deaths attributed to police dogs working in

\textsuperscript{16} Id.
\textsuperscript{17} Id.
\textsuperscript{21} Id.
\textsuperscript{22} Id.
the line of duty.\textsuperscript{23} Also excluded were approximately 90 deaths where no breed information could be collected.\textsuperscript{24}

The results of the study showed that wolf-dog hybrids were responsible for 14 of the 238 deaths where the breed was known.\textsuperscript{25} While that number is lower than breeds such as pit bull terriers and Rottweilers, critics of the wolf-dog hybrids point out that “they have still found more opportunity to kill and maim than members of any other breeds except pit bull terriers and Rottweilers, each of whom may outnumber wolf hybrids by about 10 to 1.\textsuperscript{26} People also point out that, while German Shepherd attacks are due mainly to reactive bites and grab-and-drag incidents, both of which are normal for their herding nature, and pit bulls and rottweillers attack mainly when alarmed or aggressed with, wolf-hybrid attacks seem to be “predatory in nature”, and almost always involve children.\textsuperscript{27} Along with this study, there is always anecdotal evidence that news organizations are more than happy to publish. A simple Google search of “wolf-hybrid death” will turn out several, and other articles and essays about the breed will do the same.

\textbf{II. BACKGROUND OF STATE AND LOCAL LAWS}

Before analyzing how states, counties, and cities \textit{should} regulate these animals, we can first look at how they \textit{are} regulating these animals. First, we will look at the federal level, before moving to the states and localities. Within the state level laws, we will examine if any state courts have ruled on the issue in interpreting state laws. Following this, localities will be examined, to see if those in states that do not already regulate these animals have acted in any way, and how they have done so.

\textsuperscript{23} \textit{Id.}
\textsuperscript{24} \textit{Id.}
\textsuperscript{25} \textit{Id.}
\textsuperscript{27} \textit{Id.}
A. Federal Level Laws

At the federal level, there are few, if any, laws regulating hybrid animals. The regulation that does exist, under the Department of Agriculture regulations, merely defines what a hybrid is, and decides if they are domestic or wild. As stated in the regulation:

> [h]ybrid cross means an animal resulting from the crossbreeding between two different species or types of animals. Crosses between wild animal species, such as lions and tigers, are considered to be wild animals. Crosses between wild animal species and domestic animals, such as dogs and wolves or buffalo and domestic cattle, are considered to be domestic animals.\(^{28}\)

Thus, the key to whether or not an animal is wild or domestic under federal regulations is whether one of the animals is classified as a wild animal or not.

B. State Level Laws

Due to the federal level’s regulation being so vague, and giving so much leeway, the states are then able to regulate more freely. There are three categories that states will be broken into: complete bans (with the exception of zoos, accredited rescues and similar facilities)\(^{29}\), states that have strict permit, license, or regulation processes and guidelines for ownership, and those state with no direct regulations. While this list is not perfect, due to vague state laws, and incomplete definitions within state laws, it is extremely close. The first category, complete bans, consists of 17 states.\(^{30}\) These states are from all parts of the country, and approach the issue in several different ways. Some, like Michigan, have a specific wolf-hybrid ban.\(^{31}\) Others, like Georgia, just include hybrid animals under their general exotic animal statues.\(^{32}\) There are also states that do not explicitly ban the animals, but instead ban animals for which no USDA

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\(^{28}\) 9 CFR 1.1

\(^{29}\) Also included in this list are states that grandfathered in hybrids that were currently owned, as to exclude those would cause the list to be nearly empty, and because many of those statutes are over 15 years old, surpassing the average lifespan of these animals.

\(^{30}\) See the appendix for a list of each type of state, and citations to statutes or official publications for each.

\(^{31}\) Michigan Large Carnivore Act, §287.1101.

\(^{32}\) 2006 Georgia Code 27-5-5.
approved rabies vaccine exists.\textsuperscript{33} As the USDA has not approved a vaccine as of yet, this effectively bans the wolf-hybrids from being owned in that state.\textsuperscript{34} Interestingly, only New Hampshire and California have limits on what constitutes a hybrid, or more than a basic stock definition. In New Hampshire, the specific definition is “any canine which has had a wolf ancestor within the previous 4 generations” or one that “has been represented by its owner or former owner as having wolf ancestry”.\textsuperscript{35} In California, only dogs that are F1 (domestic dog and wolf as parents) are banned, but offspring of F1’s are not. The states that, unlike New Hampshire and California, have such general bans are the ones that, on their face, seem the most open to challenges in court. This is because decisions are left up to things like opinions from an “expert on wolf-dog cross identification” (in Michigan) or just defining it as any cross, or offspring of such cross (which leaves the door open to animals several generations removed being classified as illegal dogs) like many other states.\textsuperscript{36}

There are 12 states with license or permit requirements, or other limiting regulations, all of which are varied. Some have physical requirements, such as Arkansas’ statute that requires a chain-link fence of a certain size, along with requiring dens of four square feet and only four total animals per acre.\textsuperscript{37} Some, like Florida and Montana only regulate those that are a certain percentage (25\% or 50\%, respectively) or more wolf.\textsuperscript{38} States like Maine require licensing, vaccination, and micro-chipping of the animals, along with enclosure requirements.\textsuperscript{39} Rhode Island, among others, regulates hybrids of any filial level, citing the effectiveness of the rabies

\textsuperscript{33} See generally, Code of Alabama
\textsuperscript{34} Rabies Vaccine, the Wolf and Wolfdog, Wolf Dog Coalition (available at: http://www.inetdesign.com/coalition/issue.html) (last visited 3/22/15).
\textsuperscript{39} Maine Revised Statutes, §3916.
vaccine as their reason.\textsuperscript{40} Within these categories, there are those that have laws and regulations on the matter, but still reserve to local municipalities the ability to pass further regulations. Finally, there are the 25 states that do not seem to regulate these animals at all. Some do not include hybrids under their definition of wolves, like Kansas.\textsuperscript{41} Others specifically leave the decision up to local municipalities, like those with licensing and permitting processes. Some states, like Minnesota, have bans for other exotic animals, but not wolves or their hybrids.\textsuperscript{42} There are also states, such as Wisconsin, that do not ban exotic animals at all, and states that do not have any statutes that speak to the issue, leaving local municipalities open to their own decision making.\textsuperscript{43}

Along with the actual laws and regulations, there are also court decisions to consider. Despite the number of laws regulating the animals, there are very few cases that discuss wolf-hybrid ownership, and most of these involve tortious liability. However, there are several cases that discuss what exactly a wolf-hybrid is, or whether hybrid animals are considered wild or domestic animals. The first, \textit{Upper Saucon Township v. Zoning Hearing Bd.}, 165 Pa. Commw. 623 (1994), was a Pennsylvania case in which the court held that, because Pennsylvania law differentiated between wolf-hybrids and dogs that hybrids are not dogs under that definition, and zoning laws that only allow dogs cannot allow hybrids. \textit{Upper Saucon Township v. Zoning Hearing Bd.}, 165 Pa. Commw. 623 (1994). Also from Pennsylvania is \textit{Stoneback v. Zoning Hearing Bd.}, 699 A.2d 824 (Pa. Commw. Ct. 1997), which went even further, and held that because Section 2961 of the Game and Wildlife Code included crossbreeds of “bears, coyotes,

\textsuperscript{41} See §115-20-4, Kansas Administrative Rules.
\textsuperscript{42} §346.155, Minnesota Statutes 2007.
\textsuperscript{43} See generally Wisconsin Statutes & Annotations.
lions, tigers, leopards, jaguars, cheetahs, cougars, (and) wolves” in their definition of exotic animals, that wolf-hybrids were thus considered exotic animals, not domestic animals, in opposition to USDA regulations. Stoneback v. Zoning Hearing Bd., 699 A.2d 824, 828 (Pa. Commw. Ct. 1997).

In New York, in the case of People v. Hepburn, 180 Misc. 2d 265 (N.Y. City Ct. 1999), the court held that a town cannot use a statute that bans ownership of owning live wildlife cannot ban an animal that has been raised in captivity from birth if the only reason given is that the animal looks like a wolf. The court also stated in dicta that a law that singled out animals that had an “overall appearance of which makes it difficult or impossible to distinguish from a wolf” was found to be vague, as that would include accepted domestic breeds of dogs that included Siberian Huskies, Malamutes, and German Shepherds, and thus defeated the intent of the law. However, later amendments to the law included “wolfdog[s]” as restricted animals, and included them in a regulation that allowed the state to take them if they were deemed to present a threat to people in the area or to native wildlife. The court held that, as the agents worked to identify the animal and be sure that it was a “wolfdog”, and because of several articles cited by the court that discussed how dangerous the animals were, and how they do not make great pets, that the dog met the criteria and was allowed to be seized by the agents.

C. Local Laws

With roughly 3,100 counties, or county equivalents, in the United States, it would be extremely difficult to find out if each have laws regulating wolf hybrids. And given that there are almost 40,000 local governmental bodies, breaking it down even further would be nearly

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44 People v. Hepburn, 180 Misc. 2d 265 (N.Y. City Ct. 1999)
45 Id. at 269.
46 Id.
47 Id. at 270-271.
impossible. However, there are several groups that have tried to assemble such things, and have the laws of a handful of counties and cities around the nation. Denver’s law, for example, prohibits ownership of “wild or dangerous animal[s]”, a definition that includes “all species of nonhuman mammals except ... domestic dog[s] (Canis familiaris).” While the law does prohibit ownership of hybrid cats, save for those that are descended from Bengal cats and are at least an F4, they make no mention of hybrid dogs. Thus, the interpretation in this case would turn on whether or not a hybrid dog was considered Canis familiaris (which, technically, no dog would be anymore), which would then seem to follow the USDA guidelines as well. However, those wishing to ban the dog could also look to the vaccination requirements in the city, which make it unlawful for anyone to own a dog that is not vaccinated for rabies, unless to do so would be detrimental to the animal’s health. As there is debate as to the effectiveness of the vaccine for wolf-hybrids, this ordinance may prevent ownership. Were someone hoping to own a wolf-hybrid in the city, they would need to show that the ordinance is technically flawed through its definition of “domestic dog”, and argue that a wolf-hybrid is in fact a domestic dog.

In nearby Boise, Idaho, the laws are similarly vague. There are no direct mentions of any hybrid animals in the code, but the code does prohibit wild animals, which includes “all members of Canidae (dog family) except domesticated dogs.” There are also restrictions on the ownership of vicious animals, with the only finding that is required before a hearing is given is that the animal has a “known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.” Should an

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48 See HybridLaw.com (last visited 4/10/2015).
50 Id. at §8-31; Id. at §8-32.
52 Id. at §§6-07-01, 6-07-14.
animal be found to fall under this category there are requirements owners must meet to continue ownership, which include warning signage, liability insurance, tattooing of the animal, and enclosure requirements. Boise also has a rabies requirement, similar to Denver, which requires all animals to keep rabies vaccinations current. Thus, all those seeking to prevent hybrid ownership in Boise could point to either the vicious dog requirement, and through the use of studies similar to those in Hepburn show that wolf-hybrids met the vicious requirement, or else use the rabies requirement to prevent ownership. Those wishing to own a wolf-hybrid, however, would merely need to show that their dog did not have a propensity for viciousness, and hope the judge in the case was not pre-disposed against wolf-hybrids. They could also point to the USDA definition of what a wild vs. domestic hybrid is, and the fact that under Federal law a wolf-dog hybrid is a domestic animal, thus allowing them ownership.

The city of Minneapolis also does not have any express prohibition on wolf-hybrids. The city does prohibit ownership of any “wild, exotic, dangerous or non-domestic animal or reptile,” however no definitions are given for what constitutes wild, exotic, or non-domestic. There is a definition of what constitutes a dangerous animal, along with potentially dangerous animals, however. In Minneapolis, no animal is banned purely because of breed, but instead because of the animal’s conduct. However, when deciding if an animal is considered potentially dangerous, one criteria is that “[a]ny animal that has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals as documented by law enforcement or Minneapolis Animal Care and Control” may be designated

53 Id. at §06-07-07.
54 Id. at §06-07-22
55 Hepburn, 180 Misc. 2d at 265 (N.Y. City Ct. 1999).
56 §74.50 Wild Animals, Minneapolis, Minnesota – Code of Ordinances.
as potentially dangerous. It is important to note, however, that the animal is not banned if deemed dangerous or potentially dangerous, just that there are strict regulations on its registration, enclosures, and handling. Minneapolis also has a vaccination requirement for all dogs. Given the above, were someone to hope to have a wolf hybrid removed, they would cite either the studies used in *Hepburn*, claiming all wolf-hybrids to be dangerous, or use vaccination studies. However, those hoping to own wolf-hybrids have hope in that there are no FDA-approval requirements under the rabies ordinance. Also, that in order to have the animal declared “potentially dangerous” a judge would be forced to issue a general statement that every wolf-hybrid is dangerous, and even then the animal would just have restrictions placed upon it, not outright banishment from the city. Also, the fact that the USDA regulations classify wolf-dog hybrids as domestic animals supports their argument that these animals do not fall under the law in question, and as such are not subject to the regulations unless an overt act causes it.

Wake County, in North Carolina, is the first of the cities so far discussed to have an outright ban on wolf-hybrids. Under their ordinances, it is illegal to own any “inherently dangerous mammal”, which includes “any member of the dog (canid) family not customarily domesticated by humans, including hybrids thereof, which due to their inherent nature may be considered dangerous to humans.” This prohibition also specifically mentions wolf hybrids, and defines them as “a cross between a wolf and a domestic dog, but not including domestic dogs.” Thus, it is not difficult for someone to have a dog removed from a home in that county. Were someone hoping to own one of these animals in Wake County, they would have to raise the challenge of proving lineage, something that would likely come down to a court using the high,
medium, and low content methodology described earlier. In New Hanover County, North Carolina, there is no specific ban on wolf-hybrids. However, there is a rabies vaccination requirement.\textsuperscript{62} There are also vicious (the words dangerous and potentially dangerous are also used) animal regulations, that put regulations on animals that are deemed vicious, though actual acts of aggression by the animal are required before this is triggered.\textsuperscript{63} Thus, someone wanting to prevent ownership of wolf-hybrids would point to the vaccination requirement. However, given that there are no requirements for the vaccination to be USDA approved, those seeking to own the animal would be able to argue that the ordinance did not apply.

Going west, the town of Las Cruces, New Mexico has a very explicit ban on wolf-hybrids. Under their definitions section of their city ordinances, they include “Any member of the family Canidae, including wolf, hybrid wolf, coyote, jackal or fox, and similar species except Canis lupus familiaris.”\textsuperscript{64} This ban is similar to the one in Wake County, making it very easy for someone against wolf-hybrids to have one removed from a neighbor’s house. However, this ordinance is silent as to determining how an animal is determined to be a wolf-hybrid, and what level of filial numbers make an animal considered a wolf-hybrid. Thus, this would be the strategy for someone hoping to own a wolf-hybrid to take if fighting this ordinance.

Taking a slight shift from the mildly populated Las Cruces, New York City also has regulations governing ownership of wolf-hybrids. Under the Health Code of the City of New York, residents are not permitted to own animals that are “naturally inclined to do harm and capable of inflicting harm upon human beings.”\textsuperscript{65} Under this list is included “all dogs other than domesticated dogs (canis familiaris), including but not limited to wolf ... and any hybrid

\textsuperscript{62} §5.5, New Hanover, North Carolina Code of Ordinances
\textsuperscript{63} Id. at §§5.10, 5.62-5.65.
\textsuperscript{64} §1-7-1, Las Cruces, New Mexico Code of Ordinances.
\textsuperscript{65} §161.01(b)(1), Health Code of the City of New York.
offspring of a wild dog and domesticated dog.” Thus, on its face, this law seems to ban wolf-hybrid ownership. However, the law only bans F1 animals (“any hybrid offspring of a wild dog and domesticated dog”), and because of this it appears to allow wolf-hybrids that are F2 and below. So, if a resident of New York City is looking to have a wolf-hybrid animal removed, they would want to hope that it is an F1. However, they could also argue that even an F1 is a wild dog, and thus any offspring of that would still fall under the restriction. This could be easily rebuttable however, as all an owner would need to show is that their dog is not the offspring of a wild dog, and point to the law not prohibiting offspring of a domesticated dog and the offspring of a domesticated dog and wild dog.

In Seattle, the law appears to ban all wolf-hybrids. The statute provides that “it is unlawful for any person to procure or keep an exotic animal.” Exotic animal is defined as “any species of animal that is both: (1) not a domestic animal, and (2) capable of killing or seriously injuring a human being.” The statute goes on to define several examples, including “[a]ll animals of the family Canidae ... and their hybrid, except for the domestic dog Canis Familiaris.” This statute, unlike New York City, does not have an exact definition of what level of hybrids are prohibited. This then leaves the door open to interpretation about what is and is not banned within the city. As there is no exact definition for when a dog moves from Canis Lupus to Canis Lupus Familiaris, it would be up first to the Director of Animal Control, and on appeal to a court, to make that determination. However, opponents of wolf-hybrid ownership would try and argue that any and all hybrids meet the first two criteria of the exotic animal

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66 Id.
67 Id.
69 Id. at §9.25.020(M)
70 Id.
71 While the statute says Canis Familiaris, this animal classification no longer exists, though it is likely just an oversight, and unlikely a judge would be picky about this.
definition, in that they are not domestic and are capable of killing or seriously injuring a human being, with citations to examples of wolf-hybrid attacks on humans. Given that the statute bans species, and not individual animals, this may be persuasive to a court. However, a counter argument that by crossing it with a dog the animal then becomes domestic, and because of this the animal is not any more capable of seriously injuring a human than the average malamute or German shepherd, this argument could be rebuffed. Again, the determination will be one done by the Director, and then a court, and be up to their discretion in each case.

Just a few hours southeast, Salt Lake City has a similar restriction on ownership of wolf-hybrids. However, this law is similarly vague. Dogs are defined as “[a]ny Canis familiaris four (4) months of age or older.”  

Wild or exotic animals have several defining factors, including being an “animal of a species that in its natural life is usually untamed and undomesticated, including hybrids and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies.”  

This definition even specifies that it does not matter how domesticated or tamed the animal is, and specifically includes animals that are part wolf.  

This law seems to be the best able to ban ownership of wolf-hybrids. There is the earlier discussed issue of “Canis familiaris” no longer existing, but that seems to just be an oversight. The rabies vaccination requirement is a major hurdle for an owner to try to overcome, and would require proof that all wolf-hybrids can be effectively vaccinated, and not just an individual animal. Along with this, as the ban includes animals that are part wolf, the owner of an animal could be required to prove otherwise. One argument that could be made for an owner would be that the animal cannot be proved to be part wolf, and the question would then come down to proving that the animal can or cannot be effectively vaccinated against rabies.

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72 §8.04.010, Salt Lake City, Utah: City Code.
73 Id.
74 Id.
The State of Texas, much like its famous saying suggests, has a list of counties with regulations that is bigger than any other state thus far.\textsuperscript{75} In Ector County there are somewhat confusing laws. While wolf hybrids do fall under the definition of “wild animals that are dangerous and in need of control” in the county in one section, they are not included under the definition of “dangerous wild animal”, as they are not included under §822.101 of the Texas Health and Safety Code, which the county defers to.\textsuperscript{76} A domestic animal, within Ector County’s law, means more than just an individual animal that has been domesticated, it means that as a species the animal has been domesticated by man so as to live and breed in a tame condition, as done by selective breeding during many generations.\textsuperscript{77} However, even if an animal does not meet the definition of domestic, and is found to be a wild animal, ownership is allowed, but with restrictions.\textsuperscript{78} So long as these restrictions are met, ownership is allowed.\textsuperscript{79} Should someone not want to meet the restrictions, however, Ector County seems to have written a law that more thoroughly forecloses the possibility of ownership than other municipalities have. While it could be argued that the same issue is present with this statute that existed with others, that it technically only disallows hybrids of wolves and not future generations, the definition of domestic animal solves this issue. Under that definition, it is required that the animal is in tame condition, due to \textit{generations} of breeding.\textsuperscript{80} Thus, the argument would be made by those hoping to stop ownership of wolf hybrids that there would need to be several generations between the F1 and the current animal, as anything less cannot be shown to have been domesticated. However, this argument can be rebutted by those hoping to own the animal simply by showing that at a

\textsuperscript{75} As there are over 254 counties in Texas, and 27 listed on the aggregating hybridlaw.com site, we will not go through each. However, the paper will detail three.

\textsuperscript{76} §3, Ector County’s Regulations Relating to the Keeping of Wild Animals in the Unincorporated Area of Ector County, Texas.

\textsuperscript{77} \textit{Id.}

\textsuperscript{78} See \textit{Id.} at §4.

\textsuperscript{79} \textit{Id.}

\textsuperscript{80} \textit{Id.} at §3.
certain filial level wolf-hybrids are tame and domesticated. Thus, it would again come down to a mix of science and judicial discretion in deciding at what level a wolf-hybrid has reached the level of “domesticated”.

Lubbock County, Texas works similar to Ector County. Wolves, and their hybrids, are included in the definition of dangerous wild animals, and are restricted from private ownership, with some exceptions for zoos and educational facilities.\textsuperscript{81} However, they are not banned. Instead, ownership of one just requires a permit. If someone wanted to avoid the ban, they would be forced to make the same arguments that were raised in earlier localities, with the question being at what filial level a dog stops being a hybrid, and instead becomes a dog. In this county, though, many of the laws refer back and give deference to the laws and regulations of Texas, and because of this it is likely judges will refer to that when making decisions.

The county of Williamson takes the law that Ector and Harris counties use to define Dangerous Wild Animals, Section 822.101 of the Texas Health & Safety Code, and further that definition. Not only do they include the same animals as the Texas Health & Safety Code, they also include “any [a]nimal of a species that is wild by nature, normally found in a wild state, not naturally tame or gentle, and/or because of its size, toxicity, vicious nature, or other characteristics constitutes a danger to public health, safety, or welfare, including ... all four legged mammals ... or any hybrid of such [a]nimals.”\textsuperscript{82,83} As with other counties, this definition will then hinge on when a hybrid is considered a dog, and when it is considered a hybrid of a wolf. Those opposed to ownership will point to the studies showing the vicious nature and other characteristics of the hybrids and argue they constitute a danger to public health, safety, or

\textsuperscript{81} §§4.01.001, 4.06.002, Code of Ordinances, Lubbock County, Texas.
\textsuperscript{82} \textit{Id.} at §2.01.001.
\textsuperscript{83} While not quite as relevant given the breadth of the definition of Dangerous Wild Animal, this county is one of the only jurisdictions that defines dog as “Canis lupus familiaris”. \textit{Id.}
welfare, and also to the fact that hybrids are normally found in a wild state. However, it could be argued that it is only wolves that are normally found in a wild state, not wolf hybrids, and as such the first two criteria are not met. Along with this, the USDA regulations that classify hybrids as domestic animals also work in the favor of those hoping to own wolf-hybrids. However, as the definition is an “or” and not an “and”, the judgment would swing on the issue of public health and safety, and hinge on judicial judgment.

Along with banning wolf hybrids, many counties also ban hybrids that breed wild cats and domestic cats. The counties that do this approach wolf hybrids in a variety of ways. Some, like Ector County in Texas, ban all hybrids.84 Others will ban one, but stay silent on the other, such as Denver.85 Finally, there are localities like Hanover County, Virginia, where they specifically ban hybrid cats, but very expressly state that “[t]he term wild or exotic animal shall not include wolf-canine hybrids.”86 This allows ownership, and avoids the need for potential owners to make arguments about the line between hybrid and domestic, or tame versus wild, and other arguments discussed above.

III. HOW SHOULD REGULATION OCCUR?

This brings us to the problem that many states are now encountering. How should those localities that do not currently restrict wolf-hybrids but want to, do so? Should they regulate hybrids like exotic animals, domestic animals, or their own special class? At what filial level do the animals move from one class to the other? How is it proven that an animal falls into any class, or that they are that filial level? If they are exotic or their own class, is there a permitting process? What factors are considered? The amount of land? Enclosures and restraints? A

84 §3, Ector County’s Regulations Relating to the Keeping of Wild Animals in the Unincorporated Area of Ector County, Texas.
85 §8-2, Keeping Wild or Dangerous Animals Prohibited, Denver, Colorado Code of Ordinances (available at: https://library.municode.com/index.aspx?clientId=10257&stateId=6&stateName=Colorado).
86 Chapter 4, Article 1, Sec 4.1, Hanover County, Virginia – Code of Ordinances.
combination of factors? Or do you instead have to qualify as a special class of person, such as a rescue, educational group, or other non-profit? If the wolf-hybrid is considered a domesticated dog, what then? Can you ban just the breed, as has been done with pit bulls in some cities? How are they banned? As discussed above, if it is based on lineage, how is lineage proven? At what point do the dogs leave the realm of wolf-hybrids and just become dogs? If they are just considered domesticated, should they automatically be labeled as dangerous/vicious animals, citing the studies used in earlier discussed cases, or should proof be required before doing so? All these options will be discussed below, and by doing so a model law to ban all wolf-hybrids may exist.

Should a state city/county hope to fully ban wolf-hybrids, the question is how to ensure they can do so. As discussed above, no law seems to have fully managed to ban the animals, as loopholes and work-arounds always seem to exist. So what to do then? Let’s first assume we are an urban city, such as Milwaukee, in a state that is silent about exotic animal ownership, as Wisconsin is. Thus, any regulation will be completely of our own doing. The first key, before anything else, is to ensure all scientific names are correct. Thus, a gray wolf would be canis lupus, and a domestic dog canis lupus familiaris. While this wording seems like something small, it could give the wiggle room people need to avoid a ban. Once this is completed, the next step is to foreclose the possibility of ownership. The low-hanging fruit in an urban area would be to restrict based on an acreage requirement, as few people own lots big enough to meet a requirement such as 100 acres per animal. However, this is well outside the size realm of any laws that currently exist, and because of this legal challenges would likely follow. Those hoping to ban wolf-hybrids could also impose educational or rescue certification requirements, and

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require accreditation to be done either by the city, state, or other accrediting bodies, such as the AZAA, who have much more stringent standards than other groups. However, this route would also likely give rise to lawsuits, as people would appeal any decision to deny their classification as approved groups.

The biggest difficulty, however, is determining what is a wolf-hybrid, and what is a dog, and where and how to draw that line. Do you do it, as New York City has done, in a way that only bans animals at the F1 level? Or do you extend it several more generations, but with an equally specific standard, such as New Hampshire does at the F4 level? Do you instead use generalized language, such as Ector County, Texas, and say “several generations”? No matter which of these you decide, how is lineage proven, and where does the burden of proof lie? Is it dependent on owners to show that their animal is not a wolf-hybrid, or does the regulating body (here, the city) have to prove it? How is it proven, with an expert, like in Michigan, or through genetic testing? Does the party with the burden of proof have to prove lineage?

While there are advantages to using generalized language, in that the regulating body has greater flexibility, it also gives greater flexibility to the owner to avoid the law (also, several is generally accepted as 3-4, not an infinite amount, so not every filial level would be banned). However, using exact filial level counts can also be troublesome, as it could be seen as arbitrary, and if your reasoning as a city is to avoid wild animals, a court could rule that an animal is no longer wild after a generation earlier than you state. In addition, the animal may still have the characteristics that cause dangerous behavior at filial levels beyond your ban, and thus you do not avoid the problem. Thus, the answer for a city hoping to enforce an outright ban would be to place the burden on an owner to prove that an animal is not a wolf-hybrid. This burden of proof would include proof of lineage, either after a wolf-hybrid expert claims that the animal has the
characteristics of a wolf-hybrid, or the owner holds the animal out to be a wolf-hybrid. A strict licensing of all dogs will assist in this, and by having that licensing process include a statement from a veterinarian of what breed the animal is, residents will be far less able to skirt requirements. Even this law, however, has concerns. First, how far back must lineage be proven? There is no scientific evidence of what filial level hybrids are no longer wolfish, and instead no different than domesticated dogs, and as such most lines drawn would be arbitrary. Along with this, there could very likely be abuses to the system, if a neighbor is unhappy about a husky, malamute, German shepherd, or similarly looking dog living next door. As these dogs possess many wolfish characteristics, it may be difficult to prove otherwise, though given that expert and veterinary agreement would be necessary (as the licensing requires veterinary breed listing and the law requires expert findings) this issue could be avoided.

What, then, would the text of a model law for fictional city (now named Chuckville) contain? The biggest question that must first be answered is, would the city like to explicitly ban the animal, effectively ban the animal, or just make ownership extremely difficult. For the sake of this, we will assume the city hopes to have a complete ban, and will follow the steps for that. First, a law that is a stand-alone ban on wolf-hybrids is suggested, instead of just including them within the definition of exotic animals. This will foreclose any arguments that wolf-hybrids were not meant to be considered under the law, as they are specifically mentioned. So the title would read something to the effect of “A Ban on Wolf-Hybrid Ownership”. Next, a definition section would be suggested, that defined what exactly a hybrid is. This text could read “A wolf hybrid is defined as an animal that is a mixture of a wolf (canis lupus) and a domesticated dog (canis lupus familiaris), or any offspring of such animal, up until it is five generations (F5) removed from the canis lupus ancestor on both sides of its lineage”. While this is not an outright ban, an F5 ban is
rather far removed from a wild wolf, and while arbitrary is the line we will draw. Along with this
definition, definitions of terms used later in the bill, such as that of “research university”,
“zoological park”, and “wolf-hybrid expert” would also be important additions. These terms are
defined extremely well in laws already in existence, so there is no need to re-invent the wheel
and put them here, however they are crucial in clearing up any possible ambiguities and closing
loopholes.

Next, the actual language of the ban. The easiest text for this would be “All wolf-hybrid
animals are hereby banned within the city limits of Chuckville, subject to any exclusions below”. This ban is brief, to the point, unambiguous, and still leaves the door open to things such as research by universities and ownership by zoos, two things many other cities also leave open as exclusions. Following the ban, it would be suggested to have a listing of how identification of the animals is done, appeals processes (including where the burden of proof lies), and penalties for ownership. The first section, identification, would encompass the above suggestions. Thus, the law would read in several parts: “A wolf-hybrid will be labeled as such if the animal is initially believed to be a wolf-hybrid by a law enforcement officer, and either identified as such by an expert on wolf-hybrids, or is held out to be a wolf-hybrid by the owner. The expert on wolf-hybrids shall consider all relevant aspects of identification, such as behavioral characteristics, and morphological traits, including gait, and any necropsy results.” The first part of the statute, identification by a law-enforcement officer, helps to minimize the potential for abuse by grumpy neighbors. Following this, identification by an expert or through confirmation by an owner, gives a check against grumpy law enforcement officers, and assures that identification will be as close to accurate as possible. The latter sentence, with what traits to consider, is taken from Michigan’s
statute, and is used because it is both thorough and includes many of the important differences between wolves and dogs.\textsuperscript{88}

Next, the appeals process needs to be discussed, for when people disagree with the findings of the expert, or believe that the dog was seized illegally. This is one of the most difficult sections to draft, as it involves complicated aspects of administrative law. The best thing a municipality can do in this case is to use the same appeals process used in similar statutes. Every municipality should ensure that several things are included within the appeals process however. First, that the burden of proof for proving lineage lies with the owner, and not the municipality. By doing so, the difficulties in proving lineage will cause more hybrids to be removed from the municipality than remain. However, it may be advisable due to Fourth Amendment law to keep the burden of proof for illegal seizures on the side of the government.

Finally, penalties for ownership must be discussed, for without this, a ban has little to no consequence for owners. While losing a beloved pet may seem like a punishment for many, it will not be so for those who may own the animal for show. However, it is important to remember that not everyone who owns the animal does so to flout the law, or even knowingly, and because of this the law should ensure that it does not place undue punishment on those who are not deserving of such things. Thus, several levels of punishment must exist. First, the punishment for those who do not knowingly own the animal must be the least severe. This would apply to those who rescued dogs from shelters, or adopted them from friends, and thought that what they owned was a wolfish Siberian Husky. For people like this, it would first need to be proven that ownership was actually unknown. It would make sense to have this burden lie with the owner, as to do otherwise would make it nearly impossible for the government to prove otherwise. Once it

was proven that the owner did not knowingly keep the animal, the question then is what to do. Given that the owner was not actively and knowingly flouting the law, it does not make sense to punish them personally, outside of punishment related to the animal itself. Thus, the proper punishment would be to remove the animal from the owner, and to hopefully find a shelter or rescue to take it, and avoid putting the animal down at all costs. This is clearly the most lenient of the punishments, as the owner suffers no civil or criminal penalties, however the punishment should fit the crime, and the crime of unknowingly owning a hybrid animal is one that should not be met harshly, given that honest mistakes may happen. However, should someone either commit the offense again, or worse, do it knowingly, much harsher sanctions must be applied to assure that “accidental” ownership does not happen again. It would seem that civil sanctions would be the correct penalty for an initial repeat offense, however some municipalities may want to impose criminal sanctions if the repeat offense is done knowingly, as it would send a strong message to those hoping to defy the law.

The next levels of punishment, however, are reserved for those who knowingly own the animals. The first level is for those who are first time offenders, but still own the animal knowing that it is a wolf-hybrid. As it is only the first instance, it does not make sense to punish as harshly as someone who has repeatedly flouted the law, however the ownership was still done knowingly. Because of this, criminal sanctions may be more harsh than is necessary, especially if the dog has not caused injury to anyone. Nevertheless, civil sanctions should still be imposed, as those are not as punitive as criminal sanctions, but still does impose a sanction. Along with the penalty, the animal would be removed, as with before, with the same goals of finding a shelter or rescue to take them. At a step above an initial offense are repeat offenders. As these are individuals who have broken the law multiple times, they are also the ones that should meet the
harshest sanctions. This would then require the harshest of penalties against the owner, criminal sanctions, along with the removal of the animal. While civil sanctions may act as a deterrent from ownership, it seems fair that harsher criminal sanctions are appropriate when the deterrent has already been proven to not work.

It should also be considered how owners should be punished if their animal injures someone. Currently, tort law in some states imposes liability on owners for dog bites, with liability also resting on whether or not the owner knew if the dog had a propensity for biting. But should there be special liability for those who own the animal illegally? Given that there is no reason to legally own the animal (because it’s illegal), it seems that an injury caused by the illegal animal should hold harder sanctions than injuries caused by a legally owned animal, as to further deter ownership. There should, however, still be lesser penalties for when the animal is owned accidentally. For accidental ownership, given that the owner thought that they owned a normal dog, normal liability rules seem to be the ideal. However, following the initial incident of accidental ownership, it is suggested that increased liability apply, as it will encourage people to check the breed of their dogs. But, what about when the animal is knowingly owned? In these instances, increased liability is suggested, as the animal was illegally owned, and it would help to deter any potential violations. Because of this, it is suggested that any bites of a non-fatal nature incur significant civil penalties, including punitive damages, for a first time offense, and even criminal liability if death occurs. For repeat offenders, given that it has already been seen that heavy civil sanctions are not a deterrent, the appropriate penalty would be both criminal penalties, along with both punitive and reparatory damages for the injured party.
IV. CONCLUSION

Wolf-hybrids, like any large animal, can be extremely dangerous. Unfortunately, their mixture of wolfish instincts, combined with the increased aggressiveness of dogs, make wolf-hybrids an increased risk to nearby residents. While it is unfair to paint every member of the breed in that way, in a large urban city it may make sense to do so. The dog’s need for increased room to roam, the extreme amount of stimuli that exists, and the inquisitive minds of nearby children, all spell a recipe for disaster in a small area. Because of this, a model law based off of the one suggested above would both foreclose ownership, as well as deter anyone hoping to flout the law, and help protect citizens.