

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
 2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
 3 ALCOHOLIC BEVERAGE CONTROL BOARD

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5 - - - - -X

6 IN THE MATTER OF: :
 7 915 U, LLC :
 8 t/a Velvet Lounge : Fact Finding
 9 915 U Street, NW : Hearing
 10 License #ABRA-78443 :
 11 Retailer Class CT :
 12 ANC-1B :
 13 Simple Assault Inside the :
 14 Establishment :

15 - - - - -X

16 Thursday, January 14, 2016

17
 18 Whereupon, the above-referenced matter
 19 came on for hearing at the Alcoholic Beverage
 20 Control Board, Reeves Center, 2000 14th Street,
 21 N.W., Suite 400S, Washington, D.C. 20009.

22

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11

12 COUNTEE GILLIAM,

13 Investigator

14 MICHAEL WHITESIDE,

15 MPD Lieutenant

16 DAVID FOX,

17 On behalf of Velvet Lounge

18 HAILE MICHAEL BERHANE,

19 On behalf of Velvet Lounge

20 DWIGHT JONES,

21 On behalf of Velvet Lounge

22

1 P R O C E E D I N G S

2 [12:20 p.m.]

3 CHAIRMAN ANDERSON: All right. The next
4 case on our, uh, fact find hearing today is Case
5 Number 15-251-00180, the Velvet Lounge, um,
6 License Number 78443. And, um, could the parties
7 please approach and identify themselves for the
8 record, please?

9 And as you see, it -- as you -- as the
10 parties, it's -- it's -- it's a fact finding
11 incident. We're trying to -- we are trying to
12 find out the, um -- what is basically the -- the
13 establishment's response, whether or not the
14 incident occurred inside, outside, around your
15 establishment, and what is it that, um -- what --
16 what's the response of the establishment to -- to
17 these incidents.

18 And as -- as -- as you see, at least for
19 this -- this case, the allegation that the
20 incident occurred inside the establishment. The
21 first case, um, the -- the incident occurred in
22 front of the establishment, and all that we --

1 what we're bringing the establishment, the
2 ownership, to come in and explain to us, what is
3 it that you can do to ensure that we do not have
4 incidents inside your establishment, outside your
5 -- or around your establishment, if it's
6 something that is within your control that you
7 can prevent. Okay?

8 All right. All right. Um, can, um -- can
9 the parties please, um, sign in the -- on the
10 sign-in sheet in front of you, um, state your
11 name for the record, please. We can go, um, from
12 -- from the investigator.

13 MR. GILLIAM: Uh, Investigator Countee
14 Gilliam -- that's spelled C-o-u-n-t-e-e, last
15 name is spelled G-i-l-l-i-a-m.

16 MR. WHITESIDE: Lieutenant Michael
17 Whiteside, last name's spelled W-h-i-t-e-s-i-d-e,
18 Metropolitan Police Department.

19 CHAIRMAN ANDERSON: Yes, sir, go ahead.
20 Yes, introduce yourself.

21 MR. FOX: My name is David Fox. I'm the
22 designated representative of the, uh, Velvet

1 Lounge.

2 MR. BERHANE: My name is Haile Michael
3 Berhane, the Velvet Lounge, owner.

4 CHAIRMAN ANDERSON: And we're going to
5 ask you to -- this is a different case, so --
6 although you were here before, but this is a
7 separate case, so that's why -- that's one of the
8 reasons why we're introducing ourselves, and
9 that's also one of the reasons why you're
10 identifying and spelling your name for the record
11 also. Okay.

12 And one thing I'll ask for you to do: I -
13 - I need to follow along, so just don't speak as
14 fast -- slower -- so I can hear and follow along,
15 because I don't want to misinterpret or
16 misrepresent anything that you state.

17 All right. Investigator Gilliam, um,
18 please, um, provide us a synopsis of, um -- well,
19 uh, from -- from -- what is it -- what is it that
20 you were able to gather from the investigation?

21 MR. GILLIAM: Uh, yes, sir. Um, this
22 incident surrounded Velvet Lounge, where a victim

1 stated that she was, uh -- she was -- she was
2 assaulted -- um, that she was the victim of a
3 simple assault inside the club that occurred on
4 Saturday, September the 19th at 1:10 in the
5 morning.

6 Um, I interviewed several witnesses,
7 along with the reporting officer from, uh, Third
8 District, Met -- uh, Met -- excuse me,
9 Metropolitan Police Department Officer Alicia
10 Weber [ph]. She stated that, um, on the listed
11 day and time which I just referenced that the
12 complainant and -- excuse me, I'm sorry, the
13 complainant, which will be the victim, and the
14 witness -- one of the witnesses stated they were
15 inside the listed location when the suspect
16 punched the victim in the face for a unknown
17 reason. Uh, Officer Weber continued to state
18 that, um -- that the victim and the witness
19 stated after security escorted the suspect out,
20 the suspect fled the scene an unknown direction.

21 Uh, the actual victim sustained injuries
22 to -- a cut to her nose and her upper lip. She

1 was then transported to Howard Hospital by
2 ambulance, and the detective was notified, as
3 well as the crime scene, um, for their
4 investigating.

5 Uh, after I talked with, um -- with
6 Officer Weber, she stated that, uh, she would --
7 she had an opportunity to interview the victim
8 and to interview the witnesses that was with the
9 victim. She said that, initially, the victim was
10 not willing to cooperate, but she was able to
11 answer the questions, um. She basically said that
12 she wasn't able to -- to talk to anybody at the
13 establishment about what occurred.

14 She said, um, when the victim -- the
15 victim had flagged them down because, as I'll
16 further explain, the victim stated that the
17 suspect was led out of the club, and she tried to
18 track him down herself. So, when she left out of
19 the club, she waved down the -- the reporting
20 officer from the police department, and that's
21 how -- that's how they came into play.

22 Uh, after interviewing, uh, the police

1 officer actually talked to the, um, victim and
2 two of her witnesses, and that was on -- give me
3 one second. Let me review my notes. That was on
4 Sunday, October the 04th, at 8:15. And basically,
5 uh -- oh, strike that. That was on Thursday,
6 October the 01st, at 7:30 p.m.

7 And basically, what the victim told me
8 was that she was inside the club, um -- well,
9 inside the bar, the establishment, and she went
10 to purchase a drink from the -- from the bar.
11 When she purchased the drink, when she went to
12 step away to go back to the rear of the club
13 where -- where her party was [inaudible] at, she,
14 um -- she bumped into the actual suspect, said
15 the suspect actually threw -- uh, actually
16 punched her in the face. I tried to clarify
17 whether it was with the left hand or right hand,
18 but she couldn't -- she couldn't remember. She
19 just said she was struck in the face with a
20 closed fist. And she said, in response to that,
21 she threw her alcoholic beverage in the, uh,
22 suspect's face.

1 And from that point, one of the witnesses
2 that was with her -- and that would be her
3 sister, which would be, uh, Witness One -- stated
4 that she was coming out of the bathroom, and she
5 actually seen the assault transpire. She actually
6 seen her sister getting punched in the face, and
7 she went to rush to her aid, and said upon trying
8 to rush to her aid, uh, she said security
9 escorted the, uh -- the gentleman out, and she
10 followed behind. So, that was the gist of -- um,
11 based on my investigation, the gist of what she
12 was able to provide.

13 After that, I actually went to the
14 establishment. I went to the establishment on,
15 um, Sunday, October the 04th, at 8:15, and talked
16 to the ABC manager on duty, which was, um, a Mr.
17 Alvin Faroo [ph]. I'm not sure if I'm pronouncing
18 that right. And basically, what he told me was,
19 he wasn't there at establishment, so I went
20 through my checklist and did my regulatory
21 inspection, asked him some simple questions that
22 will help with my case, with my investigation,

1 and he just -- he just told me about security
2 procedures.

3 Came back at a later date, which was
4 Wednesday, October the 21st, at 7:45, and I
5 talked to somebody who identify theirselves [sic]
6 as a part owner; his -- his name was Mr. Abdullah
7 Habib [ph], and I interviewed him on questions
8 about what transpired. He said he was working; he
9 was employed that night. Um, he was a bartender.
10 He said he had two security; he had a Mr. Jones
11 at the front -- at the front of the establishment
12 which was actually checking IDs, and then he had
13 another, uh, security personnel stated that was -
14 - that was working in the rear of the
15 establishment, and his name was Mr. Will Carson
16 [ph] .

17 So, uh, in -- in my, uh, investigation
18 questions when I asked him was, um -- I asked Mr.
19 Habib, what was his response to what had
20 happened? Was he notified that the victim -- that
21 he had a -- a simple assault that occurred
22 outside his establishment? He first stated that,

1 um -- he said that he got -- he received a call
2 from Mr. Jones and let him know what happened.

3 So, after he told me that, I asked him,
4 well, what did he do from that point? And then,
5 he made the statement where he said, um -- he
6 said that in his 13 years of being a bartender
7 owner, it was a well known fact that if an
8 incident occurs in your establishment that you
9 don't get involved; it's up to the victim to call
10 the police and find EMS service. So he just said
11 he continued with his duties on for that night,
12 and he didn't do anything else, um, after that.
13 That was it. He say [sic] he -- he left it alone.

14 And I talked to the actual Mr. Jones, who
15 was security that was stationed at the front
16 door, uh, on Wednesday, October the 21st at, uh,
17 9:57 at night, and Mr. Jones told me that he was
18 actually in -- in a -- um, working security. And
19 he was at the front door checking IDs, and the
20 victim came out saying that the suspect had just
21 assaulted her, and she was, like, trying to get
22 some assistance, but he said he couldn't leave

1 his area of patrol because he had 30 patrons in
2 line. And that's when he said he notified, uh,
3 Mr. Habib, uh, what occurred.

4 CHAIRMAN ANDERSON: Is that the gist of
5 your report?

6 MR. GILLIAM: Yes, sir.

7 CHAIRMAN ANDERSON: Do we have any
8 questions from board members? Um, yes, Mr.
9 Alberti.

10 MR. ALBERTI: So, I just want to clarify
11 some of the things I think you -- you told me,
12 just -- So, you're sure that Mr. Habib told you
13 that, um -- in your report, he says that -- he's
14 saying it's a well known fact that if an incident
15 occurs in the -- your establishment, you don't
16 get involved? Are you sure that's what -- the
17 gist of what he said to you?

18 MR. GILLIAM: Exactly.

19 MR. ALBERTI: Okay.

20 MR. GILLIAM: I actually wrote it in my
21 notes when he said it.

22 MR. ALBERTI: And it says the witness

1 said that security responded when she was in this
2 -- uh, a fray with -- with the suspect, and they
3 escorted the suspect out?

4 MR. GILLIAM: Yes, that's what -- that's
5 what the victim said, but I couldn't validate it.
6 I mean, based on my interview -- because I when I
7 talked to Mr. Habib, that was one of the
8 questions I asked him: Uh, what exactly did he do
9 in the establishment? And he -- he said he didn't
10 witness anything. And where the incident
11 occurred, he was the only one in that area that,
12 if he'd have seen it -- from the establishment's
13 point -- that I could actually, uh, talk to. I
14 talked to -- when the victim explained to me what
15 happened, she said she rushed out, but -- and
16 then, when I talked to Mr. Jones as well, he said
17 the victim -- excuse me -- the suspect just
18 walked out.

19 MR. ALBERTI: So -- so Mr. Habib, um,
20 presented himself as, what? As partial owner, you
21 said?

22 MR. GILLIAM: Yes, he said he was partial

1 owner.

2 MR. ALBERTI: Who was the ABC manager on
3 duty?

4 MR. GILLIAM: Uh, he was -- what, during
5 the night of the incident?

6 MR. ALBERTI: Yes. Mm-hmm.

7 MR. GILLIAM: Uh, he -- he's saying he
8 was the bartender, so if he's part owner, he --

9 MR. ALBERTI: But you -- but you don't
10 really know for sure, right?

11 [No audible response]

12 MR. ALBERTI: Okay. Okay. That's fine.
13 That's cool. Um, so he presents himself as, uh --
14 as the partial owner, but your impression is that
15 he knows nothing about what happened.

16 MR. GILLIAM: That's -- that's correct.

17 MR. ALBERTI: So, I gather from that,
18 your -- you would conclude that he never -- he
19 never questioned security or anything, anybody,
20 about this incident.

21 MR. GILLIAM: And that's correct, because
22 I further went on to ask him, um, did he offer

1 any first aid to the victim or actually call the
2 police after he was notified by Mr. Jones, and he
3 said no, he didn't get involved.

4 MR. ALBERTI: So, he knows nothing and
5 didn't -- didn't take any steps to find out from
6 his staff what -- what transpired that night?

7 MR. GILLIAM: Yes, sir, that's correct.

8 MR. ALBERTI: So, the only -- so we don't
9 have any information to dispute what the witness
10 said, do we?

11 MR. GILLIAM: In regards to what?

12 MR. ALBERTI: In terms of whether
13 security, uh, uh, escorted someone out.

14 MR. GILLIAM: That's correct.

15 MR. ALBERTI: Thank you. I have no
16 further questions.

17 CHAIRMAN ANDERSON: Any questions -- any
18 -- any other board members have questions?

19 [No audible response]

20 CHAIRMAN ANDERSON: All right. Hearing
21 none -- All right. You are excused. Thank you.

22 [Simultaneous speaking]

1 MR. FOX: May I ask --

2 MALE SPEAKER: Can we ask the
3 investigator [inaudible]?

4 CHAIRMAN ANDERSON: Oh, oh, I -- I'm
5 sorry. I apologize. I apologize. Um, um, maybe
6 it's because I'm hungry.

7 [Laughter]

8 CHAIRMAN ANDERSON: I forgot, I did not
9 even give you an opportunity to --

10 [Laughter]

11 MR. FOX: I'll try to be brief, Mr.
12 Anderson.

13 CHAIRMAN ANDERSON: No, no, please, you
14 don't have to be. I -- I apologize. Go ahead.

15 MR. FOX: Thank you. Am I correct, Mr.
16 Gilliam, that -- that you didn't get involved in
17 this on the, um, exact day of the event?

18 MR. GILLIAM: That's correct.

19 MR. FOX: It was some time later you
20 interviewed the complantee [sic].

21 MR. GILLIAM: Correct.

22 MR. FOX: And you yourself were not a

1 witness.

2 MR. GILLIAM: To the actual incident?

3 MR. FOX: Right.

4 MR. GILLIAM: That's correct.

5 [Off-mic speaking]

6 MR. FOX: But in fact, there was some
7 kind of e-mail complaint that came to you.

8 MR. GILLIAM: Uh, that's correct.

9 MR. FOX: That was assigned to you to be
10 an investigator.

11 MR. GILLIAM: Correct.

12 [Off-mic speaking]

13 MR. FOX: And to your knowledge, the
14 victim --

15 [Off-mic speaking]

16 MR. FOX: -- the one who says she was
17 punched, had a bleeding lip and perhaps a bloody
18 nose?

19 MR. GILLIAM: Well, that's what the
20 reporting officer stated from MPD. When I
21 interviewed the victim, she told me that she
22 suffered a broken nose.

1 MR. FOX: And did she tell you if she was
2 being treated for the broken nose?

3 MR. GILLIAM: Yes, she said she received,
4 uh, pain medication from Howard University
5 Hospital, and she was given an X-ray on her nose.

6 MR. FOX: And other than an X-ray to her
7 nose, are you aware of any treatment, like
8 straightening the nose or, you know, a shot for
9 pain or any other real treatment?

10 MR. GILLIAM: No, sir.

11 MR. FOX: Uh, can you tell us, sir, um --
12 is it, uh, true that 12 days after the incident,
13 on October 01, you called the victim?

14 MR. GILLIAM: Uh, that's correct.

15 MR. FOX: That's at the bottom of page
16 two of your report, correct?

17 MR. GILLIAM: That's right.

18 MR. FOX: And isn't it also true that the
19 victim told you that prior to this alleged
20 incident, she had had several drinks at another
21 establishment?

22 MR. GILLIAM: That's correct.

1 MR. FOX: And isn't it also true that she
2 testified that she had, I guess, two drinks at
3 the Velvet Lounge?

4 MR. GILLIAM: No, she stated she had one.
5 She had two drinks prior to coming to the Velvet
6 Lounge.

7 MR. FOX: And one at the Velvet Lounge?

8 MR. GILLIAM: She bought one, but she
9 ended up throwing it in the, uh -- his face.

10 MR. FOX: And your understanding of the
11 cause of this altercation was that they bumped
12 into each other, the -- the victim bumped into
13 the guy who ultimately punched her.

14 MR. GILLIAM: That's correct. No, excuse
15 me, I'm sorry -- the victim was bumped into by
16 the suspect.

17 MR. FOX: Okay. But the event that led to
18 this was not caused by any employee of the bar.

19 MR. GILLIAM: That's correct.

20 MR. FOX: Now, um, you testified that you
21 met Mr. Habib at the bar, correct?

22 MR. GILLIAM: That's correct.

1 MR. FOX: And, um, you testified that Mr.
2 Habib said he did not witness the assault.

3 MR. GILLIAM: That's correct.

4 MR. FOX: How large is the inside of this
5 bar -- 20 feet wide, 80 feet wide? How -- how
6 large?

7 MR. GILLIAM: When you first walk into
8 the Velvet Lounge, I would say it's 20 -- I would
9 say 20 feet wide.

10 MR. FOX: And how deep would you say it
11 is, sir?

12 MR. GILLIAM: Well, when you first walk
13 in, you'll walk in maybe about -- I'm 6 feet --
14 maybe 20-, 25 feet and you'll come to the bar.
15 And once you come to the bar, I would say another
16 20-, 25 feet you'll go to the rear of the
17 establishment [inaudible].

18 MR. FOX: And did you get any information
19 as to how crowded the bar was on the night this
20 allegedly took place?

21 MR. GILLIAM: Well, Mr. Habib said -- he
22 did say that it was crowded. I remember that.

1 MR. FOX: Fair to say, is it not, sir,
2 that if the bar was crowded, and it was -- the
3 main section was only 20x20, that it would be
4 difficult to see across the width or the length
5 of the bar? Is that fair?

6 MR. GILLIAM: I couldn't answer that,
7 because it depends on the person.

8 MR. FOX: It would depend on how tall the
9 people were and how wide they were, correct?

10 MR. GILLIAM: That would factor into it.

11 MR. FOX: Okay. Um, and -- and you told
12 us in your report that Mr. Habib said he was
13 notified by Mr. Jones within 2- or 3 minutes
14 after the assault. Is that also correct?

15 MR. GILLIAM: No, Mr. Jones notified Mr.
16 Habib. He wasn't saying he was notified at that
17 time when I was talking to him.

18 MR. FOX: Well, I'm on page three of your
19 report, and am I not correct that six lines from
20 the bottom, you wrote, "Mr. Habib stated that he
21 was notified by Mr. Jones"? So that's the way he
22 got the information, right?

1 MR. GILLIAM: Oh, yes, I'm sorry.

2 MR. FOX: No problem. And you also said
3 that Mr. Habib told you he's been in the
4 business, the bar business, for 13 years and that
5 one normally expects the victim to call the
6 police or ambulance if she needs it.

7 MR. GILLIAM: When condensed, that's what
8 he said.

9 [Off-mic speaking]

10 MR. GILLIAM: When condensed, that's what
11 he said.

12 MR. FOX: Okay. And am I correct
13 that there's no rule, that you know of, that
14 requires an employee of a bar to call, uh, the
15 police or 911? There's no written rule, is there?

16 MR. GILLIAM: It depends, uh, if the
17 establishment has something prior written from
18 ABRA, such as a settlement agreement or security
19 plan that'll be witnessing in. That will be
20 [inaudible] to that.

21 MR. FOX: And is it fair to say, in this
22 case, there was no such requirement on the bar

1 that it, uh, do the things you described because
2 there was no prior agreement?

3 MR. GILLIAM: Yes.

4 MR. FOX: And this particular lady was
5 with her sister, correct?

6 MR. GILLIAM: Her sister and another
7 friend, correct.

8 MR. FOX: And among these three people -
9 - the victim, the sister, and the other friend --
10 is it fair to say that one of them could have
11 called an ambulance, and one of them could have
12 called the police?

13 MR. GILLIAM: Well, actually, one of the
14 -- one of -- the -- actually, the friend, she
15 actually called -- she called 911.

16 MR. FOX: Okay. So, to your knowledge --

17 MR. GILLIAM: I'm sorry, excuse me, the -
18 - the sister, which would be the -- Witness One.
19 She --

20 MR. FOX: All right.

21 MR. GILLIAM: -- actually -- she actually
22 called 911.

1 MR. FOX: And was there any reason --

2 MR. SILVERSTEIN: Say it again, please,
3 sir.

4 MR. GILLIAM: The victim's sister, she
5 actually dialed 911 when they was outside the
6 establishment.

7 MR. FOX: And to your knowledge, sir, was
8 there any need for two telephone calls to 911?

9 MR. GILLIAM: Uh, I can't answer that. It
10 -- it depends. I mean, from what -- from what
11 happened with her, I would just --

12 MR. FOX: To your knowledge, was there
13 any need for two calls to 911?

14 MR. GILLIAM: No, I -- I would say not.

15 MR. FOX: And do you have any knowledge,
16 sir, as to how long the, uh, alleged assailant
17 stayed in the bar?

18 MR. GILLIAM: Well, from my
19 investigation, what I was able to determine that
20 after the assault took place, he immediately, um,
21 uh, was left out -- he -- he left out of the
22 establishment. I don't know if he was actually

1 escorted out or he left out of the establishment

2 --

3 MR. FOX: Immediately.

4 MR. GILLIAM: Yes, sir.

5 MR. FOX: And do you know who escorted
6 him out?

7 MR. GILLIAM: No, I couldn't determine
8 that from my investigation, but just based on
9 what the -- the only thing to verify the -- well,
10 what the victim said, and she said that security
11 did that. That's as far as I can go with that.

12 MR. FOX: And am I correct, sir, that
13 your report says the event occurred at 1:10 in
14 the morning?

15 MR. GILLIAM: That's correct.

16 MR. FOX: Okay. Are you aware, sir, that
17 there's also a police incident report in this
18 case?

19 MR. GILLIAM: Yes, sir.

20 MR. FOX: Now, the police incident
21 report, is that available to you? You were able
22 to see it?

1 MR. GILLIAM: Uh, that was part of my
2 investigation, but I don't have it in front of me
3 right now.

4 MR. FOX: If I told you that the police
5 said it started at 1:15 a.m. and ended at 1:19
6 a.m., would that be something you would think is
7 correct?

8 MR. GILLIAM: Well, all times are based
9 on approximate. I mean, I wouldn't -- correct --
10 I would say it was just an approximate time.

11 MR. FOX: And it was your understanding
12 that, uh, within a short time, uh, the sister of
13 the injured person had called 911, right? That's
14 what you said.

15 MR. GILLIAM: Yes.

16 MR. FOX: To your knowledge, did the
17 sister also call the police?

18 MR. GILLIAM: Well, when you call 911,
19 you get the police or --

20 [Off-mic speaking]

21 MR. GILLIAM: When you call 911, you
22 either get the police or the fire. [Inaudible].

1 CHAIRMAN ANDERSON: Um, Mr. Fox -- and
2 I'm -- and I apologize.

3 MR. FOX: I'm almost done.

4 CHAIRMAN ANDERSON: No, no, I -- I
5 apologize to do this, because you're in the
6 middle of your examination of a witness. This is
7 a fact finding hearing, sir. The purpose of the
8 fact finding hearing is that an event occurred at
9 the establishment.

10 What we are trying to find out is, what
11 was the response of the establishment, not who's
12 responsibility -- it wasn't -- uh, was it the
13 establishment's responsibility, should the victim
14 call the police, or what did the victim do? What
15 we're trying to find out -- and I think to help
16 your client and the line of questioning that
17 you're asking -- and I think this is -- I'm --
18 I'm saying this for the record, um, you're in the
19 middle of your cross-examination, and it's --
20 it's not what we normally do.

21 But you're not helping your client, sir,
22 because let me point out to you, there's a

1 section of the law, it's 25-403, um, (e)(2) that
2 states that the establishment is a tavern and
3 that in the case of an -- for renewal, the Board
4 may, in its own discretion, require that the
5 applicant submit a written security plan. So, I'm
6 -- I'm going to, in the middle of your -- uh, in
7 the middle of your direct examination, a cross --
8 your cross-examination, I'm going to let you know
9 that you need to be -- that we can order the
10 owner to have a security plan, that we can direct
11 the owner to state that if this occurs in your
12 establishment, the employee cannot say, "Okay,
13 it's not my responsibility."

14 So, your line of questioning, it's
15 telling us that when the ownership comes up for
16 renewal, we are going to tell this owner that he
17 needs to have a security plan because none of his
18 employees, none of his security personnel, can
19 tell the victim that, "We're not responsible. You
20 are responsible for what happened to you when you
21 are in our establishment."

22 And one of the things that I'll say to

1 you, sir, as a lawyer, if -- if a person is
2 invited into your establishment, there are
3 certain responsibilities -- just generally in law
4 -- there are certain responsibility that an owner
5 has when someone comes in their establishment. It
6 cannot be that "If you come in, I'm not
7 responsible. I'm going to sell you -- I'm going
8 to invite you in, and if you break your leg, I'm
9 not responsible."

10 So, I just wanted to let you know that
11 this -- it's a fact finding hearing. We want to
12 know, did it occur, if -- if -- if -- if you
13 state that it didn't happen, okay, nobody got
14 injured in the establishment, the information is
15 correct. It's the -- what happened, it's -- it
16 didn't happen -- because no one saw it, it didn't
17 happen, but your line of questioning to say that,
18 "Okay, it's not our -- it's not our
19 responsibility. He didn't see; it's not our
20 responsibility," that's not helping your client,
21 and that's not -- that's not why we have the
22 establishment here. We want to know, did it

1 happen, what is it that -- what was your
2 response, and what is it that you're going to do
3 in the future to make sure that this -- that this
4 does not occur again, okay?

5 MR. FOX: Um, I do understand that, Mr.
6 Anderson. I'm doing these questions for a
7 different purpose.

8 CHAIRMAN ANDERSON: But it -- that -- but
9 -- but -- what I -- it's -- it's perfectly clear
10 to you, sir, this is a fact finding. We are not -
11 - we're just gathering information. There's no
12 penalty here in the sense that we're going to
13 tell -- we cannot tell -- At a fact finding
14 hearing, we can't tell him to have a security
15 plan. We can't tell him. We're just trying to
16 figure out what's going on to say, "This
17 happened," make sure.

18 But one thing I will say to you: When
19 this licensee -- when the license comes up for
20 renewal in a couple of months, we can tell him
21 what he needs to do, and so --

22 MR. FOX: Understood.

1 CHAIRMAN ANDERSON: -- therefore, I'm
2 putting him on notice that I think the consensus
3 of the Board is that we're going to tell you what
4 to do, so you might as well go out and start
5 doing it now. Because --

6 MR. FOX: So we're going to volunteer --

7 CHAIRMAN ANDERSON: -- I -- I mean, I
8 want us to move along, okay?

9 MR. ALBERTI: I'm sorry, Mr. Chairman?
10 May I -- may I just indicate something?

11 CHAIRMAN ANDERSON: Yes.

12 MR. ALBERTI: Mr. Fox, you said you're
13 doing this for another purpose. If you're doing
14 this for the purpose of a civil suit, then
15 subpoena the witness. Do not -- do not --

16 MR. FOX: I'm not --

17 MR. ALBERTI: -- do not take up our time
18 here for that purpose, all right?

19 MR. FOX: Mr. Alberti, I do understand.
20 It's not my purpose. I have one or two more
21 questions, and I would have been ready to move
22 on.

1 Mr. Anderson, we're actually going to
2 volunteer to not only give you a plan -- that --
3 that is good to have in place -- but that we're
4 going to do a review of it. So, whatever was in
5 place a couple of years ago, when the plan was
6 adopted, we're quite prepared to do a review
7 right now, rather than waiting for the renewal.

8 CHAIRMAN ANDERSON: You can do -- you --
9 I'm just saying --

10 MR. FOX: So --

11 CHAIRMAN ANDERSON: In this hearing, we
12 can't order him to do it. In a fact finding, we
13 can't order to do it. But I'm just saying -- but
14 I'm just saying, though, that our goal here is to
15 just find out what happened and what's the next
16 step, not to -- not to -- we're not going to cast
17 -- we're not going to tell you that you should
18 have done this or should have done that. What
19 happened, and what are next steps?

20 MR. FOX: Do understand that. My only
21 purpose was to establish that a call had already
22 been made to 911 and that the person who called

1 could have gone on to -- to make sure that the
2 police was notified, whether --

3 [Simultaneous speaking]

4 CHAIRMAN ANDERSON: And --

5 MR. FOX: -- the one call --

6 MALE SPEAKER: All right.

7 MR. FOX: -- does it or the witness does.

8 CHAIRMAN ANDERSON: And -- and I said
9 before, if this was a different type of hearing,
10 if this was different type of hearing and -- and
11 your client -- there's some penalty phase -- yes.
12 But this is -- it's not that type of hearing. If
13 I -- no one is sworn in. We're just gathering
14 information so your -- so your client can be --
15 he can have --

16 We don't -- we do not want violence in
17 any establishment. And as in an earlier case, as
18 Mr. Silverstein talked about the fact that --
19 Board Member Silverstein talked about the fact
20 that this isn't -- um, the -- the -- the revenue
21 that the entertainment industry -- that your
22 industry brings the city, and that we want to

1 have a great industry.

2 And so, basically, our job is to make
3 sure that we do everything that's possible to
4 make this better, okay? That's all we're trying
5 to do. So, I hear you, but please move on because
6 you're losing us, and it's not helping your
7 client.

8 MR. SILVERSTEIN: Mr. Chairman?

9 CHAIRMAN ANDERSON: Yes, sir.

10 MR. SILVERSTEIN: I want to associate
11 myself with the words of our chair. The issue
12 here, sir, is not who struck John or why John was
13 struck. The issue is what happened after John was
14 struck and what you do and what you will do in
15 the future. Like to limit ourselves to that
16 because the issue is public safety and the
17 response to these types of incidents. I agree
18 with him, also, that you would be very well
19 advised to present us with a new and revised
20 security plan, the sooner the better.

21 MR. FOX: We're -- we're very much
22 inclined to do so. Thank you.

1 Uh, moving on, sir, uh, you attached to
2 your report a statement from, uh, an officer
3 named Weber, I believe. Correct?

4 MR. GILLIAM: Uh, that -- that's correct.

5 MR. FOX: And your first question to -- I
6 think it's Ms. Weber, was, uh, "Upon your arrival
7 to the scene, what were your observations?" And
8 she replied that, uh, C-1 -- who, I -- I guess,
9 is the victim -- had flagged down officers in the
10 1900 block of Vermont and stated she was
11 assaulted. Is it fair to say that, uh, C-1
12 apparently had the capacity to call and flag down
13 officers?

14 MR. GILLIAM: Yes.

15 MR. FOX: Thank you. No further questions
16 for this witness.

17 CHAIRMAN ANDERSON: Yes, Mr. Alberti.

18 MR. ALBERTI: So, first of all, we have a
19 Mr. Jones at the front door. Can you identify
20 that person for me? Is he here today?

21 MR. FOX: Mr. Jones?

22 MR. ALBERTI: Okay, so it's a different

1 Mr. Jones. All right. I just wanted to make sure.
2 I just -- that's fine. You can stay -- Stay where
3 you are. Stay where you are. I just wanted to
4 know who it was. Wanted to know if we had the
5 same Mr. Jones or not. It's curious. Just out of
6 curiosity.

7 Um, okay. Uh, Mr. Berhane, how many
8 security do you have at the Velvet Lounge?

9 MR. BERHANE: Depends on the day.

10 MR. ALBERTI: Okay. On -- on the evening
11 of September 19th, uh -- What day of the week was
12 that, by the way? Do we know? Uh, it was a
13 Saturday, at, uh, 1:00 a.m. So, that was Friday
14 night going into Saturday. Um, September 09th,
15 2015, was a Friday night going into Saturday. Um,
16 how many security would you have had?

17 MR. BERHANE: I have three.

18 MR. ALBERTI: Three? And where would they
19 have been stationed?

20 MR. BERHANE: They have a post: one in
21 the front, one in the middle, one in the back.

22 MR. ALBERTI: Okay. Uh, just out of

1 curiosity, since the subject came up, what is the
2 size of your establishment? I mean, we got
3 questions of the investigator, who doesn't even
4 own it. I mean, I'm not even sure why we were
5 asking him because he doesn't even own it. Mr. --
6 Mr. um, Berhane, um, what is the size of your
7 establishment?

8 MR. BERHANE: Well, I can -- numbers, I
9 can't -- it's not very big. I mean --

10 MR. ALBERTI: If you don't know, just say
11 you don't know.

12 MR. BERHANE: I don't know. [Inaudible].

13 MR. ALBERTI: All right. What's the
14 occupancy?

15 MR. BERHANE: Uh, 140.

16 MR. ALBERTI: One forty? Okay. All right.
17 Um, that's just the interior, right? You don't
18 have any exterior -- Do you have any -- any
19 exterior license, uh -- Do you have a summer
20 garden or -- or sidewalk cafe? Do you have a
21 summer garden or a sidewalk cafe there at Velvet
22 Lounge?

1 MR. BERHANE: [Inaudible].

2 MR. ALBERTI: Pardon?

3 MR. BERHANE: Outside? What do you mean?

4 MR. ALBERTI: Yes, do you have an -- do
5 you have an outside area where you serve alcohol?

6 MR. BERHANE: Yes.

7 MR. ALBERTI: Where?

8 MR. BERHANE: Right in the back door of
9 the, uh --

10 MR. ALBERTI: Out the back door.

11 MR. BERHANE: Yes.

12 MR. ALBERTI: So you have a summer
13 garden.

14 MR. BERHANE: How about that.

15 MR. ALBERTI: All right. So, that 140
16 includes the summer garden. Correct?

17 [No audible response]

18 MR. ALBERTI: Okay. Thank you.

19 [Off-mic speaking]

20 MR. ALBERTI: Yes, the -- the record will
21 show that the, um -- the licensee nodded yes. Um,
22 did you talk to your security staff about what

1 happened that evening?

2 MR. BERHANE: No.

3 MR. ALBERTI: No?

4 MR. BERHANE: Not on the day, but -- I
5 mean, I heard after, uh, like --

6 MR. ALBERTI: So you don't know -- you
7 know -- you know nothing about -- you know -- So
8 according to -- So I'm -- I'm gathering -- Is it
9 -- am I correct -- Well, wait, let me finish. Am
10 I correct that you know nothing about what
11 happened that evening?

12 MR. BERHANE: No, I was --

13 MR. ALBERTI: Other -- other than what's
14 in this report?

15 MR. BERHANE: No.

16 MR. ALBERTI: No? Um, I'm not going to --

17 MR. BERHANE: Well --

18 MR. ALBERTI: Well -- well -- I'm not
19 going to -- Mr. Berhane, I'm not going to dwell
20 on that, but I have to -- I have to react. I'm
21 just shocked, absolutely shocked, that the owner
22 would not investigate any of the information in

1 this report. So -- so we have a witness --

2 [Simultaneous speaking]

3 MR. BERHANE: But --

4 MR. ALBERTI: We have a witness -- Wait,
5 wait, we have a witness stating -- I have to go
6 by the only information I have. We have a witness
7 stating that security intervened and escorted
8 this person through the front door.

9 MR. BERHANE: Yes.

10 MR. ALBERTI: All right?

11 [Off-mic speaking]

12 MR. ALBERTI: And --

13 [Off-mic speaking]

14 MR. ALBERTI: Well, wait, wait, wait, and
15 security -- and security -- So, obviously, the
16 security was told that this person had caused
17 trouble of some sort, and -- and they felt the
18 need to escort him out, according to the
19 information I have. And yet, they didn't call --
20 and we have an injured person, and they didn't
21 call 911. That's -- and you have nothing to
22 refute that, is that correct?

1 MR. BERHANE: I don't understand.

2 MR. ALBERTI: You have -- you have no
3 information to say that that's incorrect.

4 [No audible response]

5 [Off-mic speaking]

6 MR. BERHANE: I [inaudible] this whole
7 thing just after a week.

8 MR. ALBERTI: Right. And you haven't
9 talked to your staff about this. You just told me
10 you did not talk to your security staff.

11 MR. BERHANE: Oh, no, after -- after the
12 -- when -- when the investigator came, they told
13 me --

14 MR. ALBERTI: Who told you?

15 MR. BERHANE: -- about the investigator.

16 MR. ALBERTI: And what did your staff
17 tell you about what happened that evening?

18 MR. BERHANE: That happened because there
19 was somebody moving out, and they punch --

20 MR. ALBERTI: Did they tell --

21 MR. BERHANE: -- [inaudible] --

22 MR. ALBERTI: Okay.

1 MR. BERHANE: And Dwight told me these
2 things after, but I asked him [inaudible] --

3 MR. ALBERTI: Did your staff tell you
4 what they did? Did your staff tell you what they
5 did in reaction to -- to the -- the incident, to
6 someone getting -- Someone got punched. What'd
7 your staff tell you they did?

8 MR. BERHANE: It was try to help, but I
9 think she walk away or something.

10 MR. ALBERTI: All right. Um, what's Mr.
11 Habib's, um, position in your establishment?

12 MR. BERHANE: Bartending.

13 MR. ALBERTI: Is he an owner?

14 MR. BERHANE: Yes, kind of.

15 MR. ALBERTI: What do you mean, "kind
16 of"? What's -- what's -- what's his -- what --
17 how -- what makes him an owner?

18 MR. BERHANE: When he's -- I give him a
19 little share. That's why --

20 MR. ALBERTI: So, how much --

21 MR. BERHANE: -- [inaudible].

22 MR. ALBERTI: -- of a share does he have?

1 What -- what percentage of the establishment does
2 he own? You gave him shares, right?

3 MR. BERHANE: Yes.

4 MR. ALBERTI: What percentage of the
5 establishment does he own?

6 MR. BERHANE: Like, uh, 20%.

7 MR. ALBERTI: How much?

8 MR. BERHANE: Twenty.

9 MR. ALBERTI: Twenty percent. All right.
10 I will ask our staff to check our records, but if
11 you have not, um, codified that with -- you have
12 not told us --

13 MR. BERHANE: No.

14 MR. ALBERTI: -- and you have not filed a
15 change of office or a change of ownership with
16 us, you should do that immediately, all right?
17 You know, we're not going to ding you for it if
18 you come in and do that immediately, but if you
19 drag your feet a week, I will ask that we go out
20 and file charges if it hasn't been done. So, you
21 do that immediately. All right?

22 [No audible response]

1 MR. ALBERTI: Um, last question: We've
2 heard promises of security plans. Are you
3 willing, today, on the record, to commit to
4 filing with this board and accepting requirement
5 from this board to have in place a security plan
6 that complies with Title 25 -- specifically 25,
7 Section 403, I believe it is. Are you willing to
8 make that commitment today?

9 [Off-mic speaking]

10 MR. BERHANE: Yes, yes, yes. As I said
11 [inaudible].

12 MR. ALBERTI: Is that a yes or a no?

13 MR. BERHANE: Yes, sir.

14 MR. ALBERTI: So, Mr. Fox, does your --
15 since you are a representative [inaudible] -- and
16 you -- I'm not the legal representative here, but
17 I'm going to ask, do you understand what I'm
18 asking?

19 MR. FOX: I do, sir.

20 MR. ALBERTI: All right. And you've
21 explained it to your client, haven't you?

22 MR. FOX: Well, I'll add to that. I think

1 he understands --

2 MR. ALBERTI: Would you -- would you take
3 time to explain it to your client before we get a
4 response?

5 CHAIRMAN ANDERSON: And before -- uh, let
6 me also --

7 MR. ALBERTI: Unless you have questions.

8 CHAIRMAN ANDERSON: And let me also --

9 [Off-mic speaking]

10 CHAIRMAN ANDERSON: -- clarify something
11 to you. We can't order you to do it at this type
12 of hearing. He can volunteer to do it, and I
13 think the question that has been asked -- Is he
14 willing -- is he volunteering to have this done
15 within a certain period of time? We cannot,
16 however, order you to do it. I just want you to
17 know that.

18 MR. FOX: Yes, sir. Uh, my answer is that
19 he's already testified there is a plan and he
20 would get it to you, I think he said, in a day or
21 two. We'll do that.

22 In addition to that, I'm saying to you,

1 we are happy to go further. Whatever years have
2 passed since that plan was in effect, society has
3 sort of moved forward. The security industry has
4 moved forward. We'll look into that, and we'll
5 bring it up to this year's level, whatever
6 difference there is over the years.

7 MR. ALBERTI: Okay, so, just to be --
8 make sure we're on the same -- same page --
9 Within the last few years, I'll say -- I don't
10 know the time frame. So, as you say, society is
11 catching up to this. Um, the Board has
12 implemented -- the city council has passed
13 legislation in -- in -- in Title 25 that has
14 certain requirements, um, be met in a security
15 plan when -- when it's required of an
16 establishment.

17 So, my question for you is, are you
18 willing to commit to filing with the Board and
19 accepting the requirement to have a security plan
20 that complies with Title 25? And if you have
21 trouble finding it, we will supply you with a
22 book and point you directly to it, because I know

1 you have trouble finding it on the Board's
2 website and Google, and you've already stated
3 that, and so I want to be as helpful to you as
4 possible. Um, are you willing to commit to that?

5 MR. FOX: Yes. I -- I will make that as
6 clear as I can. We are --

7 MR. ALBERTI: Okay.

8 MR. FOX: -- committing to that. What we
9 want to do is give you what is in existence
10 already --

11 MR. ALBERTI: I don't care about what's
12 in existence. I don't really care. I don't --
13 Personally -- maybe somebody else does -- I don't
14 really care what's in existence. I want a new
15 security plan that complies with the statute, and
16 I want to know if your --

17 MR. FOX: Sir --

18 MR. ALBERTI: -- your -- and I'm hearing
19 --

20 MR. FOX: We volunteered to do so.

21 MR. ALBERTI: You volunteered to do so.
22 When? When will you have it to us?

1 MR. FOX: I would say 2- to 3 weeks, the
2 reason being --

3 MR. ALBERTI: Okay. I --

4 MR. FOX: -- I want to get hold of the --

5 MR. ALBERTI: Okay.

6 MR. FOX: -- current --

7 MR. ALBERTI: That's fine. That's fine.

8 MR. FOX: -- plan.

9 MR. ALBERTI: How about 30 days?

10 MR. FOX: No problem.

11 MR. ALBERTI: All right. So, you have a
12 commitment to -- to accept a responsibility to
13 accept a requirement to have a security plan that
14 complies with Title 25 and submit it to this
15 board within -- within 30 days. Is that correct?

16 MR. FOX: Correct.

17 MR. ALBERTI: All right. I will tell you,
18 if it isn't here, I won't forget this, and I will
19 do everything in my power to make sure that at
20 the time of licensing that you are required to
21 have one. This is not going away. All right?
22 Based on all the statements about "I don't know

1 what's going on," and, "No one called 911," it is
2 -- It says to me that there's a -- a lack of
3 responsibility that the licensee has accepted and
4 it's -- it's, um, not acceptable. I'm done. Thank
5 you.

6 MR. SHORT: I just have one last comment.
7 Um --

8 CHAIRMAN ANDERSON: Mr. -- I'm sorry, I'm
9 recognizing Mr. Short.

10 MR. SHORT: Thank you. This is to the owner. Now,
11 you said you had someone in the Velvet Lounge who
12 said they were a 20% owner, correct?

13 [Off-mic speaking]

14 MR. SHORT: And our investigator
15 respected and thought that that was the truth,
16 but it was not. Is that correct?

17 MR. BERHANE: What truth?

18 MR. SHORT: If he has not had it legally
19 transferred, 20% of your stock in that business,
20 then he was not a 20% owner, is that correct?

21 MR. ALBERTI: Well, that, Mr. Short, I
22 don't know that --

1 MR. SHORT: I -- I understand.

2 [Simultaneous speaking]

3 MR. ALBERTI: -- [inaudible].

4 MR. SHORT: What -- the point I'm trying
5 to get to is, was there an ABC manager on duty
6 that night? That's -- that's the situation I'm
7 trying to get into, Mr. Alberti.

8 MR. ALBERTI: Oh, I -- I -- I --

9 MR. SHORT: So --

10 MR. ALBERTI: -- understand that. Okay.

11 MR. SHORT: So -- so -- so it's -- this
12 is to the investigator. Sometimes maybe we need
13 to check when we have people tell us they are
14 owners, um, and -- and is the owner there, and no
15 ABC person, then -- then you had a duty to do
16 something else.

17 But at any rate, you did your best duty,
18 and thank you very much. And I'm just glad to
19 hear that we are going to have that change made
20 as soon as practical. Thank you. That's all I
21 have, Mr. Chair.

22 CHAIRMAN ANDERSON: Do we have any other

1 questions by any other board members?

2 MS. MILLER: Yes.

3 CHAIRMAN ANDERSON: Yes, Ms. Miller. And,
4 uh -- yes, Ms. Miller.

5 MS. MILLER: Uh, I'd like to ask
6 Lieutenant Whiteside just this question about --
7 I'm trying to think, isn't there a booklet
8 called, like, "Best Practices for Nightlife
9 Establishments" or something that MPD gives out
10 to assist establishments in what they should do?

11 MR. WHITESIDE: I believe there is,
12 ma'am, but I've never seen it. I'm not aware of
13 it.

14 MS. MILLER: Okay.

15 MR. WHITESIDE: But I -- well, I take
16 that back. I -- I think there's something to that
17 effect, but I've never seen it.

18 MS. MILLER: Right. Okay. I think there -
19 - there is, too, and -- but I don't know if
20 that's the exact title. But I would suggest, when
21 you're, um, um, upgrading your security plan, you
22 might want to look at that booklet and, um,

1 consult with whoever at MPD or whatever. Um, I --
2 I would be interested in seeing your present
3 security plan along with your new plan just to
4 see the changes, um, just -- just for context.
5 Whenever you turn the other one in is fine.

6 Okay. Um -- because that's all I think
7 this is about, just, um, you know, some violent
8 incidences [sic] occur, and let's have good
9 procedures in place so that there's less violence
10 in establishments, and if there is any violence
11 that -- that they're addressed immediately, uh,
12 as best as possible. That's all I have to say.
13 Thank you.

14 CHAIRMAN ANDERSON: Um, um, Lieutenant,
15 um, Whiteside, do you have anything you can add
16 regarding this specific incident?

17 MR. WHITESIDE: I don't believe so.

18 CHAIRMAN ANDERSON: Thank you. Uh, Mr.
19 Fox, do you have any, um -- any other -- oh, you
20 -- you did your -- No, I'm getting confused. Do
21 you have any other witnesses that you want to ask
22 or call?

1 MR. FOX: I -- I will call another
2 witness, please.

3 CHAIRMAN ANDERSON: Sure. Um, they can --
4 they can pull up a chair to the table.

5 MR. FOX: Sure. Uh, we'd like to call Mr.
6 Dwight Jones. I'll try to be brief.

7 Uh, Mr. Jones, would you tell the group -
8 - uh, the Board there --

9 CHAIRMAN ANDERSON: I'm -- also, sign
10 your name on the --

11 MR. FOX: Oh.

12 CHAIRMAN ANDERSON: -- sign-in sheet,
13 please.

14 MR. FOX: Yes, if you would.

15 CHAIRMAN ANDERSON: There, please.

16 MR. FOX: Uh, Mr. Jones, would you please
17 tell us, uh, is it true that you have worked at
18 the, uh --

19 CHAIRMAN ANDERSON: Let him --

20 MR. FOX: -- Velvet Lounge --

21 CHAIRMAN ANDERSON: Could you have him
22 identify himself --

1 MR. FOX: Oh, yes.

2 CHAIRMAN ANDERSON: -- for the record,
3 please?

4 MR. FOX: Please tell the gentleman your
5 name and -- and your position at the Velvet
6 Lounge.

7 MR. JONES: Uh, I'm Dwight Jones.

8 [Off-mic speaking]

9 MR. DWIGHT JONES: Uh, Dwight Jones.

10 CHAIRMAN ANDERSON: There's a microphone
11 next to the briefcase so he can --

12 [Off-mic speaking]

13 CHAIRMAN ANDERSON: You -- you don't have
14 to -- You just speak up; it'll pick it up. Yes.

15 MR. JONES: Um, Dwight Jones.

16 [Off-mic speaking]

17 MR. JONES: D-w-i-g-h-t Jones, J-o-n-e-s.

18 MR. FOX: Sir, were you working at the
19 Velvet Lounge in September of last year?

20 MR. JONES: Yes.

21 MR. FOX: What was your job?

22 MR. JONES: I'm the head of security at

1 Velvet.

2 MR. FOX: Okay. How long have you been
3 with Velvet Lounge?

4 MR. JONES: For about 2-1/2 years now.

5 MR. FOX: And what was your location or
6 assignment the night of September 19th of 2015?

7 MR. JONES: I was, um, outside the front
8 door of the establishment. Uh, do you want to
9 know what I was doing, or --

10 MR. FOX: Yes, please tell the group what
11 -- what you were doing.

12 MR. JONES: Um, at the time, there was a
13 line of about 30 people in front of the bar
14 waiting to get into the establishment. Um, I
15 didn't let them in because we were pretty close
16 to the capacity at the time, so.

17 MR. FOX: And, uh, did you ever see a man
18 punch a woman inside the bar that night,
19 September 19th?

20 MR. JONES: No, I didn't.

21 MR. FOX: Did anyone ever tell you that
22 it happened?

1 MR. JONES: Uh, the girl had let me, um -
2 - she brought it to my attention that she was hit
3 at the time.

4 MR. FOX: Where were you, physically,
5 when she told you it had happened?

6 MR. JONES: Um, physically, I was outside
7 of the bar. She tapped my arm, and when I looked,
8 she was bleeding out of the nose.

9 MR. FOX: And before she tapped your arm,
10 had anyone else told you there was an incident
11 inside the bar?

12 MR. JONES: No, I wasn't aware of this.

13 MR. FOX: Okay. When you were told by
14 this lady that she had been punched, and you saw
15 blood in her nose, um, did you have any idea
16 whether or not, uh, she had -- she or any of her
17 friends had called for medical help?

18 MR. JONES: Um, I wasn't aware if they
19 did, but, um, as soon as I saw it, I immediately
20 told her to get help and call 911.

21 MR. FOX: Did you think that she had the
22 capacity, she felt up to calling 911?

1 MR. JONES: I don't think so, because,
2 uh, there was enough blood coming out of her nose
3 that it was on my arm also.

4 MR. FOX: Okay --

5 MR. JONES: She --

6 MR. FOX: -- so --

7 MR. JONES: No, go ahead.

8 MR. FOX: Did -- to your knowledge, did
9 she in fact call 911?

10 MR. JONES: Not that I'm aware of.

11 MR. FOX: Okay. Uh, did anyone ever
12 identify her assailant to you?

13 MR. JONES: Um, when she tapped my arm to
14 let me know that she had gotten hit, the guy had
15 passed me, at the time, coming out of the door.
16 So by the time I got a look at him, I couldn't
17 really get a look at the face.

18 MR. FOX: Did you see where the guy went?

19 MR. JONES: Um, I think he went towards,
20 uh, the bar Brixton, which is the opposite of
21 Vermont, at the time.

22 MR. FOX: Do you know whether or not he

1 went into the bar Brixton?

2 MR. JONES: I -- I'm not sure. At that
3 point, I was just focused on, hopefully, them
4 being able to call her because I had blood on my
5 hands at the time -- well, call 911, because I
6 had blood on my hands at the time.

7 MR. FOX: And did you, in fact, call
8 anybody at that time?

9 MR. JONES: At that time, I didn't call
10 anybody.

11 MR. FOX: Did there come a time when you
12 did call anybody?

13 MR. JONES: Uh, that night, no.

14 MR. FOX: Did something else happen the
15 next day?

16 MR. JONES: Um, you mean like a follow-up
17 or something?

18 MR. FOX: That led you to make any calls.

19 MR. JONES: Um, no.

20 MR. FOX: Did, uh, the bar, uh, ownership
21 ever tell you it was your duty to seize and
22 detain, uh, any suspect for an event that took

1 place inside the bar?

2 MR. JONES: No.

3 MR. FOX: Do you believe that's your role
4 as security to seize and detain suspects?

5 MR. JONES: Um, that's not my role as
6 security.

7 MR. FOX: In fact, you don't have legal
8 authority to arrest anybody, do you?

9 MR. JONES: No, I don't.

10 MR. FOX: All right. Um, now, do you
11 know, sir, whether or not the lady who had the
12 blood in her nose had been drinking?

13 MR. JONES: Um, I don't know if she was
14 drinking or not at the establishment, but I did
15 smell alcohol in her breath.

16 MR. FOX: Okay. And the, um, investigator
17 had said that she admitted to three drinks. Uh,
18 do you know whether or not that's true or how
19 many drinks she, in fact, had?

20 MR. JONES: I'm not sure if that's true.

21 MR. FOX: Do you know whether or not she
22 bumped into her assailant or whether her

1 assailant bumped into her?

2 MR. JONES: I'm not aware of that.

3 MR. FOX: Did you know whether or not she
4 was with her sister or any friends?

5 MR. JONES: I'm not aware of that.

6 MR. FOX: As a, uh, security person with
7 several years' experience, um, did you feel that
8 you had an obligation to call medical people for
9 the aid of this lady who was bleeding from her
10 nose?

11 MR. JONES: I didn't feel I had an
12 obligation to call 911 at the time.

13 MR. FOX: Why?

14 MR. JONES: Because there was a line out
15 front of people waiting to get in the bar. The
16 bar was close to capacity, and I had blood on my
17 arm, so at that time, I didn't -- I wasn't really
18 in the best of positions to, like, call the cops
19 at the time. But with her there, and her friends
20 -- of course she's bleeding -- I did tell them
21 they should call 911 to at least get her help
22 because of the blood coming out of her nose.

1 MR. FOX: And you told that to whom, just
2 the lady or her friends, as well?

3 MR. JONES: Her and her friends that were
4 with her.

5 MR. FOX: No further questions of the
6 witness.

7 MR. SHORT: Mr. Jones?

8 CHAIRMAN ANDERSON: Mr. -- Mr. Short.

9 MR. SHORT: Mr. Jones, you -- you've been
10 in the security business for how long for these
11 clubs?

12 MR. JONES: Um, altogether I'd say about
13 3-1/2 years.

14 MR. SHORT: Okay. And the capacity of the
15 club, uh, as you know it? What's the capacity?

16 MR. JONES: One forty.

17 MR. SHORT: One forty. Now, how do you
18 know you have 140 or less people in the club?

19 MR. JONES: We have a clicker, and --

20 MR. SHORT: You have a clicker.

21 MR. JONES: -- we count people as they
22 come in and out.

1 MR. SHORT: Okay. When the woman came to
2 you and there were people at the door, how --
3 what was -- can you remember the number that was
4 on the clicker?

5 MR. JONES: I think it was about around
6 121, 123.

7 MR. SHORT: So, it was more important to
8 get those people in than to make sure that she
9 was taken care of medically?

10 MR. JONES: No, that wasn't the more
11 important part.

12 MR. SHORT: What was your priority?

13 MR. JONES: My priority was to make sure
14 people weren't trying to get into the club at the
15 time when she was coming to me about it, because
16 sometimes people do try that while I'm talking to
17 people.

18 MR. SHORT: Okay, let me get this
19 straight.

20 MR. JONES: Mm-hmm.

21 MR. SHORT: Someone's been assaulted and
22 is bleeding from their nose -- might be cutting

1 off their breath or might be something going on
2 with their -- head injury or whatever else.

3 MR. JONES: Mm-hmm.

4 MR. SHORT: So, it was more important to
5 get people into the establishment than to take
6 care of that injured person.

7 MR. JONES: No, you're incorrect.

8 MR. SHORT: No, I'm asking -- I'm asking
9 you to tell me your priority. What's -- what'd
10 you prioritize? How'd you prioritize?

11 MR. JONES: Well, if we're doing
12 priority, my concern is to try and get her help
13 at the time --

14 MR. SHORT: Okay. All right.

15 MR. JONES: -- when she's bleeding out of
16 the nose.

17 MR. SHORT: Did you?

18 MR. JONES: I didn't get her help at the
19 time.

20 MR. SHORT: That's all I have. That's all
21 I have, Mr. Chair. That's all I have.

22 CHAIRMAN ANDERSON: All right. Um --

1 [Off-mic speaking]

2 MR. SILVERSTEIN: Just a moment here. I'd
3 like to thank the investigator for an excellent
4 report in a confusing and difficult situation.
5 Thank you all. I think we've heard everything
6 that needs to be heard, and --

7 MR. SHORT: I, too, would like to express
8 my sentiment. Thank you very much for a job well
9 done.

10 MR. FOX: Uh, before we adjourn, just one
11 sentence if you --

12 CHAIRMAN ANDERSON: We're not -- we're
13 not adjourning, so we're not -- just hold on. All
14 right. Go ahead, please.

15 MR. FOX: Um, at the beginning of the
16 session, we went right into the questioning at
17 the Chair's, uh, request. Uh, my preliminary
18 request would be the same as the first hearing.
19 Because I don't believe the regulations are
20 clearly published to the public, either in the
21 D.C. Code or in the May, uh, 2015, uh,
22 regulations, I'd like to maintain, uh, our

1 objection.

2 CHAIRMAN ANDERSON: All right.

3 MR. FOX: And -- and that's all I have to
4 say.

5 CHAIRMAN ANDERSON: It's -- it's there
6 for the record. Um -- all right. I will --

7 [Off-mic speaking]

8 CHAIRMAN ANDERSON: Um, I would like a
9 motion that, um -- that this matter be sent over
10 to the OAG for, uh, order to show cause hearing.
11 Is there a second?

12 MR. SHORT: Second.

13 CHAIRMAN ANDERSON: The matter has been
14 seconded by Mr. Short. Those in favor say aye.

15 [Chorus of ayes]

16 CHAIRMAN ANDERSON: Those opposed?

17 [No audible response]

18 CHAIRMAN ANDERSON: The matter passed,
19 five, zero, zero. Um, thank you.

20 [Off-mic speaking]

21 CHAIRMAN ANDERSON: Um, basically, um,
22 you have agreed, um, to voluntary, um, provide us

1 with a security plan within the next 30 days. Um,
2 what the Board has voted, based as a result of
3 the show -- I'm sorry, as the result of the fact
4 finding hearing -- As I told you, we were just
5 finding facts and investigating facts, but the
6 Board is troubled by what we heard today, and so
7 therefore, the Board has voted to send this
8 matter over to OAG for show cause, and you will
9 receive information from our attorney and from
10 OAG with [inaudible]. The, um, Office of Attorney
11 General, I believe that they have sufficient
12 facts to find you in violation of the law. Yes.
13 So, that's basically where we are today.

14 Um, as I've just said that -- as I've
15 clarified to you, the Board is troubled by what
16 we heard. It's a fact finding hearing to find out
17 whether or not what happened and what is it that
18 the establishment will do to move forward. But
19 the information that came about, it was not let -
20 - let us see where we move on from here; it's
21 pointing fingers, and that's not -- that's not
22 where it is. That's not whose responsibility it

1 is. And so, that's why the Board voted the way it
2 did. So, um -- all right. Thank you.

3 CHAIRMAN ANDERSON: Yes, Ms. Miller?

4 MS. MILLER: This probably goes without
5 saying, but I just want to clarify that this vote
6 was for Velvet Lounge and not for the other.

7 CHAIRMAN ANDERSON: We have not made any
8 decisions --

9 MS. MILLER: Yes, this is only Velvet
10 Lounge.

11 [Off-mic speaking]

12 CHAIRMAN ANDERSON: We have not -- we
13 have not made any decision, um, and once -- we
14 have not made any decision, and, um, probably
15 what I'll do, um -- We're going to be in a
16 recess, and, um -- but let me -- let me do this
17 and -- because, uh, we can probably make a
18 decision on -- on, um -- All right.

19 The -- the case that we just heard was,
20 um, Case Number 15-251-00180 on the Velvet
21 Lounge, License Number 78443, and the Board, um,
22 voted five to zero, um, to send this matter over

1 to, um, OAG for a order to show cause, and, um,
2 that was the matter that we just voted on.

3 Um, I -- let me bring closure to -- I
4 know -- and the reason why it's done this way
5 because it's the same parties, so, um, regarding
6 Case Number 15-251-00198, which is Dodge City,
7 let me just make this statement: Um, as
8 chairperson of the Alcoholic Beverage Control
9 Board for the District of Columbia, in accordance
10 with D.C. Official Code 2-574(b) of the Open
11 Meeting Act, I move that the Board hold a closed
12 meeting for the purpose of seeking legal advice
13 from our counsel on Case Number 15-251-00198,
14 Dodge City, pursuant to D.C. Code Section 2-
15 574(b)(4) of the Open Meetings Act, and
16 deliberation upon Case Number 15-251-00198, Dodge
17 City, for the reasons cited in the D.C. Official
18 Code Section 2-574(b)(13) of the Open Meetings
19 Act. Is there a second?

20 MR. SHORT: Second.

21 CHAIRMAN ANDERSON: Mr. Short has
22 seconded the motion. I'll now take a roll-call

1 vote on the motion before us now that it -- now
2 it has been seconded. Ms. Miller?

3 MS. MILLER: I agree.

4 CHAIRMAN ANDERSON: Mr. Alberti?

5 MR. ALBERTI: I agree.

6 CHAIRMAN ANDERSON: Mr. Short?

7 MR. SHORT: I agree.

8 CHAIRMAN ANDERSON: Mr. Silverstein?

9 MR. SILVERSTEIN: I agree.

10 CHAIRMAN ANDERSON: Uh, Mr. Anderson
11 five. Um, um, Mr. Anderson votes in favor. Um, as
12 it appears that the motion has passed five to
13 zero, I hereby give notice that the ABC Board
14 will recess these proceedings to hold a closed
15 meeting in the ABC conference room pursuant to
16 Section 2-574(b) of the Open Meetings Act. Um, we
17 are in recess. Thank you.

18 Can we go back on the record for a
19 minute, please? We will, um, reconvene at, um,
20 2:34 afternoon, um, agenda. All right. Thank you.

21 [Whereupon the matter concluded at 2:20
22 p.m.]