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

(1:31 p.m.)

CHAIRPERSON MILLER: Okay. We're ready to start the afternoon cases. The first case on the afternoon's calendar is a Show Cause Hearing, Case No. 10-CMP-00714, K Street, located at 1301 K Street, N.W., License No. 72225 and it's in ANC-2F.

MR. STERN: Good afternoon, Michael Stern representing the District of Columbia.

MR. MANNING: Good afternoon, Christopher Manning representing the licensee.

MR. PALLADINO: Good afternoon, Bobby Palladino, the applicant.

CHAIRPERSON MILLER: Sorry, I didn't catch your name.

MR. PALLADINO: Bobby Palladino.

CHAIRPERSON MILLER: Okay.

MR. PALLADINO: On behalf of K Street.

MR. CHUNG: David Chung on behalf

1 of K Street.

2 CHAIRPERSON MILLER: Okay. Is
3 there any preliminary matters?

4 MR. STERN: There is no
5 preliminary matter.

6 CHAIRPERSON MILLER: Okay. Then
7 we will --

8 MR. MANNING: One --

9 CHAIRPERSON MILLER: Yes, sir?

10 MR. MANNING: Excuse me, I'm
11 sorry. One item that the licensee would bring
12 up is to alert the Board of the fact that
13 there is somewhat of a parallel action that is
14 currently being pursued in the Superior Court.

15 The licensee has filed a
16 defamation action against the complainant's
17 girlfriend on, essentially, alleging that the
18 allegation in this case and elsewhere were
19 false. The complainant's girlfriend was
20 served with process, but did not answer the
21 complaint. So a default has been issued --
22 entered.

1 And currently, there is a motion
2 pending for a default judgment. So it's the
3 licensee's opinion that actually there is
4 somewhat of a collateral estoppel problem
5 here, because we have got an issue that has
6 already been litigated and has already been a
7 judgment entered upon.

8 CHAIRPERSON MILLER: I'm sorry,
9 did you say -- I thought there was a motion
10 pending for default judgment.

11 MR. MANNING: There is a default
12 that has been entered. So --

13 CHAIRPERSON MILLER: A default has
14 been entered?

15 MR. MANNING: -- I guess it's two
16 different -- there is two different things.
17 A default is basically an adjudication of the
18 facts because the complainant's girlfriend did
19 not respond to the complaint as factored,
20 essentially adjudicated in that matter.

21 Then there is the issue of the
22 default judgment and the judgment goes to what

1 damages are actually required.

2 And so there has been an
3 adjudication on the default or on the facts
4 themselves. There has not been trial merits,
5 but there has been a judgment entered in
6 relation to those. And so the licensee
7 believes that there is a collateral estoppel
8 issue here.

9 And as the Board knows what that
10 means is that an issue that has already been
11 litigated in court can't be relitigated. And
12 so it's the licensee's position that by
13 relitigating this case today, we are
14 essentially putting the licensee in, it's
15 called, double jeopardy and having to try a
16 case twice.

17 CHAIRPERSON MILLER: What is being
18 relitigated over there? Is it defamation?

19 MR. MANNING: It's defamation and,
20 essentially, I can show you the compliant.
21 The complaint case lays out all of the facts
22 of that that are, essentially, alleged in the

1 complainant's complaint.

2 MR. STERN: Your Honor, if I may?
3 I think, first of all, it's highly
4 inappropriate even to discuss that.

5 Second of all, my understanding is
6 she has moved to set aside.

7 Third of all, the law is very
8 clear that a default is not an adjudication of
9 the facts. So there is no collateral and
10 there is no double jeopardy.

11 MR. MANNING: Well, I can -- Your
12 Honor, I can show you the docket from today.
13 And as of today, there has been no Motion to
14 Vacate the default filed.

15 CHAIRPERSON MILLER: Is that --

16 MR. STERN: I think that's
17 inaccurate. Whenever it was printed out, it
18 has been filed since then, is my
19 understanding.

20 CHAIRPERSON MILLER: Do you have
21 law which goes to Mr. Stern's argument that
22 default judgment doesn't count as an

1 adjudication? I mean, what did you say? How
2 did you phrase it?

3 MR. STERN: Well, it's not an
4 adjudication of factors.

5 CHAIRPERSON MILLER: It's not
6 anyway.

7 MR. STERN: The full judgement --
8 the Court of Appeals has said many times any
9 factors argued when -- this question was
10 raised to me during the week and I told
11 counsel that same exact thing. And he -- I --
12 well, I won't characterize the conversation,
13 but we should have some additional law here
14 today if he is going to make that motion.

15 CHAIRPERSON MILLER: But could you
16 articulate it again? I mean, what a default
17 judgment --

18 MR. STERN: Well, right, the
19 default judgment is not an adjudication on the
20 facts. It's a default judgment. Not only
21 that, but it's not a default judgment yet. It
22 has been entered. There was the default

1 entered, that's correct.

2 CHAIRPERSON MILLER: Right.

3 MR. STERN: As to her failure to
4 answer the complaint, which I believe now she
5 has done and may well be set aside. But
6 either way, right, technically right now,
7 there is a default. There is no default
8 judgment.

9 CHAIRPERSON MILLER: Yes.

10 MR. STERN: So there is no
11 adjudication at all yet actually. But there
12 is certainly no adjudication of the facts.

13 MR. MANNING: I guess I would say
14 there is a distinction. The default judgment
15 only goes to the money damages afforded. The
16 default goes to the facts themselves. She has
17 not answered as to those factual allegations,
18 so there is a default.

19 What I would propose is I have
20 been on this case for literally two and a half
21 days. If given the opportunity, I would
22 certainly like to brief that matter, because

1 it is -- what it gets down to is ultimately a
2 constitutional double jeopardy issue and a
3 collateral estoppel issue is something that is
4 important.

5 MR. STERN: If I may, there are
6 also two other witnesses here who cannot in
7 any possible world --

8 CHAIRPERSON MILLER: Yes.

9 MR. STERN: -- be considered to be
10 collaterally stopped. They weren't members,
11 they weren't part of the original suit. And
12 the District was not part of the original
13 suit, so we cannot be collaterally stopped.

14 CHAIRPERSON MILLER: Yes.

15 MR. STERN: So -- and there is no
16 judgment. I mean, this is just a silly
17 argument, quite frankly.

18 CHAIRPERSON MILLER: So who is
19 collaterally stopping things, the girlfriend?

20 MR. MANNING: No, it's my client
21 who has already litigated this case in the
22 Superior Court and gotten the default.

1 CHAIRPERSON MILLER: I heard that.

2 MR. MANNING: Right. And so as a
3 result, we shouldn't have to relitigate that
4 case again. And that's what they are hoping
5 to do today. And in that complaint, which if
6 given the opportunity, I would love the
7 opportunity to brief it, the Board will be
8 able to see that the facts that are alleged in
9 that complaint, as being false, are -- track
10 almost exactly the facts of the complainant's
11 girlfriend's alleged complaint.

12 CHAIRPERSON MILLER: But she is
13 the only one that has alleged it in that suit
14 in the Superior Court. Are you saying there
15 are other witnesses here who have facts to
16 allege that bear on this case? Is that
17 correct, Mr. Stern?

18 MR. STERN: Yes.

19 CHAIRPERSON MILLER: So why would
20 it affect their --

21 MR. MANNING: But it's not them
22 that is affected in the collateral estoppel

1 sense. It's my client who has already
2 litigated this case. And we shouldn't have to
3 be relitigating the case.

4 MR. STERN: You can't have a
5 defense of collateral estoppel. Collateral
6 estoppel goes to the person making the charge,
7 at it's very worst, that they are not allowed
8 to present other evidence which is in
9 contradiction to evidence that was presented
10 at our other trial.

11 In this case, no evidence was
12 presented in the other trial. But either way,
13 it has nothing to do with collateral estoppel
14 as anybody else.

15 MR. MANNING: There was evidence
16 presented in the former complaint that was not
17 objected to in any way and so as a result, my
18 client is essentially having to litigate a
19 case again.

20 If we could brief it, I would
21 certainly take the opportunity to do that and
22 have a brief continuance of this hearing, so

1 that we can sort this issue out for the Board.

2 MR. STERN: There is no reason to
3 have a continuance. You can certainly brief
4 it after the fact and he is correct, the Board
5 can set aside any judgment that it may enter
6 after hearing the evidence.

7 And well, if he is correct, as
8 always, the Board may disregard the one
9 witness, if that's appropriate, whichever the
10 Board decides. But delaying this is -- just
11 shouldn't happen.

12 CHAIRPERSON MILLER: Okay. Okay.
13 Okay. I would agree with Mr. Stern, at this
14 point, and this case should proceed and we can
15 leave the record open in the event that you
16 have some briefing that will bear on the legal
17 rights of your client with respect to
18 collateral estoppel.

19 Okay. Anything else?

20 MR. MANNING: Nothing else.

21 CHAIRPERSON MILLER: Okay. Then
22 we are ready for you to proceed.

1 MR. STERN: Yes. In this case,
2 the District of Columbia's evidence will show
3 that on November 10, 2010, inside of K Street
4 Lounge, there was multiple altercations that
5 in responding to those altercations, the
6 establishment failed to follow their own
7 security plan and as a result, direct result
8 thereof, the patrons were put in danger and,
9 in fact, severely injured.

10 And at the conclusion of this
11 case, after a review of K Street's numerous
12 prior violations before this Board, we are
13 going to ask that the lounge's license be
14 revoked.

15 CHAIRPERSON MILLER: Thank you.
16 Would you mind repeating your name again?

17 MR. MANNING: Sure. Christopher
18 Manning.

19 CHAIRPERSON MILLER: Mannin?

20 MR. MANNING: Manning.

21 CHAIRPERSON MILLER: Manning,
22 okay.

1 MR. MANNING: And I've never been
2 before the Board before, so --

3 CHAIRPERSON MILLER: Right. Okay.

4 MR. MANNING: -- thank you for
5 giving me the opportunity.

6 CHAIRPERSON MILLER: Yes.

7 MR. MANNING: What the evidence
8 will show for the licensee is, to some extent,
9 similar to what Mr. Stern articulated with
10 regard to how that night progressed, there was
11 on that evening, which was at that point, late
12 evening, an initial altercation, which will be
13 shown in video evidence, which I'll provide
14 today.

15 There was an initial altercation
16 that involved a number of people on the dance
17 floor. The policy, the security policy for
18 the licensee is to split up the two, I guess,
19 battling factions. Keep one of them inside
20 and keep one of them on the outside.

21 To some extent, that policy was
22 instituted before -- or was instituted before

1 the licensee had begun working and hiring MPD
2 officers. And, unfortunately, the policy
3 wasn't changed after MPD officers began to be
4 utilized with the licensee.

5 So the policy, to some small
6 degree, was in conflict with what the MPD
7 wished and also, to a large degree, in
8 conflict sometime with ensuring the patrons'
9 safety inside the licensed establishment.

10 So what happened, there was an
11 initial altercation, which you will see on
12 video. The policy was, essentially, followed.
13 The two battling factions were separated. One
14 faction was sent outside to be dealt with by
15 MPD and the other faction was kept inside per
16 the security plan.

17 Well, on the -- the people that
18 remained inside, it appears, that there could
19 have been people from both sides of the fight
20 still inside, which is again part of the
21 complication or the problem. And inside, once
22 again, a few minutes later, there was an

1 altercation involving two individuals.

2 One individual who is the
3 complainant in this case was looking to, after
4 kind of dancing by himself a little bit, exit
5 the property. And out of nowhere, someone
6 came and punched him in the face.

7 At that point, security split the
8 two people, so that they couldn't continue to
9 fight and security then also, based on the
10 context of what was going on and knowing that
11 the fight previously had happened, knew that
12 the best thing at that point was to get
13 everyone they could outside to deal with the
14 MPD.

15 Importantly, the MPD refused to
16 come inside at all during the night. And so
17 as a result, the only way to get the
18 authorities to address the situation was to
19 get these people outside.

20 Now, once the individuals were
21 outside, the complainant was evidently
22 speaking with an officer and then also

1 speaking with a number, it appears on this
2 video, of his friends.

3 Subsequent to that, another
4 gentleman came out who was also on the video
5 from the inside, who had been pointing, I
6 guess, at the complainant. The other
7 individual comes out and the complainant and
8 this other individual began again then to
9 engage.

10 And importantly, the complainant
11 isn't, you know, a helpless victim. Instead,
12 the complainant was actually aggressively
13 pursuing the individual that is also pursuing
14 him from the inside.

15 So what happens then? It's
16 certainly not a situation that in the
17 complaint where the complainant was laying
18 prone on the ground just trying to defend
19 himself, instead the complainant was
20 aggressive and attacking other people.

21 The complainant certainly wasn't
22 incapacitated at the scene. Instead, the

1 complainant continued to be aggressive and had
2 to be restrained by the MPD officers that were
3 out there.

4 So fundamentally, in this case,
5 there are two major issues. Number one, the
6 facts are articulated by the complainant are
7 different than the facts that will be shown
8 today on the video and elsewhere and through
9 testimony.

10 And number two, the security
11 policy was very aggressively attempted to be
12 followed. However, when it became a point at
13 which MPD needed to be involved and MPD was
14 not willing to come into the establishment, it
15 only made sense for the safety of the patrons,
16 the safety of everyone else inside for those
17 individuals who were in the altercation to be
18 taken to the MPD outside of the establishment.

19 So what we will show is that the
20 ultimate goal in this entire endeavor by the
21 licensee was to ensure that the safety of not
22 only the complainant and everyone else, but

1 also the patrons inside was preserved and so
2 that the proper authorities, the MPD, could
3 handle the situation.

4 And so as a result, my client, the
5 licensee, would respectfully request that the
6 matter be dropped and that no violation be
7 cited.

8 CHAIRPERSON MILLER: Okay. Thank
9 you.

10 MR. STERN: Just one thing before
11 we have witnesses. We have party and non-
12 party witnesses.

13 CHAIRPERSON MILLER: Any non-party
14 witnesses will leave the room. Okay. I'm not
15 sure who is here, whether you are public or
16 witnesses, but, okay. You know who your
17 witnesses are, so --

18 MR. MANNING: Yes, all of my
19 witnesses are --

20 CHAIRPERSON MILLER: Are party?

21 MR. STERN: I only have one, but
22 they are all parties.

1 CHAIRPERSON MILLER: Okay.

2 MR. STERN: I only have one
3 problem with the licensee and so I don't --

4 MR. MANNING: Well, they are all
5 owners of the licensee.

6 MR. STERN: I know we have David
7 Chung.

8 CHAIRPERSON MILLER: Who else is
9 here as an owner?

10 MR. PALLADINO: I am.

11 CHAIRPERSON MILLER: You are. You
12 are an owner?

13 MR. PALLADINO: Yes.

14 CHAIRPERSON MILLER: Okay.

15 MR. STERN: Is that a matter of
16 record?

17 MR. PALLADINO: It should be a
18 matter of record, yes. I got verification
19 when I filed for officer.

20 MR. MANNING: If you would like,
21 we can go on the record to indicate that they
22 are all the owners. Only one though is going

1 to be a witness.

2 CHAIRPERSON MILLER: I guess
3 because it's an issue, we are just checking
4 our files.

5 MR. MANNING: Okay.

6 CHAIRPERSON MILLER: Because
7 that's indicated usually on the application.
8 Is that right? Yes.

9 (Whereupon, off the record for a
10 recess.)

11 CHAIRPERSON MILLER: All right.
12 Can we get your name?

13 MR. CHUNG: David Chung.

14 CHAIRPERSON MILLER: David Chung.

15 MR. CHUNG: C-H-U-N-G.

16 CHAIRPERSON MILLER: All right.
17 Your name again, sir?

18 MR. PALLADINO: Bobby Palladino.

19 CHAIRPERSON MILLER: Thank you.

20 MR. PALLADINO: P-A-L-L-A-D-I-N-O.

21 CHAIRPERSON MILLER: Thank you.

22 And who is the third person? He stepped out,

1 I think. Was he with you?

2 MR. CHUNG: Yes, he's just here to
3 observe.

4 CHAIRPERSON MILLER: What?

5 MR. CHUNG: Ki Jun Sung, he's just
6 here to observe.

7 CHAIRPERSON MILLER: Oh, he's just
8 observing.

9 MR. CHUNG: Yes.

10 CHAIRPERSON MILLER: Okay. So he
11 stepped out in response to --

12 MR. MANNING: We only have one
13 witness, as I mentioned earlier.

14 MR. CHUNG: We have one witness.

15 CHAIRPERSON MILLER: Okay. Are we
16 set?

17 MR. CHUNG: That's fine.

18 CHAIRPERSON MILLER: Okay. Go
19 ahead.

20 MR. CHUNG: Okay. Before the
21 Government calls its first witness, I just
22 would like to ask the Board to take judicial

1 notice of its own records, the case reports
2 marked as Exhibit 1 and the K Street Lounge
3 Security Plan, which we will have marked as
4 Exhibit 2.

5 MEMBER JONES: Madam Chair?

6 CHAIRPERSON MILLER: Yes?

7 MEMBER JONES: I don't think -- to
8 close off the other matter, our records do not
9 indicate that Mr. Palladino is an owner of
10 record.

11 MR. MANNING: He is.

12 CHAIRPERSON MILLER: Is there an--

13 MR. MANNING: Oh, but he is.

14 CHAIRPERSON MILLER: Okay.

15 MR. CHUNG: Sorry. He is an owner
16 of record and we received confirmation from
17 ABRA.

18 MEMBER JONES: But our records
19 currently don't reflect that, so we need to
20 reconcile that.

21 MR. CHUNG: Okay.

22 MEMBER JONES: In order to address

1 the rule on witness.

2 MR. CHUNG: Do you want to see the
3 email from ABRA that says he is confirmed as
4 an owner?

5 MEMBER JONES: I will leave you to
6 discuss that matter with legal.

7 CHAIRPERSON MILLER: Do you have
8 that?

9 MR. CHUNG: We can look it up
10 right now, if you have wi-fi here. I don't
11 understand why ABRA's records don't coincide
12 with what -- with the email that we received.

13 MEMBER JONES: So I'm not going to
14 debate that with you, sir. I'm just going to
15 ask you to confer with legal and ask Madam
16 Chair to address this issue, if at all
17 possible, so that we can properly move
18 forward.

19 CHAIRPERSON MILLER: Okay. Well,
20 I think that they are checking out their
21 records right now.

22 MR. CHUNG: Sure.

1 CHAIRPERSON MILLER: And can
2 resolve it pretty quickly. If we can't find
3 it in ours, you have an email, you should show
4 it to our legal staff, that shouldn't take
5 very long. Is that right?

6 MR. CHUNG: Yes, we'll just have
7 to search through the folders. Bobby can
8 check his emails.

9 CHAIRPERSON MILLER: Okay.
10 Because it has become an issue.

11 MR. MANNING: There is just one
12 other moderation maybe on that. The security
13 plan that I had received from ABRA actually
14 was an updated security plan. The old plan,
15 which I will substitute for that one, the one
16 that was in effect at the time, in effect is
17 this one.

18 It is also attached to the report,
19 but I would substitute for purposes of the
20 exhibits.

21 CHAIRPERSON MILLER: The updated
22 plan is attached to the report? Is that what

1 you are saying?

2 MR. MANNING: No, no, the --

3 CHAIRPERSON MILLER: No?

4 MR. MANNING: -- old plan is
5 attached --

6 CHAIRPERSON MILLER: The old one.

7 MR. MANNING: -- to the report.

8 The updated plan I mistakingly -- I didn't
9 realize that I had received from ABRA. I
10 should have used the old one as the exhibit.

11 CHAIRPERSON MILLER: When was the
12 new one done?

13 MR. MANNING: September 1, 2008.

14 CHAIRPERSON MILLER: Okay. So
15 while we are talking about that, Mr. Stern,
16 did you want to -- you are marking the case
17 report as Exhibit No. 1?

18 MR. STERN: Yes.

19 (Whereupon, the document was
20 marked as Government Exhibit 1 for
21 identification.)

22 CHAIRPERSON MILLER: And the

1 updated security?

2 MR. STERN: No, the old security
3 plan. The plan that was relevant to this
4 proceeding.

5 CHAIRPERSON MILLER: Is attached
6 to that. Are you --

7 MR. STERN: It is attached to that
8 in your files and I have marked it as Exhibit
9 2 for purposes of updating the record.

10 CHAIRPERSON MILLER: Okay.

11 (Whereupon, the document was
12 marked as Government Exhibit 2 for
13 identification.)

14 CHAIRPERSON MILLER: And you have
15 shown it to them?

16 MR. STERN: Yes.

17 CHAIRPERSON MILLER: Okay. Do you
18 want to move it in yet?

19 MR. STERN: Yes, I do.

20 CHAIRPERSON MILLER: While we are
21 waiting on this witness question, do you have
22 any objection to those exhibits?

1 MR. MANNING: No.

2 CHAIRPERSON MILLER: Okay. Then
3 we will admit Exhibits 1 and 2. 1 is the case
4 report and No. 2 is the old security plan.

5 (Whereupon, the documents marked
6 as Government Exhibit 1 and 2 were
7 received in evidence.)

8 MR. MANNING: My apologies. They
9 are calling their office manager to get an
10 email sent down. It should just take a
11 moment.

12 CHAIRPERSON MILLER: Okay. You
13 don't have the email with you?

14 MR. PALLADINO: No. I'm searching
15 for it, but --

16 CHAIRPERSON MILLER: Okay.

17 MR. PALLADINO: -- the search
18 function is not working so well.

19 CHAIRPERSON MILLER: Do you
20 remember when you got it?

21 MR. PALLADINO: No, I don't.

22 CHAIRPERSON MILLER: Okay.

1 MR. CHUNG: It's being sent right
2 now, so what happens after this once I receive
3 it in my inbox, what do I do? Do I forward it
4 to the Board?

5 CHAIRPERSON MILLER: Okay. Okay.
6 Legal staff has confirmed that they found that
7 you attempt -- an interest as well. So now,
8 Mr. Stern?

9 MR. MANNING: He stepped out to
10 get the witness.

11 CHAIRPERSON MILLER: To get what?

12 MR. MANNING: The witness.

13 CHAIRPERSON MILLER: Oh, okay.
14 Good. All right. Then we can proceed.

15 MR. MANNING: One question. I
16 guess we will have a video. Is there --

17 CHAIRPERSON MILLER: Did you
18 direct the staff that you had a video ahead of
19 time?

20 MR. CHUNG: Director Moosally came
21 in and asked what kind of file we have, so
22 hopefully he is taking care of it now.

1 CHAIRPERSON MILLER: Good. Okay,
2 good. Okay. Why don't I swear you in, ma'am.

3 MS. POSELY: Okay.

4 CHAIRPERSON MILLER: Do you want
5 to stand and raise your right hand?
6 Whereupon,

7 HAOUA POSELY
8 was called as a witness by Counsel for the
9 Government, and having been first duly sworn,
10 assumed the witness stand and was examined and
11 testified as follows:

12 CHAIRPERSON MILLER: Okay. Thank
13 you.

14 DIRECT EXAMINATION

15 BY MR. STERN:

16 Q Yes. Can you give us your full
17 name and spell your last name for the record?

18 A It's Haoua Marina Posely and the
19 last name is spelled P-O-S-E-L-Y.

20 Q Do you want to spell the first
21 name for the court reporter, please?

22 A It's H-A-O-U-A.

1 Q Okay. And are you familiar with
2 an establishment which is known to you as K
3 Street?

4 A Yes.

5 Q Have you ever been there?

6 A Yes.

7 Q I draw your attention to November
8 6th in the early morning hours. Were you at K
9 Street on that day?

10 A Yes.

11 Q Did anything out of the ordinary
12 occur on that day?

13 A Yes.

14 Q Okay. About what time did you
15 arrive at K Street?

16 A Maybe around 12:00 midnight.

17 Q Okay. And tell me what you did.

18 A Arriving with a big group of
19 people to what's called K Street.

20 Q Okay. Who were you there with?

21 A I was there with Andre Mundle,
22 Patricia Asamaowei, Randy Lowe, there was a

1 group of like 10 of us.

2 Q Do you know someone named Denver
3 Mundle?

4 A Yes.

5 Q Was he there with you?

6 A Yes.

7 Q When you -- did you go into K
8 Street?

9 A I did.

10 Q Okay. And did any events occur in
11 K Street that were out of the ordinary?

12 A There was a fight later in the
13 night. As the night kept going and there were
14 several fights after that.

15 Q Okay. Well, let's go to the first
16 fight. About what time would you say it was
17 when the first fight occurred?

18 A 1:00 or 1:30.

19 Q Okay. And tell me a little bit
20 about what happened that night.

21 A Um, it was like a group of people
22 fighting one person. And they went outside

1 and the fight continued outside.

2 Q Okay. Were you involved in that?

3 A No.

4 Q Did you know the people who were
5 involved in that?

6 A No.

7 Q Was Mr. Mundle involved?

8 A No.

9 Q Did that involve any of the people
10 that you had come with?

11 A No.

12 Q Okay. Did you see from where you
13 were what happened at that fight? I mean, in
14 other words, exactly what -- how many people
15 were involved, how it stopped?

16 A I just know there was a large
17 group of people fighting one person.

18 Q Okay.

19 A And I seen several people across
20 the room fighting also.

21 Q Okay. Did you see what those --
22 what happened with those people?

1 A No.

2 Q Did you see where they went?

3 A Outside.

4 Q Okay. Could you see them once
5 they were outside?

6 A No.

7 Q Okay. About how long after that
8 would you guess or would you estimate, excuse
9 me, that the next fight broke out?

10 A I would say in about an hour and a
11 half to two hours, because it was at the end
12 of the night when the lights came on.

13 Q Okay. And can you tell me did
14 that second incident occur after the lights
15 came on?

16 A Um-hum.

17 Q Okay. Can you tell me who was
18 involved with that incident?

19 A Me and Denver and some of the
20 other people in the room.

21 Q The Denver you are referring to is
22 Mr. Mundle?

1 A Mr. Mundle.

2 Q Yes. And tell me how that
3 happened.

4 A Well, everyone was walking outside
5 and --

6 Q Were you outside at the time?

7 A No. I was inside. Me, Denver
8 Mundle were inside.

9 Q Okay. So you were heading to --

10 A Heading towards the exit.

11 Q And what happened?

12 A There were people on this little
13 platform on the stage and I don't know what
14 provoked them, but one of them tried to punch
15 me in the face and Mr. Mundle pushed me out of
16 the way and he got punched in the face.

17 Q Okay.

18 A And then someone else hit him, so
19 it was like many people attacking him and then
20 he pushed me to the ground.

21 Q Okay. Did you see any security
22 personnel from the club?

1 A I saw security while I was in the
2 club.

3 Q Okay. And did you see security
4 when you went --

5 A Did I see them?

6 Q Yes.

7 A Yes.

8 Q And were they identified in any
9 manner, so that you could tell who they were?

10 A They had all black on.

11 Q Okay. When the incident occurred,
12 the second incident occurred with you and Mr.
13 Mundle, did you see any security officers
14 then?

15 A No.

16 Q Did -- after you were almost hit
17 and -- what did you do?

18 A Well, I was pushed to the ground,
19 so by the time I got up, everybody had already
20 went outside.

21 Q Okay. Did you receive any
22 assistance from any security?

1 A No.

2 Q Where did you go once you got up?

3 A I went outside and it looked like
4 about 50 or 60 people fighting outside.

5 Q Okay.

6 A And Mr. Mundle was being attacked
7 by a large group of people.

8 Q Okay.

9 MR. MANNING: I'm sorry?

10 CHAIRPERSON MILLER: Yes, we
11 couldn't hear that.

12 MEMBER MOBLEY: Could you speak a
13 little louder?

14 THE WITNESS: Oh, I'm sorry. Mr.
15 Mundle was being attacked by a large group of
16 people.

17 BY MR. STERN:

18 Q And about how long would you say
19 it was from when you first were -- when
20 someone pushed you to the ground to when you
21 got outside?

22 A Less than a minute.

1 Q Well, tell me a little bit about
2 what was going on when you were -- what did
3 you see when you were outside?

4 A Well, when I walked outside, it
5 was people fighting people. It was not
6 necessarily anyone knowing each other. There
7 were just large groups of people fighting each
8 other. I'm searching around for my friends
9 trying to locate them. I see like six girls
10 hitting Mr. Mundle at the same time and then
11 his girlfriend tried to come over there and
12 assist him by screaming at all those girls.

13 And she gets attacked by those
14 people. So while she is getting attacked, he
15 is getting attacked too. And then eventually
16 security comes and throws him on the ground.
17 And I think they put handcuffs on him and
18 people were still walking up to him and
19 kicking him in the face and stomping on him.

20 Q Okay. Did you see Metropolitan
21 Police Officers outside?

22 A I did. They were -- they were

1 parked outside.

2 Q Okay.

3 A On the side of the road by the
4 club.

5 Q Okay. Those were uniformed
6 officers?

7 A Yes.

8 Q And did you see the security
9 guards interacting with the Metropolitan
10 Police Officers at any time?

11 A No.

12 Q What happened after Mr. Mundle was
13 on the ground?

14 A Um, one of my friends, who came
15 that night, came and picked him up off the
16 floor while he was still like on the ground.

17 Q Okay. And what happened then?

18 A Um, one of my friends went to go
19 get the car and when the car was being brought
20 around, the police were walking around saying
21 everyone needs to go home before we start
22 pepper spraying people.

1 Q Okay. And how -- well, what
2 happened next?

3 A We got in the car and then left.

4 Q Well, what happened to Mr.
5 Mundle's handcuffs?

6 A I guess he got them taken off.
7 There was a lot going on.

8 Q Okay. And after that, did you go
9 home or were you involved in attending to Mr.
10 Mundle?

11 A We went home. We all went to the
12 same house and we didn't realize that his
13 injuries were so bad and right when we got to
14 the house, like five minutes later, we had to
15 drive him to the emergency room, because he
16 was bleeding from his eye and out his nose and
17 stuff.

18 Q Okay. Thank you.

19 MR. STERN: That's all I have.

20 CROSS-EXAMINATION

21 BY MR. MANNING:

22 Q Now, Ms. Posely, correct? Thanks

1 for coming today.

2 A Okay.

3 Q Just a few questions. Were you
4 aware that the entire incident or incidents
5 were being videotaped both inside and outside
6 of the establishment?

7 A I was aware after the fact.

8 Q Okay. Were you a witness to an
9 incident or an altercation at -- well, it
10 seems like your testimony is that you are a
11 witness to an altercation that happened in the
12 middle of the club. Is that correct?

13 A The first incident?

14 Q The first incident.

15 A Yes.

16 Q If you recall. And I believe your
17 testimony was that after the first incident,
18 the next incident happened about an hour
19 later. Is that your testimony?

20 A Um-hum. At the end of the night.

21 Q What was the amount of time
22 between the first fight and the next incident?

1 A About two hours.

2 Q About two hours.

3 A At like maybe 3:00 or 3:30,
4 whatever time the club closes.

5 Q Okay. Now, there were no
6 incidents in between those. Is that correct?

7 A I don't know.

8 Q Okay. But you were involved,
9 correct?

10 A Um-hum.

11 Q So you would have known had there
12 been another incident somewhere at the bar?

13 A Maybe.

14 Q Is that correct?

15 A I'm not sure.

16 Q Okay. Now, you had mentioned that
17 you were struck. Is that correct?

18 A I was pushed.

19 Q Okay. You were pushed. In what
20 proximity were you to Mr. Mundle at the time
21 that you were pushed, ma'am?

22 A We were both walking out together,

1 so very close.

2 Q Okay. Do you recall what pattern
3 or color shirt Mr. Mundle was wearing at the
4 time?

5 A It was a year ago, sir.

6 Q Well, I'm just asking.

7 A I'm not sure.

8 Q You're not sure?

9 A No.

10 Q Okay. So when you alleged you
11 were pushed down, what happened after that?

12 A After I was pushed, they all
13 started attacking Mr. Mundle.

14 Q All right. And how many people,
15 if you recall, attacked Mr. Mundle?

16 A I would be lying if I could give
17 you an exact number.

18 Q Was it over five?

19 A It could be four to five people.

20 Q Okay. And this occurred while you
21 were attempting to walk out of the bar,
22 correct?

1 A Yes.

2 Q Now, was there anyone else that
3 you know of, aside from the four or five
4 people that you have described, who you deemed
5 as being in any way involved in this
6 altercation?

7 A Can you say that again? I'm
8 sorry.

9 Q Aside from those four or five
10 people who you just described, in your
11 estimation, was there anyone else involved in
12 the altercation?

13 A On the inside, no. But on the
14 outside, yes.

15 Q Okay. We're just talking about
16 that second altercation right now.

17 A Okay.

18 Q Okay. Now, did any security
19 guards pull anyone apart during that second
20 altercation that happened as you recall?

21 A I don't -- I couldn't say.

22 Q Okay. So you don't know?

1 A I don't remember.

2 Q Okay. What's your recollection of
3 what happened to any of the four or five
4 people that you alleged attacked you and Mr.
5 Mundle?

6 A I don't know what happened to the
7 other people.

8 Q Okay. So I guess were either you
9 or Mr. Mundle helped up by security and taken
10 out of the establishment? Do you know?

11 A No.

12 Q Okay. So your testimony is that
13 you walked out on your own accord? Is that
14 correct?

15 A I walked out on my own, yes. The
16 club was basically empty at that point.

17 Q Okay. Did Mr. Mundle walk out on
18 his own as well?

19 A Mr. Mundle was trying to defend
20 himself as they all went outside.

21 Q So --

22 A So as he is being attacked, he was

1 going outside.

2 Q Okay. So it's your testimony that
3 four or five people were attacking him.
4 Correct me if I'm wrong. Four or five people
5 were attacking him during this second fight
6 and also you got pushed down. Your testimony
7 is also that you don't know that there were
8 any security involved, at that point, correct?

9 A On the inside, there was --

10 Q On the inside.

11 A -- no security involved.

12 Q Okay. And also it's your
13 testimony that you walked out on your own
14 accord?

15 A Yes.

16 Q But then Mr. Mundle was, I guess,
17 continually being attacked as he walked -- as
18 he went out of the establishment. Is that
19 correct?

20 A Yes.

21 Q Okay. Was there any break in time
22 between the brawl, alleged brawl occurring

1 inside and what allegedly occurred on the
2 outside of the establishment?

3 A You said was there any time in
4 between?

5 Q Any break in time when people
6 weren't fighting?

7 A No, not that I know of.

8 Q Okay. So it's your testimony that
9 it was a melee that lasted from that second
10 altercation all the way through the end of the
11 night?

12 A Yes.

13 Q Is that correct?

14 A Yes.

15 Q Okay. Did Mr. Mundle, according
16 to your testimony, ever have any interaction
17 with a police officer upon leaving the
18 establishment?

19 A I don't believe so. I believe
20 that he -- I can't tell you what he was doing,
21 because I don't know.

22 Q Okay. Where were you when you

1 were outside?

2 A Right in front of the club.

3 Q Okay. Were you watching the
4 altercation?

5 A And trying to defend myself at the
6 same time, because people were trying to punch
7 and hit me, too.

8 Q Okay. Did you -- could you see
9 Mr. Mundle as this altercation on the outside
10 was occurring?

11 A Yes.

12 Q Okay. And what specifically was
13 happening to Mr. Mundle?

14 A He was getting attacked several
15 times by different groups of people and even
16 when he was on the ground, he was getting
17 kicked and stomped on.

18 Q And this was -- and again, this
19 was a very fluid altercation from the second
20 one inside all the way to outside?

21 A Um-hum.

22 Q Is that correct?

1 A Yes.

2 Q Did Mr. Mundle fight back?

3 A He was trying to defend himself,
4 but after being in handcuffs on the ground,
5 you can't really do anything.

6 Q Okay. At what point was he put in
7 handcuffs?

8 A Towards the end of it.

9 Q Okay. So how exactly did MPD or
10 some police officer put him in handcuffs?
11 Describe that situation.

12 A I believe that was security that
13 put him in handcuffs.

14 Q So it's your testimony --

15 A It wasn't a uniform.

16 Q Okay. So your testimony is that
17 security officers, while Mr. Mundle was on the
18 ground, put him in handcuffs, correct?

19 A They put him in handcuffs and then
20 slammed him on the ground.

21 Q And then slammed him on the
22 ground. Okay. Was this -- all right. Who

1 else was around while this was occurring? Was
2 MPD?

3 A Everyone fighting.

4 Q About how many people would you
5 say were around Mr. Mundle being handcuffed
6 and then thrown to the ground?

7 A I don't recall seeing anyone else
8 being handcuffed, but the -- a lot of people
9 outside fighting had to be between 50 and 60
10 people, at least.

11 Q Okay. Now, about how long would
12 you say the fight on the outside lasted?

13 A Maybe like 10, 15 minutes.

14 Q 10 or 15 minutes. Okay. Now,
15 that night how much had you had to drink?

16 A One or two drinks. I never drink
17 more than two.

18 Q The entire night?

19 A The entire night.

20 Q How recently had you had a drink
21 when the first fight occurred?

22 A I don't know.

1 Q Okay. Had you had a drink since
2 the first fight?

3 A I only had two drinks the whole
4 night, so I can't really tell you at what time
5 I had my drink.

6 Q Okay.

7 A It was like a year ago, so --

8 Q Okay. Now, you mentioned that you
9 took, along with a couple of other people, Mr.
10 Mundle home, correct?

11 A (No audible answer.)

12 Q And your testimony was that, at
13 that point, you realized the extent of his
14 injuries.

15 A When we arrived home.

16 Q When you arrived home?

17 A Um-hum.

18 Q And then Mr. Mundle then went to
19 the hospital?

20 A Yes.

21 Q What else happened? Did he change
22 clothes? Did he -- what happened during this

1 entire process?

2 A When we got home, they went
3 straight to the hospital, which was like 5:00
4 in the morning, because we live in Montgomery
5 County. And they stayed in the hospital for
6 a couple of hours that day.

7 Q So did he change clothes at home?
8 Do you know?

9 A No.

10 Q Okay. Did he or not?

11 A No.

12 Q He did not. Okay.

13 MR. MANNING: All right. That's
14 all we have.

15 CHAIRPERSON MILLER: Okay. Are
16 there any Board questions right now? Yes, Mr.
17 Brooks?

18 MEMBER BROOKS: Yes. Thank you,
19 Madam Chair.

20 Is it Posely?

21 MS. POSELY: Posely.

22 MEMBER BROOKS: Posely, okay. Had

1 you been to K Street before this event?

2 MS. POSELY: I have.

3 MEMBER BROOKS: You have.

4 Approximately how many times?

5 MS. POSELY: Once --

6 MEMBER BROOKS: Once.

7 MS. POSELY: -- only.

8 MEMBER BROOKS: Okay. And how

9 long ago was that before this incident?

10 MS. POSELY: Like a month before.

11 MEMBER BROOKS: Okay. Any

12 problems there at the time?

13 MS. POSELY: Not the time that

14 went, no.

15 MEMBER BROOKS: Okay. And you

16 said that you saw security there and they were

17 dressed how?

18 MS. POSELY: All black.

19 MEMBER BROOKS: All black, okay.

20 MS. POSELY: Um-hum.

21 MEMBER BROOKS: And was security

22 written on the back of their shirts or any

1 other --

2 MS. POSELY: They are --

3 MEMBER BROOKS: -- identification?

4 MS. POSELY: -- dressed in like

5 blazers --

6 MEMBER BROOKS: Blazers.

7 MS. POSELY: -- or button-ups.

8 MEMBER BROOKS: Okay. Thank you.

9 And you indicated there were some -- you said
10 there were some women or girls hitting --

11 MS. POSELY: Mr. Mundle.

12 MEMBER BROOKS: -- Mr. Mundle?

13 MS. POSELY: Yes.

14 MEMBER BROOKS: Any particular
15 reason that you could ascertain?

16 MS. POSELY: I can't even tell you
17 why the fight broke out or why it was -- who
18 engaged in the fight and why so many people
19 were fighting, I honestly don't know.

20 MEMBER BROOKS: Okay. And in
21 talking to Mr. Mundle afterwards, did he share
22 anything with you as far as why he believed he

1 was being hit like that?

2 MS. POSELY: He couldn't really
3 talk. His jaw was broken.

4 MEMBER BROOKS: But I meant since,
5 you know, he was --

6 MS. POSELY: He doesn't understand
7 why, sir.

8 MEMBER BROOKS: Okay. And you
9 indicated that someone was putting handcuffs
10 or put him in handcuffs and you indicated that
11 you thought it was security.

12 MS. POSELY: I thought it was
13 security.

14 MEMBER BROOKS: And how did you
15 think it was security?

16 MS. POSELY: Because they didn't
17 have a uniform on, like nothing that said like
18 police or anything.

19 MEMBER BROOKS: So what did they
20 have on?

21 MS. POSELY: Black.

22 MEMBER BROOKS: Similar to what

1 the security staff had inside?

2 MS. POSELY: (No audible answer.)

3 MEMBER BROOKS: Okay.

4 MS. POSELY: Yes.

5 MEMBER BROOKS: And did Mr.

6 Mundle, to you, appear intoxicated?

7 MS. POSELY: No.

8 MEMBER BROOKS: How many drinks do
9 you think he had?

10 MS. POSELY: I don't know, sir.

11 MEMBER BROOKS: Okay. Thank you,
12 Madam Chair.

13 CHAIRPERSON MILLER: Okay. Yes,
14 Mr. Nophlin?

15 MEMBER NOPHLIN: Yes, thank you.

16 CHAIRPERSON MILLER: Yes.

17 MEMBER NOPHLIN: Ms. Posely, in
18 the reference to the Board Member next to me,
19 was there any MP, Metropolitan Police, out
20 there, do you know?

21 MS. POSELY: Yes. I can't tell
22 you how many, but there were a couple of cars

1 lined up beside the club.

2 MEMBER NOPHLIN: When you -- when
3 the fight pursued or --

4 MS. POSELY: Yes.

5 MEMBER NOPHLIN: -- after?

6 MS. POSELY: When we all came
7 outside and the fight was going on, the cars
8 were out there.

9 MEMBER NOPHLIN: Okay. And while
10 you were inside, did you actually see the
11 fight occurring?

12 MS. POSELY: The first --

13 MEMBER NOPHLIN: Inside the --

14 MS. POSELY: Inside or the fight
15 that was -- that I was involved in?

16 MEMBER NOPHLIN: The fight that
17 you were involved in. No, I'm sorry. The
18 first fight.

19 MS. POSELY: I saw like the
20 commotion, the people and then it went
21 outside, so I wasn't close enough to see what
22 they did.

1 MEMBER NOPHLIN: Okay. And I'm
2 sorry, maybe I didn't read this correctly.
3 Were you involved -- you weren't involved in
4 the fight itself?

5 MS. POSELY: No.

6 MEMBER NOPHLIN: You were a victim
7 of the fight?

8 MS. POSELY: Yes.

9 MEMBER NOPHLIN: And you were
10 struck while --

11 MS. POSELY: Well, a person tried
12 to punch me and Mr. Mundle pushed me out of
13 the way.

14 MEMBER NOPHLIN: Okay.

15 MS. POSELY: And so he got hit.

16 MEMBER NOPHLIN: And you don't
17 know the person was who struck you?

18 MS. POSELY: No.

19 MEMBER NOPHLIN: After this
20 happened, everybody went outside. The
21 security asked them to go outside?

22 MS. POSELY: They didn't ask them

1 to go outside. The fight was still going on.

2 MEMBER NOPHLIN: Going on.

3 MS. POSELY: And it kind of just
4 followed outside.

5 MEMBER NOPHLIN: Okay.

6 MS. POSELY: And they were
7 following him as he was trying to run outside.

8 MEMBER NOPHLIN: Okay. Now, how
9 long did you stay around after this occurred,
10 by the way?

11 MS. POSELY: Just for the 10 to 15
12 minutes while we were waiting for the car to
13 be pulled up.

14 MEMBER NOPHLIN: Was anybody
15 arrested? Did you notice, was anybody
16 arrested?

17 MS. POSELY: I didn't notice
18 anyone being arrested, sir.

19 MEMBER NOPHLIN: Okay. And you
20 immediately left to go home after this
21 occurred?

22 MS. POSELY: (No audible answer.)

1 MEMBER NOPHLIN: So you didn't
2 give anybody any statements or anything at the
3 time?

4 MS. POSELY: No. They didn't try
5 to ask for any. They just walked around
6 telling everyone to go home before they start
7 pepper spraying.

8 MEMBER NOPHLIN: Okay. I hope you
9 weren't injured. Thank you, Madam Chair.

10 CHAIRPERSON MILLER: You're
11 welcome. Yes, Mr. Jones?

12 MEMBER JONES: Thank you, Madam
13 Chair. Just for clarification. So the first
14 altercation that you witnessed this
15 altercation, did you see people that you
16 recognized to be security staff members
17 intervening in that altercation, at any point?

18 MS. POSELY: No.

19 MEMBER JONES: No?

20 MS. POSELY: No.

21 MEMBER JONES: To your
22 recollection, how did the individuals that

1 were involved in the first altercation that
2 you witnessed, did they end up outside or did
3 they just -- like I'm trying to picture the
4 scene.

5 So there are individuals that are
6 fighting.

7 MS. POSELY: Okay.

8 MEMBER JONES: Or involved in an
9 altercation. And when they are involved in an
10 altercation, I'm trying to -- where they
11 continuously involved in the altercation as
12 they moved outside? Like how did they get
13 from inside to outside --

14 MS. POSELY: There is --

15 MEMBER JONES: -- if security
16 didn't intervene?

17 MS. POSELY: The club is -- from
18 like one point to the other wall, it's really
19 small. So you can see like down the hallway
20 and there is a lot of doors, so the door that
21 they were fighting there, that's the door that
22 they went out. So that was the entrance door

1 that everyone walked into.

2 MEMBER JONES: Understood. So
3 they went out on their own. So they were
4 involved in an altercation.

5 MS. POSELY: And they went
6 outside.

7 MEMBER JONES: And they just in
8 the process of fighting, they managed to get
9 outside. And did they, to your knowledge,
10 continue to fight outside or were you not able
11 to see?

12 MS. POSELY: No, I was unable to
13 see.

14 MEMBER JONES: You were unable to
15 see. But you are fairly certain that you
16 didn't witness anybody that you recognized to
17 be members of security staff intervene in that
18 altercation while it was inside. Is that a
19 fair statement?

20 MS. POSELY: No, I don't remember
21 seeing.

22 MEMBER JONES: You don't remember.

1 Okay.

2 MEMBER MOBLEY: Excuse me, could
3 you speak into the microphone?

4 MS. POSELY: I'm sorry.

5 MEMBER JONES: Okay. I'm sorry.

6 So that was the first altercation. So you
7 witnessed that and I believe you indicated
8 that occurred about two hours prior to the
9 altercation in which you were involved.

10 MS. POSELY: Yes.

11 MEMBER JONES: Is that a fair
12 characterization?

13 MS. POSELY: Yes.

14 MEMBER JONES: Okay. Did you
15 happen to see security staff in the
16 establishment or people that you recognized to
17 be members of security staff in the
18 establishment anywhere after the time that you
19 witnessed the first altercation to the time
20 that you left?

21 MS. POSELY: Yes, I did.

22 MEMBER JONES: You did.

1 MS. POSELY: I did.

2 MEMBER JONES: Okay. Do you have
3 any idea of the number of people that you saw
4 that you recognized to be security staff?

5 MS. POSELY: Well, I just remember
6 the ones that were near me.

7 MEMBER JONES: Yes, ma'am.

8 MS. POSELY: And I was near closer
9 to the entrance of the club and there was
10 about three.

11 MEMBER JONES: About three?

12 MS. POSELY: Um-hum.

13 MEMBER JONES: Okay. When you
14 were engaged in this altercation that you were
15 a part of --

16 MS. POSELY: Um-hum.

17 MEMBER JONES: -- did you happen
18 to see security staff members that you
19 recognized to be security staff members to
20 come in to engage the individuals that were
21 involved in the altercation?

22 MS. POSELY: No, I didn't. It

1 kind of happened so fast. The only people I
2 remember being around was the bartenders like
3 closing up the registers and the clean-up and
4 everything.

5 MEMBER JONES: Okay. What were
6 the actions of the bartenders at the time the
7 altercation was occurring at the end?

8 MS. POSELY: I don't know.

9 MEMBER JONES: You don't know?
10 Okay. And if I remember correctly, you said
11 it was near closing?

12 MS. POSELY: Yes. The lights were
13 on.

14 MEMBER JONES: The altercation
15 that you were involved in, the lights were on?

16 MS. POSELY: Um-hum.

17 MEMBER JONES: Okay. Was there an
18 announcement made to say last call? Was there
19 an announcement made saying hey, lights are on
20 you need to get out of the club, because we
21 are closing at a certain time? Was there any
22 type of indication of that?

1 MS. POSELY: Well, everyone
2 usually knows though when the lights come on,
3 that's the end of the club.

4 MEMBER JONES: Understood.

5 MS. POSELY: And then security
6 usually tells you to make your way towards the
7 exit.

8 MEMBER JONES: Understood. So
9 security usually tells you.

10 MS. POSELY: Yes.

11 MEMBER JONES: In this instance,
12 did security -- did you witness security
13 telling you or anyone else that it was time to
14 exit the establishment?

15 MS. POSELY: No.

16 MEMBER JONES: No? Okay.

17 MS. POSELY: Not to me.

18 MEMBER JONES: Okay. Thank you.
19 Thank you, Madam Chair.

20 CHAIRPERSON MILLER: Others? I
21 just have a couple of follow-up questions.

22 So you got involved in being

1 struck as you were leaving once the lights
2 were out?

3 MS. POSELY: The lights were on.

4 CHAIRPERSON MILLER: Lights were
5 on, excuse me. So that's why you were leaving
6 because the lights came on?

7 MS. POSELY: Yes.

8 CHAIRPERSON MILLER: You were
9 leaving and then you were struck for no reason
10 that you --

11 MS. POSELY: You know, we had such
12 a good time that night, we had so much fun,
13 that's why I didn't understand like where the
14 fight came from or why or don't understand
15 how.

16 CHAIRPERSON MILLER: Did you learn
17 after the fact why?

18 MS. POSELY: No.

19 CHAIRPERSON MILLER: Or who or
20 anything like that?

21 MS. POSELY: No. With the
22 investigation, I guess they had video and so

1 they took it and tried to ID some of the
2 people around this.

3 CHAIRPERSON MILLER: Okay.

4 MS. POSELY: But I don't know the
5 people or why it happened.

6 CHAIRPERSON MILLER: And were you
7 hurt?

8 MS. POSELY: No.

9 CHAIRPERSON MILLER: Okay.

10 MS. POSELY: Just pushed.

11 CHAIRPERSON MILLER: Pushed, okay.
12 Okay. Yes, Mr. Nophlin?

13 MEMBER NOPHLIN: Madam Chair,
14 thank you very much.

15 At some point, did the
16 investigators talk to you about the incident
17 at all? Did someone ask you about what
18 happened?

19 MS. POSELY: After the fact, like
20 a couple of days later, one of my friends
21 wrote a letter to the District of Columbia
22 Police Station and was saying that what

1 happened, like how come no one was doing their
2 job, basically. And so then that's when they
3 came out to my friend's house and talked to
4 all of us and asked us what happened and like
5 followed up with the investigation and
6 everything. They did do an investigation.

7 MEMBER NOPHLIN: This was
8 Metropolitan Police Department?

9 MS. POSELY: (No audible answer.)

10 MEMBER NOPHLIN: No one from the
11 establishment talked to you at all or --

12 MS. POSELY: No.

13 MEMBER NOPHLIN: -- asked for an
14 incident report?

15 MS. POSELY: No.

16 MEMBER NOPHLIN: Okay. Thank you,
17 Madam Chair.

18 CHAIRPERSON MILLER: Thank you.
19 Ms. Mobley?

20 MEMBER MOBLEY: Yes, Madam Chair.

21 Ms. Posely --

22 MS. POSELY: Um-hum.

1 MEMBER MOBLEY: -- I understand
2 that you were -- I heard you say that you were
3 hit to the ground as you were leaving. The
4 lights were on and you were leaving, but I
5 thought I also heard you say at one point you
6 didn't see any security guards inside the
7 establishment.

8 Then later on when you were -- I
9 thought I heard you say you saw two or three
10 inside at some point.

11 MS. POSELY: While we were all
12 partying before the fight broke out, there was
13 one or two at the door and like one near the
14 bathroom. And that's where I was standing
15 prior to that, near that. So those were the
16 three that I saw during the night while we
17 were having fun.

18 MEMBER MOBLEY: During the night.
19 But again --

20 MS. POSELY: At the end?

21 MEMBER MOBLEY: At the end, no
22 security guards?

1 MS. POSELY: No.

2 MEMBER MOBLEY: Then when you went
3 outside, I heard you say that there was a
4 security guard that actually handcuffed Mr.
5 Mundle?

6 MS. POSELY: I believe so.

7 MEMBER MOBLEY: Was it just one
8 security guard or was there more than one?

9 MS. POSELY: That handcuffed him?
10 It was just one that handcuffed him.

11 MEMBER MOBLEY: Okay. At any
12 time, did the individuals who were doing the
13 fighting, did they attack this one security
14 guard?

15 MS. POSELY: No.

16 MEMBER MOBLEY: No? Okay. And
17 you are saying that the Metropolitan Police
18 Department was parked to the side and they
19 never came over?

20 MS. POSELY: Not during the
21 scuffle.

22 MEMBER MOBLEY: Not during the

1 scuffle?

2 MS. POSELY: No.

3 MEMBER MOBLEY: Not during the
4 scuffle, but I'm hearing you say there were --

5 MS. POSELY: I --

6 MEMBER MOBLEY: -- 40 or 50 or 60
7 people outside all fighting?

8 MS. POSELY: Yes.

9 MEMBER MOBLEY: And you are
10 telling us that no Metropolitan Police Officer
11 got out of the car to come over to try to stop
12 the fight?

13 MS. POSELY: Not until the end.
14 Not to say until they were going to spray
15 pepper spray for everyone to leave and go
16 home.

17 MEMBER MOBLEY: Okay. And at any
18 time, did any person, a bartender or a manager
19 of the club get involved in this to see what
20 was going on?

21 MS. POSELY: Not that I know. I
22 just remember there being very few security

1 outside during the whole scuffle.

2 MEMBER MOBLEY: Now, I heard you
3 say a few minutes ago, there was only one
4 security guard.

5 MS. POSELY: I seen one security
6 guard handcuff Mr. Mundle.

7 MEMBER MOBLEY: Yes.

8 MS. POSELY: But outside within
9 the whole event, I seen like three or four
10 security outside.

11 MEMBER MOBLEY: And what were they
12 doing?

13 MS. POSELY: I guess trying to
14 break it up.

15 MEMBER MOBLEY: Okay.

16 MS. POSELY: It was -- okay.
17 Between me trying to witness everything, I'm
18 trying to defend myself and not get attacked
19 at the same time, so I'm not just standing and
20 watching.

21 MEMBER MOBLEY: Okay. And I heard
22 this question asked earlier, so I'll have to

1 ask it again.

2 MS. POSELY: Um-hum.

3 MEMBER MOBLEY: You don't have any
4 idea why these two different fights occurred
5 inside and out?

6 MS. POSELY: I have no --

7 MEMBER MOBLEY: What cause the
8 altercations?

9 MS. POSELY: I don't have --

10 MEMBER MOBLEY: But there were
11 other patrons?

12 MS. POSELY: Other patrons in the
13 club.

14 MEMBER MOBLEY: Okay. All right.
15 No further questions, Madam Chair.

16 CHAIRPERSON MILLER: Okay. I just
17 have a couple. Do you -- unless you have
18 answered this already, but do you have an idea
19 as to how long the scuffle occurred outside
20 before the police stepped in?

21 MS. POSELY: Um, 10 minutes.

22 CHAIRPERSON MILLER: 10 minutes?

1 MS. POSELY: I would say.

2 CHAIRPERSON MILLER: Okay. And do
3 you have an estimate of how many people there
4 were in the club at the time? I mean, you
5 said the fight was 50 or 60. And I'm just
6 wondering how many other people there were.

7 MS. POSELY: It's a small club. I
8 don't think you could fit more than 200 or 300
9 people.

10 CHAIRPERSON MILLER: Okay. Thank
11 you. Anything else? Okay. Mr. Stern?

12 MR. STERN: Just one thing. Just
13 one thing.

14 CHAIRPERSON MILLER: Yes.

15 REDIRECT EXAMINATION

16 BY MR. STERN:

17 Q You were pushed to the ground you
18 said at the beginning when you were inside?

19 A Yes.

20 Q And you were asked about what you
21 saw occur between Mr. Mundle and potentially
22 the security guards or customers who left. Is

1 that what you saw when you were on the ground?

2 A No, because the involvement with
3 the security guard and Mr. Mundle happened
4 outside.

5 Q No, no, no. I don't mean the
6 handcuffing. I mean, you were asked whether
7 or not a security guard took Mr. Mundle
8 outside.

9 A No, they didn't take him outside.

10 Q Okay. And were you looking at Mr.
11 Mundle from the ground at that time?

12 A Yes.

13 Q Okay. So anyone around him you
14 would have also been looking at on the ground,
15 right?

16 A Well, when you say other person?

17 Q Anyone that was around him, you
18 would have also been looking at from the
19 ground?

20 A Looking at from the ground, yes.

21 Q Okay.

22 MR. STERN: Thank you. That's

1 all.

2 THE WITNESS: You're welcome.

3 CHAIRPERSON MILLER: Yes?

4 MR. MANNING: Just one more, if
5 you don't mind.

6 RECROSS-EXAMINATION

7 BY MR. MANNING:

8 Q Did you ever ask for medical
9 attention on-site?

10 A I didn't need it.

11 Q Do you know if anyone else did?

12 A Yes. His girlfriend asked if
13 there was an ambulance or if someone is going
14 to call an ambulance and we got frustrated, so
15 we just left.

16 Q Okay.

17 A And went home.

18 Q Who did ask? Patricia, correct?

19 A Yes.

20 Q Who did Patricia ask?

21 A I don't know who she asked.

22 Q Okay.

1 A I wasn't walking with her when she
2 asked.

3 Q And do you know specifically what
4 she asked for?

5 A No.

6 Q Okay. Are you aware that some
7 photographs were taken of Mr. Mundle's
8 injuries?

9 A At the hospital.

10 Q Okay. That answered my question.
11 Thank you.

12 CHAIRPERSON MILLER: Okay. Thank
13 you.

14 MS. POSELY: Thank you.

15 CHAIRPERSON MILLER: Sir, I must
16 swear you in. Will you raise your right hand?
17 Whereupon,

18 DENVER MUNDLE
19 was called as a witness by Counsel for the
20 Government, and having been first duly sworn,
21 assumed the witness stand and was examined and
22 testified as follows:

1 CHAIRPERSON MILLER: Okay. Go
2 ahead.

3 DIRECT EXAMINATION

4 BY MR. STERN:

5 Q Good afternoon. Could you give us
6 your name and spell your last name for the
7 record, please?

8 A Denver Mundle, M-U-N-D-L-E,
9 Mundle.

10 Q And, Mr. Mundle, are you familiar
11 with an establishment known to you as K
12 Street?

13 A Yes, sir.

14 Q And were you there on November 6,
15 2010?

16 A Yes, sir.

17 Q Tell me, about what time did you
18 arrive at K Street that evening?

19 A Like around 12:00.

20 Q Okay. They need to catch you on
21 the tape, so if you could keep --

22 A Around like 12:00.

1 Q -- your voice up.

2 A 12:00.

3 Q Okay. And who did you go with?

4 A My ex-girlfriend and my friend,
5 Ms. Posely.

6 Q Okay. About how many people was
7 there?

8 A Like six.

9 Q Okay. And what happened when you
10 arrived at K Street?

11 A I paid to go inside, get served
12 inside and had a few drinks.

13 Q Okay. Did anything unusual --
14 well, tell me the first thing unusual that you
15 saw when you went into K Street.

16 A Well, security out back.

17 Q Okay. Did something happen that
18 was out of the ordinary?

19 A There was a fight, an incident
20 that happened.

21 Q Okay. And do you know about when
22 that fight occurred?

1 A Like 1:00 or 1:30.

2 Q Okay. And can you describe what
3 happened?

4 A What happened is like a bunch of
5 people, a bunch of guys fighting. One person
6 and one guy was fighting. Two were at the
7 side door and everybody at the side door
8 actually came back in, so that's how I
9 remember it.

10 Q Okay. Now, you said a bunch of
11 guys were fighting and only one guy was
12 fighting. Can you explain that?

13 A Yes, one guy was fighting one guy.

14 Q Okay.

15 A And one guy was fighting on ground
16 and probably like 60 people was surrounding
17 them.

18 Q Okay. And did you see how that
19 evolved, what happened?

20 A The men just went outside.

21 Q Okay. You said that you noticed
22 security guards in black.

1 A Yes.

2 Q Did you see --

3 A When the press came inside, you've
4 got to come inside, you know, and let the
5 security guard search you.

6 Q Okay. Did you see --

7 A No. As far as that, I don't see
8 no security guard walking along or anything.

9 Q Okay. Did you see any security
10 guards around when this incident occurred?

11 A Outside.

12 Q Did the security guards take those
13 people outside the back door?

14 A I didn't see no security guards.

15 Q What I call the back door, was it
16 the back door?

17 A That's the side door.

18 Q Okay. It wasn't the entry door?

19 A It wasn't the entry door.

20 Q Okay. Did any other incident
21 occur while you were there?

22 A That's the only incident I saw.

1 Q Okay. And after that, before you
2 left, did any incident occur?

3 A With me walking out.

4 Q Okay. About what time was it when
5 you were walking out?

6 A I don't know. It was my first
7 time in the club, so I'm not even sure what
8 time they finished, but the time everybody
9 walked out --

10 CHAIRPERSON MILLER: Okay. Excuse
11 me, please, Mr. Mundle?

12 THE WITNESS: Yes, ma'am?

13 CHAIRPERSON MILLER: Can you speak
14 louder or into the microphone, because the
15 transcriber is having difficulty catching --

16 THE WITNESS: Oh, I'm sorry.

17 CHAIRPERSON MILLER: That's okay.

18 BY MR. STERN:

19 Q Okay. So at the time the club was
20 closed, do you recall whether or not the
21 lights were on when this started?

22 A I do not recall.

1 Q Okay. And tell me what happened.

2 A I was walking outside. I was with
3 my brother.

4 Q Okay. When you say you were
5 walking outside --

6 A My --

7 Q -- outside or into the crowd?

8 A The crowd walking outside. There
9 was a crowd walking to the door to go outside.
10 I guess the club was finished. And my brother
11 was saying look up and there was a guy on the
12 stage. As soon as I look up, he jumped off in
13 the crowd and then punched me. And then the
14 police came to my house and the police said
15 the guy on the stage punched me was the guy on
16 the left side -- this side of him. He punched
17 me right here in the face.

18 So after that happened, then a
19 rumble started.

20 Q Okay.

21 A And then -- sorry.

22 Q Just slow down. So you got

1 punched in both sides of the face?

2 A Yes, sir.

3 Q Okay. And then what happened?

4 A And then the rumble started and I
5 started getting hit back and front, back and
6 front, back and front. I'm not really sure
7 who hit me.

8 Q Could you tell how many people
9 were involved?

10 A There was a lot. I'm going to say
11 it was like eight. As soon as we went
12 outside, there was like three girls, four
13 girls outside. Four girls came. Sorry.

14 Q I'm sorry, but I'm just talking
15 about inside.

16 A Oh, inside, inside.

17 Q Were you able to see how many
18 people it was?

19 A Kind of like around three to four.

20 Q Okay. And then what happened?

21 A And then somehow we happened to
22 went outside. The security guard went with us

1 outside. We ended up going outside and
2 started rumbling and the whole incident ended
3 up outside.

4 Q Okay. So you were pushed or
5 pulled or whatever to get outside?

6 A To outside.

7 Q And what happened once you were
8 outside?

9 A As soon as I got outside, four
10 girls came towards me saying you punched my
11 brother. And then as soon as they said that,
12 I got hit from the back again. So I got hit
13 from the back, I end up like a couple steps
14 down from the club and I was still fighting.

15 I'm trying to fight like four
16 people off. And then somehow security guard
17 in all black, a big guy, grabbed me and
18 slammed me on the ground and that's when my
19 hand got damaged. When I was on the ground,
20 he left me there and then they come over and
21 start fighting me on the ground.

22 Q Okay. Were you handcuffed at that

1 time?

2 A No.

3 Q Okay.

4 A There was four police down in
5 front that said go home before I pepper spray
6 you all.

7 Q Okay. So you were slammed to the
8 ground by?

9 A Security guard. He was wearing
10 all black and he was pretty big.

11 Q Okay. And what happened? You
12 said he left you. Then did you get up?

13 A Yeah, my friends came and picked
14 me up.

15 Q Okay. And what happened next?

16 A I went home, because nobody would
17 help us.

18 Q And what did you do when you got
19 home?

20 A My ex-girlfriend, she was taking
21 care of my face, because she was wiping the
22 blood off my face and then she was like no,

1 your jaw is broken. I didn't know that had
2 happened. And I went to the hospital.

3 Q Okay. And what happened at the
4 hospital?

5 A I mean, they put in some IVs and
6 then they send back home and I have to wait,
7 right, since it's over a weekend to go to
8 Baltimore to get the stuff out, because I
9 didn't have insurance at that time.

10 Q Okay. What ultimately happened?
11 When did you learn what happened to your hand?

12 A Yes. Um, there's like something
13 in here that was missing. I'm not really sure
14 what -- it was not even broke or something
15 missing that have to go inside and fix it.

16 Q Okay. And when they said to go
17 inside and fix it, did you have an operation?

18 A Yes, I had an operation.

19 Q Okay. And do you have a scar
20 there from that operation?

21 A Yes, sir.

22 Q Okay. Okay. And how long were

1 you in the hospital for that operation?

2 A Went in one day and out, one day.

3 Q Okay. And did you eventually
4 learn what happened to your jaw?

5 A Broke.

6 Q Okay. And what did the doctor do
7 for that?

8 A They wired it shut.

9 Q Okay. And how long was your jaw
10 like that?

11 A About four months. I had it done
12 when it happened on the 11th, so it took like
13 until around January 6th, January 8th.

14 Q Now, when you were -- after you
15 had been thrown to the ground, was any -- were
16 you aware of any medical personnel being
17 called?

18 A Nobody got called.

19 Q Were you aware of, you know, EMTs,
20 emergency?

21 A No, nobody got called.

22 Q Okay.

1 A The only thing the police said was
2 just go home before we pepper spray.

3 Q Okay. Thank you.

4 MR. STERN: That's all the
5 questions I have.

6 CROSS-EXAMINATION

7 BY MR. MANNING:

8 Q Hi, Mr. Mundle.

9 A Hello, sir.

10 Q I'm Chris Manning. I represent
11 the licensee. I have a few questions for you.

12 I want to separate these fights, I
13 guess, into three different incidents. So
14 whenever I refer to the first incident, it's
15 the one that occurred first in the middle of
16 the club. Now, the second one, I guess, would
17 be when you alleged that you were struck as
18 you were leaving. And then the third one is
19 the one that occurred outside.

20 So when I refer to the first,
21 second and third incident, just so you know
22 that's what I'm referring to.

1 A Okay.

2 MEMBER JONES: Excuse me, please,
3 Madam Chair, I'm sorry, could the attorney
4 talk through the mike, please?

5 MR. MANNING: Sure.

6 MEMBER JONES: Put the mike there.
7 That's it.

8 MR. MANNING: My apologies.

9 MEMBER JONES: That's okay. Thank
10 you.

11 BY MR. MANNING:

12 Q So let's talk a little bit about
13 when you arrived at the establishment. At
14 that point in your life, how many drinks had
15 you had that night?

16 A Like two.

17 Q Okay. And at the establishment
18 how many had you had?

19 A Like two.

20 Q Okay. How long were you at K
21 Street?

22 A Until the end of the club.

1 Q So about how many hours, would you
2 say?

3 A From 12:00, one, two, three, four.

4 Q Okay.

5 A About three or four hours.

6 Q Okay. Now, with regard to the
7 first fight, where were you when that fight
8 occurred?

9 A Next to my girlfriend.

10 Q Where were you in relation to the
11 bar? Were you by the bar? Were you by
12 chairs?

13 A No, the bar was like right here
14 and I was like right here.

15 Q Okay.

16 A 3 feet away.

17 Q Understood.

18 CHAIRPERSON MILLER: If it's a
19 problem, you can turn off the one that is not
20 being used, but that's helping to pick up your
21 voice more.

22 MR. MANNING: Okay.

1 BY MR. MANNING:

2 Q So just to -- before the
3 interruption, where were you standing at the
4 time of the first fight?

5 A A few feet away from the bar.

6 Q Okay.

7 MEMBER MOBLEY: You can turn the
8 other one off, because you're getting --

9 CHAIRPERSON MILLER: Yes.

10 MR. MANNING: Turn it down.

11 MEMBER MOBLEY: -- feedback.

12 CHAIRPERSON MILLER: Or off.

13 MR. MANNING: Okay.

14 MEMBER MOBLEY: Thank you.

15 MR. MANNING: So this one is
16 working.

17 BY MR. MANNING:

18 Q Okay. How did the first fight
19 start, to your knowledge?

20 A To my knowledge, I don't really
21 know, because I don't know the person that
22 started the fight.

1 Q Okay.

2 MR. MANNING: I'm sorry, I'll just
3 take a second and fix this.

4 CHAIRPERSON MILLER: Okay. You
5 have to see a green light, first of all, for
6 it to be on.

7 MR. MANNING: Okay. So this one
8 is not working.

9 CHAIRPERSON MILLER: Okay.

10 MR. MANNING: Okay. Thanks.

11 BY MR. MANNING:

12 Q Were there a whole bunch of
13 people --

14 A Yes, sir.

15 Q -- attacking one person?

16 A Yes, sir.

17 Q Or was it a whole bunch --

18 A A whole bunch --

19 Q -- of people --

20 A -- people. A bunch of people
21 attacking one person.

22 Q Okay. Now, how did that fight get

1 split up? I think your testimony was that no
2 security guards came in.

3 A Yes, I didn't see no security
4 guard. The side door was -- it was at the
5 side door, so all the crowd kind of like
6 choose the side door, that was fighting. I
7 don't know if they came back in or didn't come
8 back in. But they came back in somehow and I
9 don't know what happened, to be honest.

10 Q Okay. Understood. Now, just for
11 our purposes, if you don't mind, if I can just
12 finish my question, it's easier for the
13 transcriptionist before you jump in. Just so
14 you know.

15 So your testimony then is that
16 there was one individual being attacked by a
17 number of individuals.

18 A Yes, sir.

19 Q And that fight then ended by those
20 individuals by their choice, the attackers,
21 just leaving. Is that correct?

22 A Yes, sir.

1 Q Now, what happened to the
2 individual who was being attacked?

3 A I have no idea.

4 Q Okay.

5 A They went outside, so I'm not
6 really sure what happened outside.

7 Q Okay. Who stayed in that area?

8 A I mean, when the fight happened,
9 everybody went outside that was fighting, the
10 rumble out there, they went outside, so I'm
11 not sure if they came back in or not, because
12 I was -- like I said, I don't know the people.
13 It's my first time at the club.

14 Q Okay. Now, you mentioned that you
15 were at the bar at the time the fight was --

16 A No, I was --

17 Q -- beginning.

18 A -- a couple feet away from the
19 bar.

20 Q Okay. A couple feet away from the
21 bar, but in the bar area. Is that correct?

22 A A couple feet away from the bar.

1 Q Now, at any point, did you
2 approach the individuals who --

3 A No, sir.

4 Q If you don't mind, just so I can
5 finish the question.

6 At any point, did you approach the
7 individuals who had been fighting or did you
8 approach the area in which they were fighting?

9 A No, sir.

10 Q Okay. Is that a no?

11 A I didn't approach nobody.

12 Q Okay. What did you do after the
13 fight occurred? Immediately after the fight
14 occurred.

15 A We stayed inside and listened to
16 music.

17 Q Okay. Did you dance by yourself?
18 Did you dance with your girlfriend? Did you
19 get another drink?

20 A I was dancing with my girlfriend.

21 Q Okay. Did you ever dance by
22 yourself at any point?

1 A Yes.

2 Q Okay. Now, moving from -- about
3 how long did that first fight take, to your
4 knowledge?

5 A The first fight that happened?

6 Q Yes.

7 A That I saw?

8 Q Yes.

9 A The brawl?

10 Q Correct.

11 A Like an hour later.

12 Q I'm sorry. How long -- what was
13 the duration of that first --

14 A Like an hour.

15 Q So it took an -- they were
16 fighting for an hour?

17 A No. They wasn't fighting for an
18 hour.

19 Q Okay. How long were they fighting
20 for?

21 A It was fighting for like, what, I
22 can't really say. They was fighting.

1 Q Was it longer than five minutes?

2 A It was longer than five minutes.

3 Q So they were fighting for longer
4 than five minutes?

5 A Yes.

6 Q Okay. And how long did it take
7 between the time of the first fight and then
8 what I'm calling the second fight, which is
9 the time in which you alleged you got struck?

10 A When the club is finished, like I
11 said, I don't know when the club is finished,
12 it's my first time there, so after the club --
13 everybody walking out. So I can't really give
14 you a time on that.

15 Q So just an estimate though?

16 A I can't give you an estimate,
17 because I'm not really sure.

18 Q So would you say it was --

19 A At the end of the club.

20 Q Okay. Would you say there was
21 more than 30 minutes elapsed between the time
22 of the first fight and the time of the second

1 fight?

2 A Like I say, it was the end of the
3 club, so I can't really give you a time that
4 I'm not sure about.

5 Q Okay. So your testimony is you
6 are not able to recall the time at which this
7 10 minute fight occurred? The time between
8 when the brawl happened --

9 A The fight when the brawl happened
10 an hour later. The club was -- I guess the
11 club was coming down or close and that's when
12 the fight happened. That's when our thing
13 happened.

14 Q The second. So about an hour. Is
15 that your testimony?

16 A I would say that.

17 Q Okay. Now, let's go to that
18 second fight. I think your testimony was that
19 you were leaving, you were attempting to leave
20 the establishment. Is that correct?

21 A Yes, we was all leaving when the
22 club finished.

1 Q Okay. And your recollection is
2 that someone came off of a stage or a chair to
3 hit you, correct?

4 A No, no.

5 Q But you -- then you recall --

6 A It was like --

7 MR. STERN: Objection.

8 THE WITNESS: It was like a
9 podium. It was like a podium.

10 BY MR. MANNING:

11 Q Okay.

12 A So he can actually see the person,
13 you know, it was like a podium. So my brother
14 touched me and say look up. As soon as I look
15 up, he jump in the crowd. He jumped on me.

16 Q Okay.

17 A And then at the same time he
18 jumped on me, I'm getting hit.

19 Q Okay. Okay. I just wanted to
20 clarify that. Thank you. So your testimony
21 is that you looked up at the individual on the
22 stage.

1 A I'm going to say it's a stage.
2 I'm not really sure. Like I said, it was my
3 first time there, so I'm not really sure if
4 it's a stage. But he was higher than us. It
5 was pretty high.

6 Q Okay. So just if I can finish
7 this and we can move on. So you looked up at
8 an individual on the stage.

9 A Um-hum.

10 Q That individual then came at you.

11 A Um-hum.

12 Q And at the time that he was
13 jumping on you, your testimony is that someone
14 else hit you?

15 A Yes. The police said when he
16 looked in the camera, the person like hit me,
17 too.

18 Q Okay.

19 A Whether that's the officer.

20 Q Now, at any point, were you
21 separated from either of the individuals that
22 you alleged attacked you?

1 A No.

2 Q Okay. At any point, did any
3 security personnel from L Street come in and
4 try to disperse the fight?

5 A Outside when he slammed me to the
6 ground.

7 Q Sorry, it's K Street, by the way.

8 A Outside when he slammed me. A big
9 black security guard in all black slammed me
10 to the ground.

11 Q How did you get from the scene of
12 the second fight to outside?

13 A The brawl?

14 Q Well, I'm --

15 A I'm at the door.

16 Q Okay. So it's your testimony that
17 you were fighting the entire time from inside
18 all the way to --

19 A Defending myself off like four
20 people, you know, I mean, so I'm trying to
21 defend myself from four people. So the fight
22 actually went back outside. It went outside.

1 Q Was there any lapse of time
2 between the time that you got outside and the
3 time that the third altercation occurred?

4 A I mean, lapse? I'm getting beat
5 up, man. I can't -- there's no time to
6 remember.

7 Q Okay. Do you recall what color
8 shirt you were wearing that night?

9 A A blue shirt.

10 Q A blue shirt. Okay. At any
11 point, did you try to attack any other
12 individuals on the outside?

13 A I defend myself.

14 Q Okay. But you never --

15 A No.

16 Q No what?

17 A I wasn't trying to attack nobody.
18 I was trying to defend myself.

19 Q Okay.

20 A It was one against like a bunch of
21 people there.

22 Q How long do you think that the

1 altercation outside took?

2 A It didn't take that long, because
3 I was knocked down on the ground. I was going
4 to say like probably like what 10 minutes.

5 Q Were you ever handcuffed?

6 A No.

7 Q Okay. Did you ever have any
8 interaction except for when you were told
9 about pepper spray, did you have any
10 interaction with any Metropolitan Police?

11 A No.

12 Q Now, you mentioned you went home
13 immediately after the altercation. How long
14 did it take after you got home for you to then
15 go to the hospital?

16 A Me, I live in Germantown and it's
17 already -- D.C. like 45 minutes drive.

18 Q But once you got home, how long
19 did it take you to make the decision to go to
20 the hospital?

21 A About two seconds.

22 Q Okay. Do you recall having taking

1 any pictures at the hospital?

2 A They put me to sleep.

3 Q Okay. Have you ever seen any
4 pictures taken at the hospital?

5 A My girlfriend took pictures on her
6 phone.

7 Q Okay. Was that at the hospital?

8 A I'm not sure. I was asleep.

9 Q Okay. Did she tell you that it
10 was at the hospital?

11 A I'm not sure where she took the
12 pictures.

13 Q Okay.

14 A She took pictures in the bathroom,
15 if I'm correct.

16 Q Okay. That night did you take any
17 -- had you consumed any mind-altering
18 substances besides alcohol?

19 A No.

20 Q Okay. Okay. Have you ever used
21 any other drugs or alcohol --

22 MR. STERN: Objection.

1 BY MR. MANNING:

2 Q -- besides alcohol?

3 CHAIRPERSON MILLER: There is an
4 objection. Do you want to say what your
5 objection is?

6 MR. STERN: Yes, it's not
7 relevant. If you use on a different day, it
8 doesn't affect his recollection of that event.

9 MR. MANNING: It could certainly
10 have a lingering effect on that day.

11 MR. STERN: Well, do you have
12 expert testimony about that?

13 CHAIRPERSON MILLER: No, I don't
14 recall that objection.

15 MR. MANNING: Okay. Did you
16 sustain it or --

17 CHAIRPERSON MILLER: Yes, I
18 sustain the objection.

19 MR. MANNING: Okay. Okay.
20 Nothing further. Thank you.

21 CHAIRPERSON MILLER: Okay. Board
22 questions?

1 MEMBER BROOKS: I have a couple,
2 Madam Chair.

3 CHAIRPERSON MILLER: Okay.

4 MEMBER BROOKS: Mr. Mundle, had
5 you been there before to K Street Lounge?

6 MR. MUNDLE: First time there,
7 sir.

8 MEMBER BROOKS: First time. And
9 what made you guys decide to go there that
10 night?

11 MR. MUNDLE: What made me decide
12 to go there?

13 MEMBER BROOKS: Yes.

14 MR. MUNDLE: My girlfriend said we
15 would do whatever -- my girlfriend said we
16 never do nothing together before, so that I
17 would go and enjoy myself.

18 MEMBER BROOKS: Okay. But were
19 you some place before that?

20 MR. MUNDLE: At the house.

21 MEMBER BROOKS: At the house?

22 MR. MUNDLE: Um-hum.

1 MEMBER BROOKS: Okay. So someone
2 made the decision to go to K Street?

3 MR. MUNDLE: Yes.

4 MEMBER BROOKS: Okay. Had you
5 been drinking at the house before arriving at
6 K Street?

7 MR. MUNDLE: Two drinks.

8 MEMBER BROOKS: Two drinks of
9 what?

10 MR. MUNDLE: Beer.

11 MEMBER BROOKS: Okay. And while
12 there, how many drinks did you have?

13 MR. MUNDLE: Two.

14 MEMBER BROOKS: So you had a total
15 of four beers?

16 MR. MUNDLE: Yes.

17 MEMBER BROOKS: Okay. Any idea
18 how the fight began?

19 MR. MUNDLE: The fight with me?

20 MEMBER BROOKS: Yes.

21 MR. MUNDLE: He just jumped off
22 the stage, that's it. I only got -- like I

1 said, I don't know the guys. I was coming out
2 of the club and they guy jumped off the stage
3 and that's when the fight started. There had
4 been no prior problem. I don't know.

5 MEMBER BROOKS: Yes.

6 MR. MUNDLE: I don't know the
7 individual. I don't know anybody.

8 MEMBER BROOKS: Okay. For no
9 reason --

10 MR. MUNDLE: No reason.

11 MEMBER BROOKS: -- you were
12 attacked?

13 MR. MUNDLE: No reason.

14 MEMBER BROOKS: Okay. So did you
15 know or recognize any of the people involved?

16 MR. MUNDLE: No. I wish I could.

17 MEMBER BROOKS: And which hospital
18 did you go to?

19 MR. MUNDLE: First, I went to
20 Shady Grove Hospital and then they couldn't
21 take care me because of the insurance thing
22 and so I went to -- I go home first and I went

1 back to this other hospital who checked my
2 wrist out and they say they really can't do
3 nothing. They can't put a cast on it, so they
4 -- this is not -- like I said, they said they
5 can't put a cast on it because I have to come
6 back for the surgery.

7 The cast I just wanted something
8 for the long run.

9 MEMBER BROOKS: Okay.

10 MR. MUNDLE: They -- I go in there
11 and fix the joint that is messed up.

12 MEMBER BROOKS: So which hospital
13 was that?

14 MR. MUNDLE: I can't remember the
15 hospital. I was there for like an hour.

16 MEMBER BROOKS: And where was it
17 located?

18 MR. MUNDLE: I think Germantown.

19 MEMBER BROOKS: Okay. First, it
20 was Shady Grove.

21 MR. MUNDLE: First, it was Shady
22 Grove Hospital in Germantown.

1 MEMBER BROOKS: Yes.

2 MR. MUNDLE: And there was another
3 one in Germantown.

4 MEMBER BROOKS: But you don't know
5 the name of it?

6 MR. MUNDLE: It's a little private
7 doctor thing, private.

8 MEMBER BROOKS: Okay. So this was
9 not the same night?

10 MR. MUNDLE: Not the same night.
11 Not the same night. That's the next day.

12 MEMBER BROOKS: Next day.

13 MR. MUNDLE: Yes.

14 MEMBER BROOKS: Okay. So this was
15 sort of like a clinic?

16 MR. MUNDLE: This was a Monday.
17 It was a Monday, because I told you when I
18 left the club that night, I went to the
19 hospital first. They couldn't -- when I went
20 to the hospital, they couldn't take me. They
21 put me to sleep, but they couldn't do anything
22 because of insurance. I didn't have

1 insurance, they are not going to take me.

2 MEMBER BROOKS: Yes.

3 MR. MUNDLE: So they let -- I went
4 back home. And I waited the whole weekend to
5 go to Baltimore, because Baltimore would take
6 me without insurance, because I guess that's
7 how they do it. So I went to Baltimore and
8 they fixed me up there.

9 MEMBER BROOKS: Okay. All right.
10 Thank you, Madam Chair.

11 CHAIRPERSON MILLER: Thank you.
12 Other questions?

13 MEMBER MOBLEY: Yes, Madam Chair.

14 CHAIRPERSON MILLER: Ms. Mobley?

15 MEMBER MOBLEY: Mr. Mundle, you
16 said that when you arrived -- there is
17 feedback.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER MOBLEY: You said when you
20 arrived at the club, there were security
21 guards at the door?

22 MR. MUNDLE: Yes, ma'am.

1 MEMBER MOBLEY: How many?

2 MR. MUNDLE: How many?

3 MEMBER MOBLEY: How many?

4 MR. MUNDLE: I only seen like two.

5 MEMBER MOBLEY: There were two?

6 MR. MUNDLE: Yes.

7 MEMBER MOBLEY: And what did those
8 security guards -- what were they doing when
9 you arrived at the door?

10 MR. MUNDLE: They was searching.

11 MEMBER MOBLEY: They were
12 searching? Both searched?

13 MR. MUNDLE: No, no, just one.

14 MEMBER MOBLEY: Just the one,
15 okay. Then when you went inside of the
16 establishment, how many security guards did
17 you see?

18 MR. MUNDLE: I didn't really see
19 any security.

20 MEMBER MOBLEY: You never saw
21 anyone?

22 MR. MUNDLE: No.

1 MEMBER MOBLEY: Okay. So when you
2 got in -- okay. We have, from the
3 investigation, Ms. Asamaowei. Is that the
4 name?

5 MR. MUNDLE: Asamaowei.

6 MEMBER MOBLEY: Asamaowei. And
7 who is she?

8 MR. MUNDLE: My ex-girlfriend.

9 MEMBER MOBLEY: Your ex-girlfriend
10 indicated that a person was standing on a
11 chair and this gentleman said -- pointed to
12 you and then that's when the fight broke out.

13 MR. MUNDLE: I mean, he kind of
14 stares. I don't see him pointing at me. My
15 brother touched me and said look up and I
16 looked up and at the same time he jumped down.

17 MEMBER MOBLEY: Okay. All right.
18 So then you -- so you said six or seven people
19 started fighting you?

20 MR. MUNDLE: Not that much.

21 MEMBER MOBLEY: Okay. And the
22 fight, the rumble then moved to the outside?

1 MR. MUNDLE: Um-hum.

2 MEMBER MOBLEY: So when it moved
3 to the outside, where were the two security
4 guards that were at the door?

5 MR. MUNDLE: I have no clue.

6 MEMBER MOBLEY: No clue. And then
7 when you went outside, they are still fighting
8 you and you are saying you are defending
9 yourself.

10 MR. MUNDLE: Yes.

11 MEMBER MOBLEY: Is that correct?

12 MR. MUNDLE: Yes.

13 MEMBER MOBLEY: Any security
14 guards?

15 MR. MUNDLE: The one security,
16 some big guy in all black came and slammed me
17 and that's how my wrist got hurt.

18 MEMBER MOBLEY: Okay. So he
19 slammed you?

20 MR. MUNDLE: Yes.

21 MEMBER MOBLEY: I heard you
22 testify that you were not handcuffed?

1 MR. MUNDLE: I wasn't handcuffed.

2 MEMBER MOBLEY: You were not
3 handcuffed.

4 MR. MUNDLE: No.

5 MEMBER MOBLEY: Okay. So you were
6 not handcuffed. You were on the ground. Then
7 what happened?

8 MR. MUNDLE: My friend come picked
9 me up.

10 MEMBER MOBLEY: Which friend was
11 this?

12 MR. MUNDLE: My friend, the one I
13 met with.

14 MEMBER MOBLEY: What's the name?

15 MR. MUNDLE: I really don't know
16 his name.

17 MEMBER MOBLEY: Okay. But it was
18 a male?

19 MR. MUNDLE: I mean, I --

20 MEMBER MOBLEY: A male friend?

21 MR. MUNDLE: It was my ex-
22 girlfriend's friend.

1 MEMBER MOBLEY: Okay. One of your
2 male friends picked you up?

3 MR. MUNDLE: Yes.

4 MEMBER MOBLEY: Okay. And then
5 what happened?

6 MR. MUNDLE: I got in the car on
7 the way home.

8 MEMBER MOBLEY: Okay.

9 MR. MUNDLE: My friend was
10 driving.

11 MEMBER MOBLEY: Okay. At what
12 point -- did you have any interaction with the
13 Metropolitan Police Department?

14 MR. MUNDLE: The only time when
15 they walked through, I was trying to walk up
16 to them and they say no, go home. We're going
17 to pepper spray. So we got up and left.

18 MEMBER MOBLEY: Okay. Was this
19 before or after you were on the ground?

20 MR. MUNDLE: After --

21 MEMBER MOBLEY: Was it outside?

22 MR. MUNDLE: -- I got up off the

1 ground and everything is done. People run
2 away, you know.

3 MEMBER MOBLEY: Okay. All right.
4 Thank you. No more questions, Madam Chair.

5 CHAIRPERSON MILLER: Thank you.
6 Others? Yes, Mr. Nophlin?

7 MEMBER NOPHLIN: Madam Chair, yes,
8 please. It has been your testimony that you
9 didn't know what had actually happened while
10 you were in the club. I mean, no one -- you
11 don't know why you were hit or what actually
12 happened --

13 MR. MUNDLE: Right.

14 MEMBER NOPHLIN: -- to start, to
15 trigger this incident?

16 MR. MUNDLE: Correct.

17 MEMBER NOPHLIN: Once you got
18 outside, did you give a report to the police?

19 MR. MUNDLE: I didn't do anything.
20 The police was there. Like four police cars
21 parked up and they wouldn't pay attention.

22 MEMBER NOPHLIN: The second

1 incident, did you witness the second fight or
2 you were trying to defend yourself in terms of
3 the fight?

4 MR. MUNDLE: Are you talking about
5 the first fight that happened, the brawl that
6 everybody walked to the side door and got out
7 or are you talking about my fight?

8 MEMBER NOPHLIN: Yes, go through
9 that scenario again, please. I don't quite
10 understand. What actually happened again,
11 please? I know you weren't affiliated with
12 that, but I still don't get it in my mind.

13 MR. MUNDLE: The brawl happened
14 like a couple people started jumping this one
15 guy.

16 MEMBER NOPHLIN: Okay.

17 MR. MUNDLE: I mean, and then the
18 brawl happened. And then they kind of went to
19 the side door and that's all I know. I mean,
20 they went to the side door and then we went
21 back to partying.

22 MEMBER NOPHLIN: How far were you

1 away from that when it actually happened?

2 MR. MUNDLE: Like I told him, I
3 was like 5 feet away from the bar and that
4 happened right in the middle, right over here.

5 MEMBER NOPHLIN: Okay.

6 MR. MUNDLE: That was nowhere
7 close to me.

8 MEMBER NOPHLIN: Nowhere close to
9 where you were?

10 MR. MUNDLE: No.

11 MEMBER NOPHLIN: And how long
12 after that incident happened when you were
13 hit?

14 MR. MUNDLE: (No audible answer.)

15 MEMBER NOPHLIN: When you were
16 struck, was that before or after this fight,
17 first fight?

18 MR. MUNDLE: It was after the
19 first fight.

20 MEMBER NOPHLIN: How long ago
21 was --

22 MR. MUNDLE: I would say an hour.

1 MEMBER NOPHLIN: About an hour?

2 MR. MUNDLE: Yes.

3 MEMBER NOPHLIN: Before this
4 happened?

5 MR. MUNDLE: Yes.

6 MEMBER NOPHLIN: Do you know
7 whether or not they removed the people who
8 were fighting, if the security removed these
9 people?

10 MR. MUNDLE: I don't think they
11 removed them. I would say no.

12 MEMBER NOPHLIN: And you only saw
13 security person once, you said?

14 MR. MUNDLE: Yes.

15 MEMBER NOPHLIN: And what was he
16 doing when you saw him? This is important.

17 MR. MUNDLE: He was there. He
18 wasn't doing anything. He was getting beat up
19 the same way we was getting beat up. So I
20 don't know what he was doing. He was getting
21 beat up, too.

22 MEMBER NOPHLIN: The --

1 MR. MUNDLE: And when the fight
2 was happening, people was hitting him. The
3 first fight?

4 MEMBER NOPHLIN: Yes. Okay.

5 MR. MUNDLE: He was getting
6 hammered, too, so I can't really say between--
7 he was there with all black on.

8 MEMBER NOPHLIN: Okay. And this
9 is one person you saw? Just one security
10 person?

11 MR. MUNDLE: Yes.

12 MEMBER NOPHLIN: He is a big man?

13 MR. MUNDLE: I mean, the guy that
14 slammed me is pretty big. You know what I
15 mean? So that's who I'm talking about.

16 MEMBER NOPHLIN: Okay. All right.
17 Thank you, Madam Chair.

18 MEMBER BROOKS: Madam Chair, one
19 more question.

20 CHAIRPERSON MILLER: Yes.

21 MEMBER BROOKS: Mr. Mundle, you
22 indicated that there was a first brawl or

1 something that was going on there.

2 MR. MUNDLE: Yes, sir.

3 MEMBER BROOKS: And how many
4 people were involved?

5 MR. MUNDLE: Lots.

6 MEMBER BROOKS: A lot?

7 MR. MUNDLE: A lot.

8 MEMBER BROOKS: Okay. And you
9 said security picked them up --

10 MR. MUNDLE: They was fighting one
11 person.

12 MEMBER BROOKS: Yes, okay. And
13 you said security put them out the side door?

14 MR. MUNDLE: No, I didn't say
15 that.

16 MEMBER BROOKS: Okay. Sorry.

17 MR. MUNDLE: I said --

18 MEMBER BROOKS: Go ahead.

19 MR. MUNDLE: -- they went out
20 through the side door. They went out through
21 the side door.

22 MEMBER BROOKS: Okay. So was it a

1 side door that was open or not?

2 MR. MUNDLE: I'm not really sure
3 whether the side door was open somehow. I
4 never noticed that door, because there is two
5 doors.

6 MEMBER BROOKS: Right.

7 MR. MUNDLE: The entrance and
8 there was a side door.

9 MEMBER BROOKS: Right.

10 MR. MUNDLE: That's what I seen.

11 MEMBER BROOKS: Okay.

12 MR. MUNDLE: Because when I leave
13 the club, that's what I look for.

14 MEMBER BROOKS: So let me be clear
15 now. Did you say that they left by the side
16 door?

17 MR. MUNDLE: Yes.

18 MEMBER BROOKS: And security put
19 them out?

20 MR. MUNDLE: I'm not saying the
21 security did, because I didn't see no
22 security.

1 MEMBER BROOKS: You didn't see
2 security --

3 MR. MUNDLE: No.

4 MEMBER BROOKS: -- at the first
5 brawl?

6 MR. MUNDLE: No.

7 MEMBER BROOKS: Okay. Thank you,
8 Madam Chair.

9 CHAIRPERSON MILLER: Yes, Mr.
10 Jones?

11 MEMBER JONES: Thank you, Madam
12 Chair. So you -- what time did you arrive at
13 the club, to the best of your knowledge?

14 MR. MUNDLE: 12:00.

15 MEMBER JONES: 12:00?

16 MR. MUNDLE: Yes.

17 MEMBER JONES: How many people
18 were in your party?

19 MR. MUNDLE: Like six.

20 MEMBER JONES: Six. You came in
21 one car or two?

22 MR. MUNDLE: Two.

1 MEMBER JONES: Two. And when you
2 left the establishment, when you were
3 gathering yourself to leave, the lights were
4 on.

5 MR. MUNDLE: Yes.

6 MEMBER JONES: And you were
7 gathering yourself to leave, were all six of
8 you together at that point?

9 MR. MUNDLE: No. They was
10 outside.

11 MEMBER JONES: How many people
12 were outside?

13 MR. MUNDLE: There was only me.
14 There was only three people that was parking
15 outside. The rest of them were inside.

16 MEMBER JONES: Okay. So if there
17 were a total of six, then there were three
18 people who were already outside?

19 MR. MUNDLE: Yes.

20 MEMBER JONES: And then the three
21 of you were together.

22 MR. MUNDLE: Yes.

1 MEMBER JONES: You were making
2 your way outside and that's when you were
3 allegedly attacked, right?

4 MR. MUNDLE: Yes.

5 MEMBER JONES: The first incident
6 that you witnessed, there was a first fight.
7 I think this representative over here negated
8 he was referring to that as fight one or fight
9 two or first fight and the second fight.

10 So the first fight, you witnessed
11 that occur, correct?

12 MR. MUNDLE: Yes.

13 MEMBER JONES: And you witnessed a
14 large number of individuals fighting one
15 person. But you clearly saw no people that
16 you defined or would understand to be
17 employees of the establishment trying to break
18 up the altercation?

19 MR. MUNDLE: No, I didn't see
20 that.

21 MEMBER JONES: Okay. Had you
22 witnessed or seen security personnel or

1 individuals you would define or identify to be
2 security personnel in the establishment prior
3 to the first altercation?

4 MR. MUNDLE: I mean, all black,
5 yes, I seen security. Like I said, like two
6 when I was walking in.

7 MEMBER JONES: You saw two when
8 you were walking in?

9 MR. MUNDLE: And that was it.

10 MEMBER JONES: But when you were
11 actually inside the establishment, you didn't
12 see any --

13 MR. MUNDLE: No.

14 MEMBER JONES: -- security
15 patrolling or walking around or to be
16 identified as security?

17 MR. MUNDLE: No. I wasn't looking
18 for security guards, to be honest with you,
19 though.

20 MEMBER JONES: Fair enough. But
21 you didn't -- you don't remember seeing anyone
22 that you identified to be. Okay. When you

1 approached and came into the establishment,
2 you indicated there were two security
3 individuals out front?

4 MR. MUNDLE: Yes.

5 MEMBER JONES: At around 12:00?

6 MR. MUNDLE: Yes.

7 MEMBER JONES: Did they pat you
8 down?

9 MR. MUNDLE: Yes.

10 MEMBER JONES: They did? Did they
11 ask for ID?

12 MR. MUNDLE: I was told to take my
13 hat off all night.

14 MEMBER JONES: Okay.

15 MR. MUNDLE: Asked for ID.

16 MEMBER JONES: They did ask for
17 ID?

18 MR. MUNDLE: Yes.

19 MEMBER JONES: Was there one
20 individual who was asking for ID or did both
21 individuals ask for ID? So I'm assuming you
22 were -- were you in a line when you got there?

1 MR. MUNDLE: Yes, I was in line.

2 MEMBER JONES: Okay. So did you
3 witness the activities of the security
4 personnel at the front as you were waiting in
5 line to enter the establishment?

6 MR. MUNDLE: Yes, they asked for
7 ID.

8 MEMBER JONES: Did both of them
9 ask for it? Was there one individual who was
10 saying --

11 MR. MUNDLE: They just asked for
12 ID.

13 MEMBER JONES: But was it both of
14 them?

15 MR. MUNDLE: I'm not really sure
16 which one.

17 MEMBER JONES: You're not really
18 sure. Okay.

19 MR. MUNDLE: The guy asked me for
20 ID and I showed him my ID.

21 MEMBER JONES: Okay. So that
22 individual that asked you for ID, is that the

1 same individual that patted you down?

2 MR. MUNDLE: Yes.

3 MEMBER JONES: He did?

4 MR. MUNDLE: Yes.

5 MEMBER JONES: Okay. Did he use
6 anything besides his hands to pat you down?

7 MR. MUNDLE: Just hands.

8 MEMBER JONES: His hands. When
9 you were inside the establishment and you said
10 you had, approximately, two drinks that night
11 when you were in the establishment, the -- you
12 said you danced?

13 MR. MUNDLE: Yes.

14 MEMBER JONES: You danced with
15 your, at this point, ex-girlfriend as well as
16 you danced alone or by yourself?

17 MR. MUNDLE: Yes.

18 MEMBER JONES: Did you happen to
19 dance with anyone other than the individuals
20 I just noted?

21 MR. MUNDLE: No.

22 MEMBER JONES: No? Did you happen

1 to dance with any other females?

2 MR. MUNDLE: No.

3 MEMBER JONES: No? So to your
4 knowledge, there is no reason why someone
5 would want to attack you at that club?

6 MR. MUNDLE: Right.

7 MEMBER JONES: Okay. Is there any
8 reason why someone would want to attack any
9 individuals that you were with in your party,
10 your party of six?

11 MR. MUNDLE: No.

12 MEMBER JONES: No?

13 MR. MUNDLE: I don't think so.

14 MEMBER JONES: Okay. When you
15 purchased your drink, did you get -- like when
16 you walked in, when you purchased your drink,
17 did you get any type of identifying bands,
18 marks or anything like that?

19 MR. MUNDLE: I don't remember that
20 part.

21 MEMBER JONES: You don't remember
22 that part. When you left the establishment,

1 you were walking towards the exit?

2 MR. MUNDLE: Yes.

3 MEMBER JONES: When you were
4 walking towards the exit, you got attacked?

5 MR. MUNDLE: Right.

6 MEMBER JONES: Do you have any
7 idea, can you tell me roughly how far away
8 from the exit door you were from where you
9 were initially attacked?

10 MR. MUNDLE: Right here and the
11 exit is over like right here.

12 MEMBER JONES: Okay. So we are
13 talking, approximately, what maybe 15 feet, 15
14 or 20 feet?

15 MR. MUNDLE: Yes.

16 MEMBER JONES: To that door, to
17 that wall right there?

18 MR. MUNDLE: Yes.

19 MEMBER JONES: Okay. How did you
20 -- were you -- once you got attacked, were you
21 moving yourself of your own free will, were
22 you moving towards the exit door or were they

1 combatants, were the individuals that were
2 attacking you kind of forcing you towards the
3 exit?

4 MR. MUNDLE: Forcing.

5 MEMBER JONES: So they were
6 pushing you towards. As they were swinging on
7 you and beating on you, they were also moving
8 towards the exit door?

9 MR. MUNDLE: Correct.

10 MEMBER JONES: So that's how you
11 ended up outside?

12 MR. MUNDLE: Yes.

13 MEMBER JONES: Okay. And once you
14 ended up outside, I'm going to make it a leap
15 here, but I'm going to ask you to answer my
16 leap, you were being hit, beat upon, so I'm
17 going to assume that you didn't have an
18 opportunity to survey the area and see if
19 there were the security person or police that
20 could come to your aid?

21 MR. MUNDLE: All right. When I
22 went outside, right, like I said four girls

1 came towards me and started beating me and my
2 girl -- my brother. There was police cars
3 right there next to the club right there.

4 MEMBER JONES: Yes, sir.

5 MR. MUNDLE: So as soon as they
6 said that, I was pulled back. So I end up
7 like -- kind of like from right here to the
8 gentleman about over there.

9 MEMBER JONES: And that's where
10 you are saying the police car was?

11 MR. MUNDLE: No, no, that's where
12 I ended up when I got hit in the back.

13 MEMBER JONES: So where was -- did
14 you actually see a police car?

15 MR. MUNDLE: Yes, I seen four
16 police cars.

17 MEMBER JONES: You did see four
18 police cars?

19 MR. MUNDLE: Yes.

20 MEMBER JONES: Okay. Proximity,
21 how close were they to you at the time that
22 you -- right before you got hit in the back of

1 the head?

2 MR. MUNDLE: Pretty close.

3 MEMBER JONES: Pretty close?

4 MR. MUNDLE: Um-hum.

5 MEMBER JONES: If you had yelled
6 out, do you think it's reasonable to assume
7 that they would have been able to hear you, if
8 they were listening for it?

9 MR. MUNDLE: They could see what's
10 going on, because they was right there, you
11 know.

12 MEMBER JONES: Okay.

13 MR. MUNDLE: They was right there.

14 MEMBER JONES: But if you had
15 yelled out?

16 MR. MUNDLE: There is no yelling,
17 because everybody else was yelling, too.

18 MEMBER JONES: Okay. Were you
19 observing any other altercations that were
20 occurring out in front of the establishment or
21 were you aware of only your's?

22 MR. MUNDLE: Mine.

1 MEMBER JONES: Only your's?

2 MR. MUNDLE: Um-hum.

3 MEMBER JONES: Okay. Thank you.

4 Thank you, Madam Chair.

5 CHAIRPERSON MILLER: Yes, Mr.

6 Nophlin?

7 MEMBER NOPHLIN: I hate to say
8 this, but I'm going to say it anyway. How
9 many people were in your party? You said six,
10 right?

11 MR. MUNDLE: Around six.

12 MEMBER NOPHLIN: All right. How
13 many of them were males and females?

14 MR. MUNDLE: Like three males.

15 MEMBER NOPHLIN: Three males?

16 MR. MUNDLE: Like I said around
17 six, because I drive my own car.

18 MEMBER NOPHLIN: Okay.

19 MR. MUNDLE: So it was four in my
20 car.

21 MEMBER NOPHLIN: So the six of you
22 arrived together?

1 MR. MUNDLE: No.

2 MEMBER NOPHLIN: It was --

3 MR. MUNDLE: About four people.

4 There was four people in my car. My brother--

5 MEMBER NOPHLIN: Okay.

6 MR. MUNDLE: -- my girlfriend, my
7 girlfriend's friend.

8 MEMBER NOPHLIN: Is it possible,
9 getting back to Board Member Jones, someone
10 said something to someone to cause this
11 incident? One of your brothers or a male said
12 something?

13 MR. MUNDLE: Nobody say anything,
14 to my knowledge.

15 MEMBER NOPHLIN: To your
16 knowledge, nobody said anything. And as you
17 testified earlier, you are not sure actually
18 what happened to cause this fight?

19 MR. MUNDLE: I have no idea.

20 MEMBER NOPHLIN: You just got hit?

21 MR. MUNDLE: I got hit.

22 MEMBER NOPHLIN: Thank you, Madam

1 Chair.

2 CHAIRPERSON MILLER: Thank you.

3 MEMBER MOBLEY: Madam Chair?

4 CHAIRPERSON MILLER: Yes.

5 MEMBER MOBLEY: Mr. Mundle, I
6 heard you say that you had three of your
7 friends that were on the outside when you were
8 involved in the second fight, as we're
9 referring to it. And then three were inside
10 with you?

11 MR. MUNDLE: My brother and the
12 person that came down earlier.

13 MEMBER MOBLEY: Okay. Can you
14 tell me the names of the three people? Your
15 brother, what's the name?

16 MR. MUNDLE: Kurt Charles and
17 Haoua Posely.

18 MEMBER MOBLEY: Okay. So what
19 were they doing and where were they when --

20 MR. MUNDLE: Haoua Posely was in
21 front of me. My brother was right next to me.

22 MEMBER MOBLEY: Yes.

1 MR. MUNDLE: And I was on this
2 side.

3 MEMBER MOBLEY: Okay. So you were
4 involved in the altercation. Were any of them
5 involved in the altercation?

6 MR. MUNDLE: No.

7 MEMBER MOBLEY: So what I'm
8 hearing you say, testify, is that the other
9 two individuals that were with you, neither
10 one of them was attacked or hurt or touched in
11 any way? That would be Ms. Posely and the
12 other person.

13 MR. MUNDLE: They said they got
14 attacked. They said they got attacked, but,
15 I mean, I'm the only person with bruises, so
16 I mean --

17 MEMBER MOBLEY: I'm sorry?

18 MR. MUNDLE: They said they got
19 attacked, too, but I'm the only person walked
20 out with a bruise.

21 MEMBER MOBLEY: Okay.

22 MR. MUNDLE: So I'm not really

1 sure. I just know I got attacked.

2 MEMBER MOBLEY: Okay. So you got
3 attacked.

4 MR. MUNDLE: Yes.

5 MEMBER MOBLEY: So the other two
6 individuals, you were not aware --

7 MR. MUNDLE: I was not aware.

8 MEMBER MOBLEY: -- that they were
9 touched in any way or attacked and so they
10 told you afterwards. Is that correct?

11 MR. MUNDLE: Correct.

12 MEMBER MOBLEY: That's your
13 testimony?

14 MR. MUNDLE: Yes.

15 MEMBER MOBLEY: Okay. So you
16 never had to defend anyone in your partner --
17 in your party from anyone in the club during
18 the fight?

19 MR. MUNDLE: No.

20 MEMBER MOBLEY: Okay. Thank you.

21 CHAIRPERSON MILLER: Okay. Thank
22 you. Mr. Mundle, I just have a few questions,

1 follow-up.

2 One is the first incident, you
3 witnessed a group jump another guy inside,
4 correct?

5 MR. MUNDLE: Right.

6 CHAIRPERSON MILLER: Okay. And
7 were you worried at all for your safety after
8 that first incident?

9 MR. MUNDLE: I mean, they went
10 outside, so I wasn't worried no more.

11 CHAIRPERSON MILLER: Okay. I
12 didn't say whether you should or shouldn't.
13 I was just wondering if you were worried?

14 MR. MUNDLE: No.

15 CHAIRPERSON MILLER: So you
16 weren't? About your safety, because you
17 thought they were outside?

18 MR. MUNDLE: It wasn't my problem
19 so I shouldn't worry.

20 CHAIRPERSON MILLER: Okay. You
21 weren't worried for your safety?

22 MR. MUNDLE: No.

1 CHAIRPERSON MILLER: Okay.

2 Weren't worried about, okay. The second
3 incident. It started inside, somebody jumped
4 you, right?

5 MR. MUNDLE: Right.

6 CHAIRPERSON MILLER: A different
7 person jumped you? Is that correct or you
8 don't know?

9 MR. MUNDLE: I have no idea.

10 CHAIRPERSON MILLER: Okay. Did
11 anything happen right before that? Did you
12 hear any words said or anything like that?

13 MR. MUNDLE: No, there were no
14 words said to nobody.

15 CHAIRPERSON MILLER: It just
16 happened?

17 MR. MUNDLE: It happened.

18 CHAIRPERSON MILLER: And was that
19 the beginning of a ripple effect for the rest
20 of the fighting outside? Was it related, do
21 you know?

22 MR. MUNDLE: The fight outside,

1 yes, because I told you when we all went
2 outside --

3 CHAIRPERSON MILLER: Right. It
4 went outside.

5 MR. MUNDLE: -- the door, yes.

6 CHAIRPERSON MILLER: But was it
7 all about you?

8 MR. MUNDLE: I mean, I'm the only
9 person getting beat up, so I guess so. It's
10 all about me. Nobody else was getting beat up
11 that I know of.

12 CHAIRPERSON MILLER: You were the
13 only person that got beat up?

14 MR. MUNDLE: Yes.

15 CHAIRPERSON MILLER: In the fight
16 that went outside?

17 MR. MUNDLE: Yes. The fight that
18 happened with me.

19 CHAIRPERSON MILLER: Yes.

20 MR. MUNDLE: They jumped me. They
21 jumped off the stage. I would call that
22 outside.

1 CHAIRPERSON MILLER: Were there
2 other fights outside or just your's?

3 MR. MUNDLE: I didn't see other
4 fight outside.

5 CHAIRPERSON MILLER: Okay. Has
6 that ever happened to you before?

7 MR. MUNDLE: No, first time.

8 CHAIRPERSON MILLER: Okay. And
9 was there music playing inside when this
10 started?

11 MR. MUNDLE: Yes, the light was on
12 and there was music playing and everybody was
13 walking out.

14 CHAIRPERSON MILLER: Oh, okay, it
15 was the end. It was just --

16 MR. MUNDLE: Yes.

17 CHAIRPERSON MILLER: Okay. That's
18 right. Okay. Thank you. Do you have
19 anything?

20 MR. STERN: Nothing.

21 CHAIRPERSON MILLER: Okay. Thank
22 you very much, sir.

1 MR. MUNDLE: Thank you.

2 CHAIRPERSON MILLER: Do you have
3 another witness?

4 MR. STERN: No, that's all of the
5 witnesses.

6 CHAIRPERSON MILLER: Okay.

7 MR. MANNING: Madam Chair, we have
8 a video to go along with this.

9 CHAIRPERSON MILLER: Right. Do
10 you know the status of that or do you want us
11 to check that?

12 MR. MANNING: Yes, do you mind if
13 we do? And also, if it's possible, just
14 because there is some expansive time on the
15 video, I would like to have some control over
16 it just so I can move us to the appropriate
17 times without having to watch the entire
18 night, if that's at all possible?

19 CHAIRPERSON MILLER: Okay. Would
20 you be able to -- if we took a little break or
21 what, but do you need some time to get that
22 set up, so you are at the right point?

1 MR. MANNING: Sure. Well, I can
2 get us to the right point very quickly.

3 CHAIRPERSON MILLER: Very quickly.

4 MR. MANNING: But if I could just
5 unwrap this on how to do that and --

6 CHAIRPERSON MILLER: Okay. All
7 right. We will check that out.

8 MR. MANNING: Okay.

9 CHAIRPERSON MILLER: Okay. Okay.
10 I understand that it is ready and the computer
11 technician will come out momentarily to work
12 with that --

13 MR. MANNING: Okay.

14 CHAIRPERSON MILLER: -- on that
15 with you.

16 MR. MANNING: All right. Okay.
17 Is it okay to take a couple minutes to review
18 the files?

19 CHAIRPERSON MILLER: Okay. A 10
20 minute break. Okay. Yes, 10 minutes though?

21 MR. MANNING: That should be fine.

22 CHAIRPERSON MILLER: 10 minutes.

1 Okay. So we'll take a 10 minute break.

2 (Whereupon, at 3:11 p.m. a recess
3 until 3:38 p.m.)

4 CHAIRPERSON MILLER: Okay. We're
5 back on the record.

6 MR. MANNING: Madam Chair, thanks
7 for the indulgence we had to deal with. I
8 want to call my first witness, Mr. Bobby
9 Palladino, please.

10 CHAIRPERSON MILLER: Just let me
11 swear you in.

12 MR. PALLADINO: Okay.

13 CHAIRPERSON MILLER: Raise your
14 right hand, please.

15 Whereupon,

16 BOBBY PALLADINO
17 was called as a witness by Counsel for the
18 Licensee, and having been first duly sworn,
19 assumed the witness stand and was examined and
20 testified as follows:

21 CHAIRPERSON MILLER: Okay. Thank
22 you.

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DIRECT EXAMINATION

BY MR. MANNING:

Q Mr. Palladino, could you say and spell your name for the record, please?

A Bobby Palladino. The last name is P-A-L-L-A-D-I-N-O.

Q Thank you. And what's your current role with the licensee?

A I'm an equity partner.

Q Okay. And at what point did you start working for the licensee?

A When they opened, approximately, six years.

CHAIRPERSON MILLER: Okay. I'm having trouble hearing now.

MR. MANNING: Yes, if you could speak up a little bit?

THE WITNESS: I'm sorry. Oh, I started with K Street when they opened, approximately, six years ago, I guess.

BY MR. MANNING:

Q And what was your role when they

1 opened?

2 A At the time, it was just a general
3 manager.

4 Q Okay. And at what point did you
5 become an equity partner?

6 A Probably after two years of them
7 opening.

8 Q Okay. What were your
9 responsibilities as a general manager?

10 A Just general day-to-day operations
11 and nightly operations.

12 Q Okay. Are you still effectively
13 the general manager today?

14 A Correct.

15 Q Okay. Were you the general
16 manager of the establishment at the time the
17 incident, that's the subject of this case?

18 A Yes.

19 Q Okay. Did your duties as general
20 manager include overseeing the security staff?

21 A I oversee everything, so, yes.

22 Q Okay. And in what way were you

1 involved in the nightly and day-to-day
2 security at the establishment?

3 A Well, we have a security manager
4 that specifically handles security, which is
5 meetings and scheduling and things like that.
6 And I guess I would oversee him, follow-up
7 with him.

8 Q Okay. Do you, for example, work
9 the cameras that might videotape?

10 A If required, yes.

11 Q Okay.

12 A Usually. We like to have, you
13 know, point of -- coverage of the club, but
14 sometimes things require a little bit more
15 attention and I can maneuver the cameras.

16 Q Is there a communication system
17 between all of the security guards?

18 A They all have radios.

19 Q Okay. Are you linked into that
20 security system?

21 A I can pick up a radio when I need
22 to talk to them.

1 Q Okay. And on the day in question,
2 had you picked up a radio?

3 A Yes.

4 Q Okay. So you were in
5 communication with the security guards?

6 A Yes.

7 Q Okay. Now, let's go to the day in
8 question, which is November 6, 2010. How many
9 security guards did you have actively working
10 on the evening in question?

11 A I had, approximately, a total
12 number of 13 to 15.

13 Q Okay. Did you, at any point,
14 employ MPD officers?

15 A We have an overtime -- the club is
16 on detail. I don't know if they consider
17 themselves employed, by that.

18 Q Okay. But you -- I guess your
19 establishment works with the Metropolitan
20 Police Department/ABC Establishment
21 Reimbursement Program? Is that correct?

22 A That is correct.

1 Q Okay. At what point in time did K
2 Street begin to do that?

3 A I don't recall with specifics.

4 Q Okay. Now, do you know how many
5 MPD officers were working with this program on
6 November 6, 2010?

7 A Yes, it would be two reimbursable
8 details with two officers each, so it's a
9 total of four officers.

10 Q Okay. And what was their
11 responsibility?

12 A Their responsibility is to have a
13 police presence, particularly outside of the
14 venue.

15 Q Okay.

16 A And assist us with any issues that
17 may arise inside of the venue.

18 Q Okay. You mentioned --

19 CHAIRPERSON MILLER: Okay. You
20 know what, I'm sorry, but this is a new system
21 and I know it's probably not placed that
22 conveniently to your testifying, but if you

1 could try to testify into the mike as much as
2 possible, because sometimes we are missing
3 some of the words and the transcriber is, too.

4 THE WITNESS: Okay.

5 MEMBER MOBLEY: Try to speak
6 louder.

7 THE WITNESS: I'll speak up.

8 MEMBER MOBLEY: Yes.

9 CHAIRPERSON MILLER: And louder
10 would help, too.

11 THE WITNESS: I'll have to look
12 down then sometimes.

13 MEMBER MOBLEY: No, you --

14 CHAIRPERSON MILLER: Well, no.

15 MEMBER JONES: Just speak up.

16 MEMBER MOBLEY: Just speak up.

17 Just speak louder for us.

18 THE WITNESS: Okay. Okay.

19 CHAIRPERSON MILLER: Either way,
20 we just need to have more volume, that's all.

21 BY MR. MANNING:

22 Q Thank you. And so you mentioned

1 that the security or the MPD officers
2 generally patrol the outside of the club. Is
3 that correct?

4 A Generally, yes.

5 Q Okay. Do the MPD officers
6 regularly ever work inside the club?

7 A They come inside for beverages and
8 at their leisure sometimes.

9 Q Okay. Now, from a security
10 standpoint, what's your -- what's their policy
11 vis-a-vis securing the inside of the club
12 versus the outside of the club?

13 A They have been less than
14 cooperative as far as when we request them to
15 come inside to help us out with issues. They
16 have made it known on numerous occasions that
17 they require us to bring people outside to
18 them and they will take care of it once the
19 issue is outside.

20 Q So on occasion, have you requested
21 that the MPD come inside the club, but they
22 refused?

1 A Yes.

2 Q Okay. And whenever that has
3 happened, what has the MPD then asked that you
4 do if there is an altercation?

5 A They demand that we bring
6 everybody outside.

7 Q Okay. And why do they do that?

8 A Um, well, I have heard once from
9 one officer that he doesn't want to come
10 inside because he doesn't want to come inside
11 due to the lights, it's dark. He doesn't want
12 to lose his weapon or anything of that nature.
13 But I don't know if that's a type of policy,
14 that was his statement.

15 Q But it's their preference to stay
16 outside and have the altercation come to them,
17 essentially?

18 A Yes.

19 Q Okay. Now, let's go to the
20 evening of November 6, 2010. Where, generally
21 speaking, were your 13 security guards placed
22 around the facility?

1 A We have general stations. For
2 example, we do security pat-downs outside and
3 identification checks. So on average, you
4 would have at least one guy patting -- excuse
5 me. One guy checking IDs, three guys doing
6 pat-downs, because one does a wand pat-down
7 and the other does hands pat-downs, so that's
8 four.

9 You would have another guy at the
10 exit. And then you would have another guy
11 that kind of -- the manager, which he goes in
12 and out to kind of oversee things. And this
13 is all depending on how busy the line is as
14 well.

15 So let's just start off by saying
16 five outside. Then inside we have someone
17 directly at the front entrance greeting people
18 as they enter the door and keeping the
19 entrance and exit clear, because it's the same
20 and there is also a hallway to the bathroom
21 there.

22 So there is one there. And we

1 have two platforms in the club. So you have
2 to imagine the club is, basically, a
3 rectangle. So you have two platforms in the
4 club. One on each platform, that's three.
5 You have one in the back half of the club.
6 Another by the front half of the club doing
7 coat check.

8 And then two guys roaming. So
9 that's 12 immediately right there.

10 Q Okay. Now, how are the security
11 staff dressed?

12 A They are all wearing black suits
13 with black shirts.

14 Q Okay. Now, where would the four
15 MPD officers that you referenced be located?

16 A Generally, they stand outside by
17 the main entrance, but they do come inside.
18 Sometimes they come inside to view the crowd.
19 Sometimes they come in and have a drink. But
20 if you needed to grab one immediately, the
21 first place I would look is right out the
22 front door.

1 Q But to clarify, that's a non-
2 alcoholic drink that they would have, correct?

3 A Yes, water or something of that
4 nature.

5 Q Okay. Now, on the evening in
6 question, we have described three separate
7 incidents. A first fight that occurred on a
8 platform. A second fight that occurred near
9 the exit. And then a third fight that
10 occurred outside.

11 Were you there the entire night on
12 November 6, 2010?

13 A Yes, I was.

14 Q Okay. Were there any more
15 incidents other than the three incidents that
16 I just described?

17 A Not to my knowledge.

18 Q Okay. By incident, I mean a
19 fight.

20 A Yes.

21 Q Okay. Now, if you could describe
22 to me -- well, actually you know what, let's

1 go ahead and roll the first video.

2 A Okay. So I'll describe it. I
3 might have to speak quickly as it happens.

4 (Whereupon, video played.)

5 THE WITNESS: This looks like it
6 is the -- towards the end of the night. The
7 lights are kind of on and it's the -- the
8 middle of the club is in the middle of the
9 screen.

10 You can see the security guard
11 back here in the back half of the club.

12 BY MR. MANNING:

13 Q Yes, and if you could point out
14 any other security people?

15 A There is a security guy here in
16 the middle of the club.

17 Q Now, who are the gentlemen with
18 the white shirts?

19 A That's busboys probably. My
20 security doesn't wear -- dress in white
21 shirts.

22 Q Okay.

1 A It could be a patron. I didn't
2 see when you had --

3 Q Okay. Now, it's --

4 A It looks like there is a scuffle
5 happening here. Okay. There is a security
6 guy.

7 Q What's here?

8 CHAIRPERSON MILLER: Yes, we can't
9 see where you're pointing.

10 THE WITNESS: When you stop --

11 MR. MANNING: Stop, pause it,
12 please. I'm sorry.

13 (Whereupon, video paused.)

14 CHAIRPERSON MILLER: Okay.

15 MEMBER JONES: Could you describe
16 where in this screen these things are
17 happening? Here doesn't mean anything to us,
18 because we can't see your screen.

19 CHAIRPERSON MILLER: Yes, we
20 don't --

21 THE WITNESS: Oh, I'm sorry.

22 CHAIRPERSON MILLER: Yes, we can't

1 see your pointing. We can see the video.

2 THE WITNESS: Okay. All right.

3 Well --

4 MR. MANNING: Do you want to start
5 it again?

6 MR. STERN: Can you tilt the
7 screen so he can narrate it for you? Is that
8 possible?

9 CHAIRPERSON MILLER: We have
10 screens.

11 MR. STERN: Oh, no, so you guys
12 are -- when he says here or points to it, you
13 can see the direction.

14 CHAIRPERSON MILLER: Okay. Unless
15 you can describe where you are pointing and
16 pause it.

17 MALE PARTICIPANT: I don't trust
18 pointing in our direction.

19 THE WITNESS: I'll try to describe
20 it as quickly as I can, because it happens
21 very quickly.

22 CHAIRPERSON MILLER: Can you pause

1 it?

2 MALE PARTICIPANT: Just say the
3 center or the lower left, the top.

4 THE WITNESS: Well, everything is
5 happening in the center of the screen.

6 CHAIRPERSON MILLER: Okay.

7 THE WITNESS: Maybe off to the
8 left a little bit.

9 CHAIRPERSON MILLER: Okay.

10 THE WITNESS: At the top of the
11 screen, I identified one security guy. In the
12 middle of the screen where the altercation is
13 happening, I tried to identify two security
14 guys.

15 MALE PARTICIPANT: What are they
16 wearing, black?

17 THE WITNESS: All black. And they
18 are wearing suits in all black, so -- versus
19 someone in a black T-shirt.

20 MALE PARTICIPANT: Okay.

21 THE WITNESS: So that's kind of an
22 easier way to identify them.

1 MR. MANNING: And to clarify for,
2 Madam Chair, we had had the ability to pause
3 it, rewind, but evidently the software here
4 doesn't have the ability to pause and rewind,
5 so we have to go kind of straight through.

6 CHAIRPERSON MILLER: Okay.

7 MR. MANNING: We can pause. We
8 can't rewind or fast-forward.

9 CHAIRPERSON MILLER: Yes, okay.

10 BY MR. MANNING:

11 Q So would you, Mr. Palladino, like
12 me to continue to roll the video?

13 A Um, okay. Well, just one second
14 though, because, you know, some of the
15 testimony was saying how there was no security
16 persons and I want to identify. At least I
17 can see two for sure and maybe two possibles
18 on the scene right now.

19 The two for sure, okay, is you see
20 the white column towards the top of the
21 screen?

22 MEMBER JONES: Yes, sir.

1 CHAIRPERSON MILLER: Yes.

2 THE WITNESS: You see the two
3 white guys or caucasian guys?

4 MEMBER MOBLEY: Yes.

5 THE WITNESS: Okay. The one with
6 the bald head for sure is one of my guys.

7 MEMBER MOBLEY: Okay.

8 THE WITNESS: The one next to him
9 I can -- I think may be one of my guys. I
10 would have to see it in motion.

11 MEMBER JONES: Excuse me. When
12 you say next to him, are you saying to his
13 left?

14 THE WITNESS: To his left.

15 MEMBER JONES: Okay.

16 THE WITNESS: Okay. And in the
17 middle of the screen, the guy with his hands
18 on his hips and bald, it looks like he would
19 be caucasian as well, that's one, that's
20 another guy.

21 And in to his left in front of
22 him, it's -- once the movement starts, you

1 will see an African-American guy, much bigger,
2 that's security as well grabbing somebody that
3 is actually engaged in an altercation right
4 now.

5 MR. MANNING: And as we go, if you
6 could describe how many people are involved in
7 the altercation.

8 BY MR. MANNING:

9 Q To your knowledge, based on your
10 understanding of this particular fight, were
11 there a number of people fighting each other
12 or was there only one person being attacked?

13 A I can't tell. I don't think it
14 was one person being attacked. But, you know,
15 there is definitely more than one person
16 involved in this. It looks like groups, but
17 I can't definitively say.

18 Q Okay. So we're about to start it
19 again. And as we start it, if you could
20 describe what is happening and, of course, if
21 we need to pause it. So, please, start the
22 video again.

1 (Whereupon, video played.)

2 THE WITNESS: Okay. So the bottom
3 pushing and shoving is not a whole lot of
4 people getting kicked or punched, it's just a
5 lot of pushing and shoving. Security is
6 trying to separate the most aggressive people.
7 A lot of people move towards the bar. And
8 there is a middle door.

9 MR. MANNING: Could you pause it,
10 please?

11 (Whereupon, video paused.)

12 THE WITNESS: There is a middle
13 door to the left of the screen between the two
14 columns. And the security is taking out the
15 aggressors towards those middle doors. As we
16 saw earlier, the screen moved and shifted.

17 BY MR. MANNING:

18 Q Yes.

19 A That's me moving the screen. At
20 the same time, I'm on the radio asking for
21 police assistance to come inside to help us
22 out. And at this time is when I'm told they

1 will not come inside. You have to bring
2 people outside.

3 CHAIRPERSON MILLER: What do you
4 mean you're moving the screen? What's --

5 THE WITNESS: I have a -- I'm able
6 to control -- the cameras are pan/tilt/zoom
7 cameras.

8 CHAIRPERSON MILLER: Okay.

9 THE WITNESS: So I'm able to
10 control some of the movement. It's not fluid,
11 because I don't have a joystick. It's
12 controlled by a mouse, so that's why it was a
13 little jerky.

14 CHAIRPERSON MILLER: You were
15 trying to move it to capture what was going
16 on, correct?

17 THE WITNESS: Correct.

18 CHAIRPERSON MILLER: Okay.

19 THE WITNESS: But that's usually
20 if I'm able to, I try to put everything on the
21 video to see -- one, for review and things of
22 that nature. Sometimes I'm not able to.

1 Sometimes I'm actually on the floor when it
2 happens.

3 CHAIRPERSON MILLER: Yes.

4 THE WITNESS: But this particular
5 time, I was able to.

6 BY MR. MANNING:

7 Q And, Mr. Palladino, how many
8 cameras do you have in K Street?

9 A You know, now, I think we have at
10 least 16. At this time, I'm not sure that we
11 had that many, because we added additional
12 cameras to view better angles, particularly
13 outside, you know. And the fact that I don't
14 have those videos to present to you, kind of
15 gives me the idea that we didn't have those
16 cameras at the time.

17 Q But we will present five different
18 angles, correct?

19 A Yes.

20 Q Okay. So I guess if we could roll
21 the screen again and continue to describe what
22 is happening.

1 A Okay.

2 (Whereupon, video played.)

3 THE WITNESS: I mean, this just
4 seems to be, you know, this guy in a plaid
5 shirt is resisting to go out. Security is
6 taking him out. This other guy, security with
7 the bald head, is trying to tell people don't
8 -- not to follow by having them stay back.

9 There is still security in the
10 club trying to clean up. You know, we -- when
11 things get knocked over, we like to pick
12 things up, so they don't be used as a weapon.
13 And that's as much as I can see right now.

14 I can see Mr. Mundle in the video,
15 the complainant. He is up against the --

16 MR. MANNING: Can you pause it?
17 Stop. If you can pause it, please?

18 (Whereupon, video paused.)

19 THE WITNESS: I can see he is
20 wearing a plaid blue shirt up on the right
21 hand side standing by the bar. You will get
22 a better view of him, because he will go

1 towards the middle of the --

2 CHAIRPERSON MILLER: Right there.

3 BY MR. MANNING:

4 Q Now, Mr. Palladino, what's the
5 reason for those middle doors?

6 A Well, it's -- we used them as
7 emergency exits only. We don't allow people
8 in through them. It's just for exit purposes.

9 Q Are they -- do they serve a
10 security purpose?

11 A Well, yes. If we have to leave in
12 a hurry, it's much easier to go to the nearest
13 exit versus trying to walk all the way to the
14 front door.

15 Q Now, if you could describe what
16 you just saw? What is your understanding of
17 what the security personnel strategy was in
18 separating out the people that they did?

19 A Well, the strategy is to try to
20 take the aggressive people outside and
21 separate, you know, opposing parties. Whether
22 -- you know, generally, by good measure, we

1 try to keep one inside and one outside, to the
2 best of our abilities.

3 Not every time people want to stay
4 inside and we do the best we can with that.

5 Q Now --

6 A In this issue, it -- I don't think
7 anything occurred outside after this happened,
8 because I -- the reason I say that or
9 speculate that is because you will see the
10 security all come back inside.

11 Q Okay. Now, as this is happening,
12 are security personnel going out with the
13 individuals?

14 A Yes.

15 Q Okay.

16 A We deliver whoever we take out
17 into the hands of the police that are waiting
18 for us outside.

19 Q Okay. Now, why would you split up
20 one faction of people inside and the other
21 faction of people outside?

22 A Just to stop them from continuing

1 to fight each other.

2 Q Okay. Is it sometimes difficult
3 to determine who is on one side and who is on
4 the other side?

5 A When there is many people
6 involved, absolutely.

7 Q Okay. And when it's difficult to
8 determine that, what is usually the reaction
9 or the only option that you have?

10 A Well, at that time, you know, we
11 make best guess on who is involved. And if we
12 can't determine that, I think, the uniformed
13 officer can assist us. So we probably put it
14 into their hands.

15 Q So do you take them then outside?
16 Is that --

17 A We take them outside under our
18 custody into the officers. We don't just
19 throw them out and leave them be.

20 Q Okay. Okay.

21 MR. MANNING: If you could roll
22 the tape again, please?

1 (Whereupon, video played.)

2 THE WITNESS: Okay. So it's the
3 aftermath of this. My bus-staff is cleaning
4 up. It is our policy to try to make the club
5 look like nothing happened.

6 MR. MANNING: Oh, wait. Could you
7 pause for a second?

8 (Whereupon, video paused.)

9 BY MR. MANNING:

10 Q So first of all, about how long
11 did that fight take?

12 A 10 seconds.

13 Q Okay. Now, could you point out
14 Mr. Mundle on the screen right now?

15 A I lost track of him when I was
16 looking at the busboys.

17 Q I guess we could very briefly roll
18 it again.

19 (Whereupon, video played.)

20 THE WITNESS: There he is --

21 MR. MANNING: Okay.

22 THE WITNESS: -- right in the

1 middle.

2 MR. MANNING: Pause.

3 (Whereupon, video paused.)

4 BY MR. MANNING:

5 Q Okay.

6 A He is slouching.

7 Q Okay. Now, is he in proximity to
8 where the fight was previously?

9 A Yes. For whatever reason, he is--
10 appears to either be observing or doing
11 something to make himself visible, you know.
12 I don't know.

13 Q Okay. Now, if Mr. Mundle had
14 testified that he had stayed by the bar and
15 not approached the fight, would you dispute
16 that testimony?

17 MR. STERN: Objection.

18 CHAIRPERSON MILLER: I'm sorry.
19 What was the question? I was looking at him
20 on the video. What's the question?

21 MR. MANNING: I asked him if he
22 would dispute testimony that was previously

1 given that Mr. Mundle had stayed by the bar
2 and not approached the fight.

3 CHAIRPERSON MILLER: Okay. And
4 your objection is?

5 MR. STERN: He can't comment on
6 testimony of another witness. Two, the video
7 speaks for itself. Three, he can't know what
8 Mr. Mundle was -- what was on Mr. Mundle's
9 mind.

10 CHAIRPERSON MILLER: No. I
11 thought the question was does he dispute that
12 Mr. Mundle's testimony that he was near the
13 bar. Is that the question?

14 MR. MANNING: Correct.

15 CHAIRPERSON MILLER: That's just a
16 factual.

17 MR. STERN: It's -- all right.

18 MR. MANNING: I dispute --

19 CHAIRPERSON MILLER: Yes, I don't
20 see a problem with it.

21 MR. MANNING: Okay. Well, I can
22 put it another way if you would like?

1 CHAIRPERSON MILLER: Fine.

2 MR. MANNING: Okay.

3 CHAIRPERSON MILLER: It's a
4 question of fact. Does he dispute the fact
5 that he was near the bar?

6 MEMBER JONES: That's not what he
7 asked.

8 CHAIRPERSON MILLER: Is that not
9 what you asked?

10 MR. MANNING: I'll ask something
11 else.

12 CHAIRPERSON MILLER: Okay. Go
13 ahead.

14 BY MR. MANNING:

15 Q If there was testimony that Mr.
16 Mundle never approached the fight, but instead
17 stayed only by the bar immediately after the
18 fight, would you dispute that testimony?

19 MR. STERN: Objection.

20 CHAIRPERSON MILLER: I think it --

21 MR. STERN: He can't comment on
22 the testimony --

1 CHAIRPERSON MILLER: I understand
2 that.

3 MR. STERN: -- of another witness.

4 CHAIRPERSON MILLER: I think you
5 do need to rephrase your question.

6 MR. MANNING: Okay. All right.
7 It doesn't really matter.

8 BY MR. MANNING:

9 Q Mr. Palladino?

10 MR. MANNING: Do you have another
11 comment?

12 MR. STERN: I'm sorry, it was
13 misleading.

14 MR. MANNING: Okay. Okay.

15 BY MR. MANNING:

16 Q Mr. Palladino, if you could just
17 describe what is going on?

18 MR. MANNING: If you could roll
19 the tape?

20 (Whereupon, video played.)

21 THE WITNESS: Okay. Well, earlier
22 I identified Mr. Mundle by the bar. And now,

1 you can see that he has moved towards -- away
2 from the bar and he is over towards where the
3 exits would be.

4 BY MR. MANNING:

5 Q Okay. Can you see Mr. Mundle
6 right now?

7 A I cannot.

8 Q Okay. Where -- okay. Now, where
9 is he?

10 A Now he is back.

11 CHAIRPERSON MILLER: We can.

12 THE WITNESS: Walking back away
13 from the middle.

14 MR. MANNING: Okay. And if you
15 could pause?

16 (Whereupon, video paused.)

17 THE WITNESS: He seems to be very
18 excited about whatever he -- whatever just
19 happened.

20 BY MR. MANNING:

21 Q Okay. Is that Mr. Mundle behind
22 the larger individual dancing by himself?

1 A Yes.

2 MR. MANNING: If you could roll
3 the tape, please?

4 (Whereupon, video played.)

5 THE WITNESS: Yes, and, by the
6 way, that's a security guy.

7 BY MR. MANNING:

8 Q Okay.

9 A That nobody saw.

10 Q Oh.

11 A There is actually two more
12 security guys standing next to Mr. Mundle as
13 well. There is a third one walking towards
14 Mr. Mundle's direction, standing on the stage
15 now.

16 Q And where is Mr. Mundle right now?

17 A He has got his back to the cameras
18 by the bar.

19 Q And just to clarify, what kind of
20 shirt is Mr. Mundle wearing?

21 A Blue plaid. And he is dancing, I
22 guess.

1 Q So if you could continue to
2 describe where security guards are?

3 A Okay. Well, there is two guys
4 directly in front of Mr. Mundle. There is a
5 guy on the stage next to Mr. Mundle. I can
6 count one, two, three, four guys right in
7 front of him.

8 Q Okay.

9 A There is another guy, he is
10 carrying a pole. He is -- we are starting to
11 -- we have a practice of roping off the bar at
12 around -- at the end of the night in order to
13 get people off of the bar, so that we start to
14 clean up. And that's what we did. We can
15 remove the drinks on them easier as well.

16 So now it looks like everybody is
17 leaving on their own. They are walking
18 towards the front. The way -- the direction
19 they are walking is the front of the club.

20 Q Please, point out Mr. Mundle as he
21 walks by.

22 A There is Mr. Mundle in the blue

1 plaid. He is walking. There are some chairs
2 here by the first column. The gentleman is
3 standing on a chair. They are having some
4 words. And that's all I can see from there.

5 Well, however, you've got security
6 in the back of the club. Something happens,
7 security responds. Three security respond
8 immediately from the back half of the club.
9 And --

10 MR. MANNING: And I guess you
11 could pause it there.

12 (Whereupon, video paused.)

13 MR. MANNING: For the benefit of
14 the Board, there is another angle to see that
15 we can now see. We will be able to see a
16 different angle.

17 Now, if we could move, with the
18 indulgence of Mr. Stern, to the next video?

19 Could you actually click back to
20 the last video?

21 BY MR. MANNING:

22 Q Mr. Palladino, do you see yourself

1 in the video?

2 A Yes, I do.

3 Q Where are you?

4 A I'm by the bar.

5 Q Okay. And what are you doing at
6 this point?

7 A Well, my staff was kind of frozen
8 watching what was happening and I'm running
9 out to tell them to stop staring and start
10 cleaning up the mess, because I don't want
11 things laying around to be used as a weapon or
12 any of that nature. And I don't want other
13 patrons to focus on a fight versus, you know,
14 the night.

15 Q Okay.

16 MR. MANNING: So if you could,
17 switch to the other video?

18 BY MR. MANNING:

19 Q Now, could you describe what this
20 is, Mr. Palladino?

21 A This is the -- I guess I would
22 call it the first quarter of the club, the

1 entry. That white pole is approximately 30
2 feet from the front entrance, I guess.

3 Q And what's on the right of the
4 screen?

5 A Oh, the right of the screen would
6 be the bar.

7 Q Okay.

8 A From the -- on the -- to the left
9 of the screen is our glass front, which is
10 also K Street.

11 Q Okay. What is in front of that
12 pillar that you just described in the middle
13 of the screen?

14 A Couches.

15 Q Okay.

16 A Two couches.

17 Q Okay. Now, can you see Mr. Mundle
18 in this picture?

19 A I think at the very top of the
20 right hand screen, that's him.

21 Q Okay.

22 A I think.

1 Q Now, so is it correct just to
2 summarize that this is the exit of the
3 facility? Is that correct?

4 A Yes.

5 Q Okay. If you could run the video,
6 please?

7 (Whereupon, video played.)

8 THE WITNESS: So the security guy
9 is, you know, trying to rope off the bar,
10 trying to -- asking people to give them notice
11 that they have got to give up their drinks and
12 start roping off the bar.

13 BY MR. MANNING:

14 Q Now, is there an altercation?

15 A Now, something occurs. I'm --

16 MR. MANNING: If you could pause
17 it, please?

18 (Whereupon, video paused.)

19 THE WITNESS: I'm pretty sure
20 that's the first altercation that occurred.

21 MEMBER NOPHLIN: I hate to ask you
22 this, what time was this?

1 THE WITNESS: By the fact that
2 they were roping off the bar, it has to be
3 probably 2:50 or 2:45 at the earliest.

4 MEMBER NOPHLIN: You said between
5 10:00 and 3:00?

6 THE WITNESS: No, excuse me, sir.
7 2:50.

8 MEMBER NOPHLIN: 2:50?

9 THE WITNESS: We close at 3:00
10 a.m.

11 MEMBER NOPHLIN: Okay.

12 THE WITNESS: And we perform last
13 call at 2:45.

14 MEMBER NOPHLIN: Thank you.

15 MR. MANNING: Okay. So if you
16 could roll it?

17 BY MR. MANNING:

18 Q And you say this is the first
19 incident. Describe what you see, including
20 keeping track of Mr. Mundle and also security.

21 MR. MANNING: So, please, roll the
22 tape.

1 (Whereupon, video played.)

2 THE WITNESS: Okay. Well, I don't
3 see Mr. Mundle from this camera angle at all.
4 I think all security has responded to the
5 middle of the club, so I don't see them either
6 from this angle.

7 You've got your usual gawkers
8 observing everything. Nobody seems to be too
9 frightened about their safety or danger. I
10 mean, security is handling the situation and
11 we are taking the people outside through the
12 middle door.

13 BY MR. MANNING:

14 Q Okay. So now, has the first fight
15 been cleared, at this point?

16 A I can't say. I don't think so
17 yet, because I don't see -- I think I can see
18 that blue plaid shirt up at the right hand
19 corner still standing against the bar.

20 And I can see a little bit of
21 space in the middle of the club, so it looks
22 like everybody kind of made their way outside

1 in 10 seconds.

2 Q And if you could point out any
3 security personnel and any important people as
4 we go. Unfortunately, we can't fast-forward.

5 A All right. I can see security
6 kind of making their way back in to the
7 middle. I saw two inside of the club, at this
8 time. The busboys are just cleaning it up.
9 We are cleaning up.

10 Q About how long again did that
11 fight occur, based on this video?

12 A Well, it's moving not in real-
13 time. It is a little bit slow, but I think 10
14 seconds, because it was very quick. That
15 gentleman there is a security that's walking
16 over.

17 They are kind of walking
18 leisurely, which gives the impression that any
19 issue has kind of dissipated at this time.

20 Q Is that intentional?

21 A No. What I mean, there's no
22 urgency.

1 Q Okay. Understood.

2 A So we are back to business of
3 closing off the bar. A security guy there
4 with the hooded jacket on. He is wearing that
5 jacket because he was outside probably doing
6 pat-downs and it's cold. It must be cold,
7 it's November.

8 Okay. So you have a security guy
9 by the white front column. He is observing
10 people as they leave, making sure they are not
11 bringing drinks outside, making sure they are
12 not, you know, engaging in any hostile
13 activity or trying to.

14 We still have security. We're
15 always going to have security in the back half
16 of the club as people are moving forward.
17 They kind of herd them towards the front, so
18 that way there is nobody behind them, so
19 nothing happens behind their backs.

20 Okay. People are walking towards
21 the front, which maybe they are exiting at
22 this time. I see -- you are going to see this

1 group here. There is Mr. Mundle in the plaid.

2 MR. MANNING: If you could pause
3 for a second, please?

4 (Whereupon, video paused.)

5 BY MR. MANNING:

6 Q Could you point out Mr. Mundle?

7 A He is wearing plaid. He is
8 standing next to the couches at the front
9 columns. He has got two people -- two females
10 in front of him and one gentleman with
11 dreadlocks or long hair next to him.

12 Q Now, do you remember having -- do
13 you remember a woman named Mrs. Haoua Posely,
14 who testified earlier today?

15 A Yes, I recall her.

16 Q And could you identify her in this
17 video?

18 A No.

19 Q Okay.

20 A I don't know.

21 Q Okay.

22 A Based on her hair color, perhaps

1 it's the girl right in front of him.

2 Q Okay.

3 MR. MANNING: If you could run the
4 video, please?

5 (Whereupon, video played.)

6 THE WITNESS: Okay. So now, there
7 is a gentleman standing on the couch.

8 MR. MANNING: If you could pause
9 the video, please?

10 (Whereupon, video paused.)

11 THE WITNESS: He is -- they are
12 having words with Mr. Mundle for whatever
13 reason. I'm sorry, I should have maybe
14 probably pointed this out earlier, but I saw
15 that same gentleman watching Mr. Mundle as he
16 was -- as Mr. Mundle went towards the exit.
17 So it's not completely strange they did see
18 each other earlier.

19 BY MR. MANNING:

20 Q Can you tell based on your
21 impression whether Mr. Mundle or the gentleman
22 on the chair are having hostile words?

1 A It doesn't look hostile in the
2 sense that -- the facial expressions, he's
3 almost like laughing at him in some sort.

4 Q Okay.

5 MR. MANNING: If you could, run
6 the video, please.

7 MEMBER JONES: Please, keep it on
8 pause.

9 MR. MANNING: Pause, please.

10 MEMBER JONES: Where is security
11 in this screen shot right here?

12 THE WITNESS: Okay. I have --
13 most of the security is in the back half of
14 the -- or the middle of the club, which is now
15 the back of the club.

16 Earlier, there was security by the
17 right side of the couch, which is the left
18 side of the screen. There could be --

19 BY MR. MANNING:

20 Q Okay. So in this screen shot that
21 I'm looking at right now, is there security
22 staff in this screen shot?

1 A I think there is one with his back
2 against the pole. You see he has his hand up
3 to his ear. He has got a white collar on. I
4 can't -- with the screen shot when it freezes,
5 it's hard to tell.

6 MEMBER JONES: Okay.

7 THE WITNESS: Okay.

8 MEMBER JONES: Continue.

9 MR. MANNING: So if you could play
10 the video, please?

11 (Whereupon, video played.)

12 THE WITNESS: So Mr. Mundle is --
13 has his -- he is fixated on this guy.

14 MR. MANNING: Pause, please.

15 (Whereupon, video paused.)

16 THE WITNESS: Okay. So this guy
17 comes out of nowhere and hits Mr. Mundle.

18 BY MR. MANNING:

19 Q Now, who is the individual at the
20 bottom of the screen?

21 A That's a security guy rushing in
22 to grab the assailant.

1 Q Okay. Where is the individual who
2 used to be on top of the couch?

3 A He is at the top of the screen
4 right now. He stepped off the couch.

5 Q Okay. Now, as you go, if you
6 could describe how security deals with each of
7 these individuals and to what extent any of
8 these individuals continue to have physical
9 contact with each other.

10 A Okay. Well --

11 Q If you could --

12 A There is two things happening
13 here, which you are going to see from
14 different angles. Is that there is more
15 security that is outside of the camera angle.
16 And they are going -- in the front of the club
17 and in the back of the club.

18 So the front of the club is going
19 to respond and the back of the club is going
20 to respond, so they will all -- they are all
21 going to converge.

22 The ones in the front,

1 particularly this gentleman here that is
2 walking around, they were able to witness what
3 happened. So he immediately grabs the
4 aggressor.

5 MR. MANNING: Would you like to
6 roll the tape?

7 MEMBER NOPHLIN: Can I ask a
8 question, please, before you roll the tape?
9 Is there any indication that he said anything
10 to him or he just came out of the blue and hit
11 him?

12 THE WITNESS: It looks to me like
13 he just came out of the blue. I mean, he
14 looks like he is fixated on this guy and
15 doesn't even see the other guy coming. I
16 mean, maybe they had words earlier, I don't
17 know.

18 MEMBER NOPHLIN: Okay. Fine.
19 Thank you.

20 MR. MANNING: And we can certainly
21 make this video tape available for the Board
22 and we have for the investigator.

1 So with the Board's indulgence, if
2 you could run the tape again?

3 (Whereupon, video played.)

4 BY MR. MANNING:

5 Q And if you could describe what is
6 happening?

7 A Okay. So he is being apprehended.
8 Stop.

9 MR. MANNING: Pause, please.

10 (Whereupon, video paused.)

11 THE WITNESS: I think you are
12 going to see about three security guys around
13 him. I mean, that's how fast things were
14 happening right now. It's not an issue of,
15 you know, there is this big build up and this
16 delay. It was just like that and immediately
17 the security was in that close of proximity to
18 be able to have three guys grab them
19 immediately.

20 BY MR. MANNING:

21 Q So who are the individuals on the
22 left side of the screen? Bottom left.

1 A Bottom left it looks like -- I
2 don't know. It looks like -- if he is being
3 pulled away, then it has to be security
4 pulling him off.

5 Q Okay. Where are the other
6 security guards in this?

7 A They are coming forward from the
8 back.

9 Q Okay.

10 MR. MANNING: If you could roll
11 the tape again?

12 (Whereupon, video played.)

13 THE WITNESS: Okay. So one --

14 MR. MANNING: Pause, please.

15 (Whereupon, video paused.)

16 THE WITNESS: -- of the security
17 guys grabs Mr. Mundle. It is a general
18 practice to get a hold of whoever is involved
19 in a fight. One, if you grab just one guy,
20 the other guy may retaliate and assaulting the
21 guy that you have taken custody of.

22 So we try to get a hold of both of

1 them and separate them and have control of the
2 altercation. We try.

3 MR. MANNING: Okay. Now, if you
4 could continue to roll the tape?

5 MR. MUNDLE: I believe the guy
6 that was on the sofa that was pointing at Mr.
7 Mundle, he casually just walks over to the
8 bar. He is kind of like this is not me and he
9 is over just hanging out at the bar right now.

10 BY MR. MANNING:

11 Q Now, did the individual on the
12 sofa ever strike Mr. Mundle in this video, at
13 this point?

14 A No, he did not.

15 Q Okay.

16 MR. MANNING: Okay. If you could
17 roll the tape?

18 (Whereupon, video played.)

19 THE WITNESS: However, somebody --

20 MR. MANNING: Pause it, please.

21 (Whereupon, video paused.)

22 THE WITNESS: -- was shining a

1 light on him identifying him as somebody
2 involved in the altercation. So security has
3 taken him as well.

4 MR. MANNING: Okay. If you could
5 roll the tape, please?

6 (Whereupon, video played.)

7 BY MR. MANNING:

8 Q Okay.

9 A So now, it's like everybody just--
10 nobody -- everybody is just kind of walking
11 out. It doesn't seem to be like a fight where
12 everybody is rushing around going out of the
13 club. It's just people just walking and
14 making their way out.

15 Q Okay. Oh, if you could point out
16 also if you are in the video?

17 A Yes. That's me asking the busboys
18 to pick up the poles and ropes, so that they
19 can't be used as weapons.

20 Q And at this point, is it closing
21 time?

22 A It is closing time.

1 Q Okay. Now, if you could go to,
2 unless there are any other questions, the next
3 video, please?

4 Now, if you could describe what
5 angle in relation to what we just saw in this
6 video is depicting?

7 A This is our entrance and exit. So
8 at the end of the night, it serves only as an
9 exit. We don't allow people in after a
10 certain hour, so it's solely an exit, at this
11 point. It's what most people would consider
12 the front of the club.

13 Q Would this be where people were
14 being taken out of the club, at this point?

15 A At this point, yes. We try to
16 make it a habit of having only one exit, so
17 that way if things come up, we can have the
18 people kind of stationed at the right places.
19 MPD is generally waiting for us at the exit.
20 They also assist us in not letting people come
21 back inside. And if there is anything, it's
22 easy to just go out the same door.

1 If we go out multiple doors, then
2 it's -- there is no observation, there is no
3 control.

4 Q Now, so at what point is the
5 intention of getting people -- oh, I'm sorry.
6 What is the intention of getting people out of
7 the establishment, at this point?

8 A Well, we are closed. But aside
9 from that, is, you know, you have this issue
10 where there is these altercations. We have
11 multiple police officers outside and -- who
12 are better equipped to deal with these type of
13 things than we are.

14 So it's -- and they have told us
15 to bring everybody outside. So, you know,
16 what is the point? I guess our point is to
17 give them what they requested.

18 Q Okay.

19 MR. MANNING: If you could roll
20 the tape, please?

21 (Whereupon, video played.)

22 BY MR. MANNING:

1 Q And just describe as you see
2 what's happening.

3 A All right. This is a guy in suit
4 is a host. People are leaving. The guy in
5 the suit here he is a host/security. People
6 are leaving. Okay. People are running away
7 from the door, so something is happening.

8 Security is coming in and
9 responding.

10 MR. MANNING: If you can pause,
11 please?

12 (Whereupon, video paused.)

13 BY MR. MANNING:

14 Q Okay. So if you could describe
15 within this video who are security guards
16 right now?

17 A Okay. I can see two, right in the
18 middle of the screen, African-American guys,
19 black guys. One guy next to him, a caucasian
20 guy, the blurry guy in the back, I can't see,
21 but it's probably -- I guess once it gets
22 rolling, I'll tell you if he is or not.

1 Left, bottom left hand corner of
2 the screen, another security guy.

3 Q Okay.

4 MR. MANNING: If you could roll
5 the tape, please?

6 (Whereupon, video played.)

7 BY MR. MANNING:

8 Q And then especially if you can see
9 anybody that is a part of your security.

10 A There is Mr. Mundle.

11 MR. MANNING: Pause.

12 THE WITNESS: We -- he is going
13 out.

14 BY MR. MANNING:

15 Q Okay. Could you point out where
16 you saw Mr. Mundle going out?

17 A He is at the front door. Well,
18 the security has a hold of him.

19 Q And so can you see any individuals
20 aside from security who are touching Mr.
21 Mundle?

22 A No. I can see -- I can count one,

1 two, three, four, five, six, seven security in
2 this screen shot alone.

3 Q Okay.

4 MR. MANNING: If you could
5 continue to run the tape, please? Just
6 continue to describe it. Pause it.

7 THE WITNESS: There is the guy
8 that was pointing at Mr. Mundle going out now.

9 BY MR. MANNING:

10 Q Which person is that, if you can
11 describe him?

12 A The guy with the long hair and the
13 hat on.

14 Q Okay. And who is holding him
15 right now?

16 A One of my security guys.

17 Q Okay.

18 MR. MANNING: If you could roll
19 the tape, please? And Please pause it.

20 (Whereupon, video played/paused.)

21 BY MR. MANNING:

22 Q And are they being taken out at

1 separate times, the people who were involved
2 in the incident?

3 A Yes.

4 Q Okay.

5 MR. MANNING: If you could roll
6 the tape, please?

7 (Whereupon, video played.)

8 THE WITNESS: Okay. Everything is
9 kind of happening outside right now.

10 MR. MANNING: All right. Now, if
11 you could switch the tape to the next tape?

12 BY MR. MANNING:

13 Q Now, if you could describe what
14 this camera angle is depicting?

15 A This is our front entrance. It is
16 pointing east sort of, southeast.

17 Q Okay. And does your entrance
18 extend to the right from here, sensibly?

19 A Well, the entrance would go
20 straight.

21 Q I'm sorry, not the entrance, but
22 the frontage of your building or your

1 property.

2 A It extends to the right of this.

3 Q Okay. Approximately how many feet
4 would you say?

5 A 70.

6 Q Okay. So where would the security
7 guards be stationed in this picture? And
8 also, where would MPD officers be?

9 A Well, I think at this time,
10 stations are out the window. You know, we are
11 dealing with a little bit of activity here, so
12 that whole station thing, you can cancel that.

13 What we have, we are responding to
14 issues. We have MPD outside, four of them.
15 We generally like to be in proximity of MPD to
16 offer any assistance that we can as well. So
17 if there is something happening, maybe from
18 the previous altercation or from this one, we
19 are attending to it as well.

20 We are also -- I saw, I think, in
21 the angle some guys were -- some security guys
22 were coming back inside. We are not done, you

1 know, we still have people inside. We are
2 still closing up. Some guys have to come back
3 inside as well.

4 So, I mean, there is a little bit
5 of shift going on there.

6 Q Okay.

7 MR. MANNING: If you could run the
8 video, please?

9 (Whereupon, video played.)

10 BY MR. MANNING:

11 Q And point out when Mr. Mundle
12 comes out.

13 A Okay. So this is --

14 Q If you could --

15 A Okay. Now, it looks like there is
16 a call for security. I just saw security run
17 inside. Okay. People are running outside.
18 People are coming outside. Mr. Mundle runs
19 by --

20 MR. MANNING: If you could pause
21 it, please?

22 (Whereupon, video paused.)

1 THE WITNESS: -- falls down.

2 BY MR. MANNING:

3 Q So if you could point out where
4 Mr. Mundle is?

5 A He is wearing blue plaid. I would
6 say lower bottom right hand side. He is on
7 his knees standing up.

8 Q Okay.

9 A He is about to stand up.

10 Q And who are the people around him,
11 to your knowledge?

12 A At this point, I do not know.

13 Q Okay.

14 MR. MANNING: If you could roll
15 the tape, please?

16 (Whereupon, video played.)

17 THE WITNESS: All right. He goes
18 out there. There is a female officer that is
19 actually grabbing him as he is standing up and
20 trying to --

21 MR. MANNING: If you could pause
22 it, please?

1 (Whereupon, video paused.)

2 BY MR. MANNING:

3 Q Now, if you can tell me where Mr.
4 Mundle is right now?

5 A Okay. He is encircled amongst his
6 friends right now. There is a female officer
7 that is actually trying to grab his attention.
8 You will see that he pushes her off.

9 Q Now, if you could, while we start
10 it, if you could point out where Mr. Mundle is
11 and where the female officer is as well?

12 A Okay. Well, you have that red
13 truck that is in the -- prominent in the
14 video. So the group will be near the front,
15 right front quarter panel of the truck. Not
16 near the truck, but in relationship to the
17 vehicle.

18 Q Okay.

19 MR. MANNING: If you could roll
20 the video, please?

21 (Whereupon, video played.)

22 THE WITNESS: Okay. So the police

1 officer now gets pushed off. You see her
2 pushed off.

3 MR. MANNING: Pause, please.

4 (Whereupon, video paused.)

5 BY MR. MANNING:

6 Q Could you point out the police
7 officer?

8 A There is a guy with a white
9 sweater on. She is to his rear right. She
10 just got pushed off. So she is either
11 reaching for pepper spray or reaching for a
12 radio. She decides that she no longer wants
13 to assist Mr. Mundle.

14 Q So where is Mr. Mundle, at this
15 point?

16 A He is still encircled with his
17 friends, probably trying to engage them into--

18 MR. STERN: Objection.

19 MR. MUNDLE: -- to help him in
20 some fashion.

21 BY MR. MANNING:

22 Q If you could just point out where

1 he is, that's sufficient.

2 A He is in the middle of his
3 friends.

4 Q Okay.

5 MR. MANNING: If you could roll
6 the video, please?

7 (Whereupon, video played.)

8 BY MR. MANNING:

9 Q And continue.

10 A So his friends are -- obviously,
11 they have their back to Mr. Mundle, so they
12 are encircling him as though --

13 MR. MANNING: Could you pause,
14 please?

15 (Whereupon, video paused.)

16 THE WITNESS: -- they are prepared
17 to do something other than walk home.

18 BY MR. MANNING:

19 Q Okay. And there will be a
20 different angle of this, but, at this point,
21 what is happening?

22 A The guy that was wearing the hat

1 has now come out. The one that I pointed him
2 how. He has now come out. Mr. Mundle is
3 pointing at him, telling his friends that --
4 well, I don't know what he is telling his
5 friends.

6 He is pointing at him. I assume
7 that he is identifying him for some purpose.
8 So the guy with the hat sees that and he
9 decides to engage Mr. Mundle.

10 Q Okay.

11 MR. MANNING: And if you could,
12 roll the tape.

13 BY MR. MANNING:

14 Q Describe what you see, but also,
15 you know, how long this is taking as it goes.

16 MR. MANNING: If you could roll
17 the tape, please.

18 (Whereupon, video played.)

19 THE WITNESS: Okay. So they start
20 fighting. Mr. Mundle goes down. You are
21 going to lose him, everybody goes off to the
22 right. There is police officers to the right

1 that haven't responded.

2 MR. MANNING: Pause, please.

3 Pause, please.

4 (Whereupon, video paused.)

5 MEMBER MOBLEY: There he is.

6 BY MR. MANNING:

7 Q Can you see Mr. Mundle here?

8 A I lost him.

9 Q Okay.

10 A There is lots of pushing back and
11 forth.

12 Q Okay.

13 MR. MANNING: If you could roll
14 the tape, please?

15 (Whereupon, video played.)

16 BY MR. MANNING:

17 Q Just describe, okay.

18 A Okay. So it looks like there is
19 multiple people, you know, engaged in the
20 fight right now.

21 MR. MANNING: If you could pause,
22 please?

1 (Whereupon, video paused.)

2 BY MR. MANNING:

3 Q Mr. Palladino, is it one person in
4 particular that is being victimized or is this
5 a variety of different altercations?

6 A It is my -- from what I seen, it's
7 probably somebody, maybe Mr. Mundle's friends.

8 MR. STERN: Objection.

9 THE WITNESS: Well, you asked me
10 what was on the screen.

11 MR. STERN: It calls for
12 speculation.

13 THE WITNESS: Okay. Let me say it
14 like this. The guys were standing around him.

15 MR. MANNING: Okay. Now, if you
16 could, continue to roll the tape, please.

17 (Whereupon, video played.)

18 THE WITNESS: So the guys that
19 were standing around Mr. Mundle are now
20 engaged in an altercation as well. Police
21 officers are there pushing people back to
22 clear the scene.

1 On several occasions, people are
2 trying to come back into the club and security
3 is making -- securing the door to make sure
4 people don't come back inside.

5 BY MR. MANNING:

6 Q So at this point, to your
7 knowledge, has the altercation pretty much
8 dissipated?

9 A I can't see it from the --

10 Q Okay.

11 A But I think so.

12 Q Okay. And about how long has this
13 taken?

14 A 20 seconds.

15 Q Okay.

16 MR. MANNING: Okay. If you could
17 switch to the next video, please? Now, what
18 is this? This is the last one and thank you
19 for your indulgence, Board.

20 BY MR. MANNING:

21 Q What is this angle?

22 A This is the front angle. It's

1 kind of pointing slightly westbound.

2 Q So it's depicting the same?

3 MR. MANNING: Madam Chair?

4 CHAIRPERSON MILLER: I'm sorry?

5 MR. MANNING: A question.

6 CHAIRPERSON MILLER: What?

7 MEMBER MOBLEY: Madam Chair?

8 CHAIRPERSON MILLER: What?

9 MEMBER MOBLEY: Board Member

10 Jones.

11 CHAIRPERSON MILLER: Oh, I'm

12 sorry.

13 MEMBER JONES: Just a point of

14 reference. Is the red truck that was

15 prominent in the previous video now to the

16 left of the screen?

17 THE WITNESS: I think I see the

18 front of it, yes.

19 MEMBER JONES: Okay. I just

20 wanted to make sure. Thank you.

21 BY MR. MANNING:

22 Q Is this, basically, just the left

1 angle of the same area that we just saw?

2 A Yes.

3 Q Okay.

4 A You are barely getting a glimpse
5 of the red truck, at this point.

6 Q Now, the portion of the sidewalk
7 on the right of the screen, is that in front
8 of your frontage of the building?

9 A Yes.

10 Q Okay.

11 MR. MANNING: If you could roll
12 the tape, please?

13 (Whereupon, video played.)

14 THE WITNESS: Okay. Somebody is
15 trying to run into the club. It looks like a
16 police officer has grabbed them to stop them.
17 Security is out front.

18 MR. MANNING: If you can pause it
19 here, please?

20 (Whereupon, video paused.)

21 BY MR. MANNING:

22 Q Now, Mr. Palladino, does this

1 relate in any way possibly to the first
2 altercation?

3 A Possibly. I'm thinking the guy
4 that was trying to run back into the club
5 might have been involved in the first
6 altercation. I don't know why he would run --
7 try to do that, unless he wanted to come
8 inside, so the other --

9 Q But why was he not allowed into
10 the club?

11 A We were closed.

12 Q Okay. And who stopped him from
13 going in?

14 A It looked like a police officer.

15 Q Okay. Were any of your security
16 guards involved?

17 A Well, yes.

18 Q Okay. If you could point out --

19 A It looked like first you see the
20 guy with the white collar, he is a security
21 guy and the guy with the jacket to his right
22 is a security guy.

1 It looks like what happened, they
2 put their hands up and said no, but he was
3 being pursued by a police officer at the same
4 time, so it was very easy for the police
5 officer to just grab him and turn him back the
6 other way.

7 You can see the police officer in
8 the left of the screen behind the red truck.
9 You can see his badge or patch on his arm.
10 When it's moving quickly, it's actually more
11 clear, but that's the guy. That's the police
12 officer.

13 Q Okay. Now, could you point out
14 the security guards in this picture?

15 A Well, the door is open on your
16 left side. There is one standing by the door.
17 And then on his -- directly to his right,
18 there is another one.

19 Q Okay.

20 MR. MANNING: If you could roll
21 the video, please?

22 (Whereupon, video played.)

1 THE WITNESS: Okay. So it looks
2 like there is people coming out the middle
3 doors. I see lots of black. It's hard to
4 tell by the size of them. I would venture
5 that it's mostly my security.

6 I see the female police officer
7 running towards that direction and responding
8 to the incident. People are still leaving.

9 BY MR. MANNING:

10 Q Are your security guards still
11 stationed at the front door?

12 A Two are still stationed at the
13 front door. And it looks like things are --
14 things have dissipated and my security guys
15 are walking in right now. They are walking
16 away from it.

17 So two just went in. A third one.
18 He is taking off his earpiece probably,
19 because it got broken. I see it's closing.
20 I see a police officer right in the -- on the
21 right hand side. You can see his patching on
22 his shoulder. He is standing in the middle.

1 He or she is standing in the middle of the
2 sidewalk.

3 Now, she is telling people to come
4 on, you guys got to go or I assume that's what
5 they are saying. She is still to the right of
6 the heater. She doesn't look like there is
7 anything happening, so she -- it doesn't seem
8 like there is any altercation going on outside
9 at this time.

10 There is another police officer
11 walking towards the left of the screen.

12 Q And what are the security guards
13 doing right now?

14 A It looks like they are taking
15 something -- pushing someone back that is
16 trying to go in. And the female officer is
17 there trying to assist in that matter as well.
18 She stands in front of him.

19 Q Does it sometimes happen that a
20 person who is involved in an altercation that
21 gets taken out of the establishment, tries to
22 get back in?

1 A Yes.

2 Q Okay. And what's the protocol
3 with your security guards when that happens?

4 A Well, we try our best to identify
5 them to each other, so that they don't get
6 back in. But at a time like this, it's easy.
7 We just don't let anybody in.

8 Q All right.

9 MR. MANNING: It could be a bit of
10 time here, because we have to go from the
11 first to the second to the third.

12 THE WITNESS: Okay. Something is
13 happening. Security is rushing inside, five
14 seconds.

15 MR. MANNING: Pause it, please.

16 (Whereupon, video paused.)

17 MR. MANNING: Pause.

18 THE WITNESS: Five seconds, they
19 are outside. Mr. Mundle just came outside.
20 He is immediately being grabbed by the police
21 officer or trying to be.

22 BY MR. MANNING:

1 Q Where is he?

2 A Right now, he is being blocked by
3 the left door. You can see the door, the
4 golden door frame.

5 MR. MANNING: Madam Chair, I think
6 this --

7 CHAIRPERSON MILLER: Oh, I'm
8 sorry, what? Is there a question?

9 MEMBER JONES: Yes. In this
10 video, prior to Mr. Mundle being dumped
11 outside, there was another individual that
12 looked like he was tossed and landed on the
13 sidewalk just prior to Mr. Mundle. Was that
14 the individual that struck Mr. Mundle inside
15 your establishment?

16 THE WITNESS: It does not appear
17 to be him, because that individual who came
18 out with Mr. Mundle had long hair. The guy
19 that struck him inside had short hair.

20 MEMBER JONES: So what happened to
21 the guy that struck him?

22 THE WITNESS: I don't see him on

1 tape anywhere. So they are completely
2 separate. They are completely in different
3 locations. I do not know.

4 MEMBER JONES: Do you have any
5 record of what happened to the guy with short
6 hair that struck Mr. Mundle, the aggressor?

7 THE WITNESS: I don't. No.

8 MEMBER JONES: So no video record,
9 no incident log, no nothing?

10 THE WITNESS: I've been trying --
11 when we tried to surveillance the video and
12 look for him, but I just couldn't find him on
13 the tape. I mean, it's all -- I tried.

14 MR. MANNING: So if we could run
15 it again and then also be paying attention to
16 where the individual with the hat comes out
17 and then what Mr. Mundle is doing. So if you
18 could then run the tape, please?

19 (Whereupon, video played.)

20 THE WITNESS: Okay. So Mr. Mundle
21 is to the left. Now, a little bit off screen.
22 He has got some friends around him. They are

1 talking about whatever just happened probably.
2 Police officers over there trying to diffuse
3 it. He doesn't want to be talked to. The guy
4 pushes --

5 MR. MANNING: Could you pause it,
6 please?

7 (Whereupon, video paused.)

8 THE WITNESS: The guy putting his
9 hat on is the guy that was talking to him
10 inside and now he is outside. Mr. Mundle is
11 pointing him out, so they are going to have an
12 engagement now.

13 BY MR. MANNING:

14 Q And if you could describe, as we
15 go, how Mr. Mundle approaches the gentleman in
16 the hat and vice versa.

17 A Well, he is pointing at him. And
18 he is walking towards him.

19 Q Okay. And then as we go from
20 here, there is going to be the altercation.
21 And if you could follow Mr. Mundle and also
22 follow what any MPD officers are doing to

1 diffuse the situation, including any contact
2 that they have with Mr. Mundle.

3 And also, where are your security
4 guards right now?

5 A Okay. They are -- I see three at
6 the front door.

7 Q Okay.

8 MR. MANNING: If you could run the
9 tape, please?

10 (Whereupon, video played.)

11 THE WITNESS: Okay. So they start
12 fighting outside. Other people are involved.

13 MR. MANNING: Off, please.

14 (Whereupon, video paused.)

15 BY MR. MANNING:

16 Q So --

17 A I can't see Mr. Mundle, at this
18 time.

19 A Okay.

20 Q All right. So if you could just
21 try to keep track of him.

22 A I think he went to the right. I'm

1 pretty sure he went to the right, at this
2 point.

3 MEMBER JONES: So as you view the
4 video screen, he is on the left side of the
5 video screen or you think he is on the right
6 side of the video screen?

7 THE WITNESS: Right now, I think
8 he is on the right side.

9 MEMBER JONES: So closer to where
10 the heater is?

11 THE WITNESS: Correct.

12 MEMBER JONES: As opposed to where
13 the door frame is?

14 THE WITNESS: Correct.

15 MR. MANNING: Okay. If you could
16 run the tape, please?

17 (Whereupon, video played.)

18 THE WITNESS: Okay. He was. Like
19 I said, there is also a police officer
20 standing right there and is separating Mr. --

21 MR. MANNING: Stop please, pause.

22 (Whereupon, video paused.)

1 THE WITNESS: Okay. Mr. Mundle
2 was by the heater at that frame. There is
3 also a police officer by that truck that was
4 back there. So he makes his way towards Mr.
5 Mundle, grabbed somebody that was engaged with
6 Mr. Mundle. Another police officer in a blue
7 shirt has now -- I believe has Mr. Mundle, is
8 trying to grab Mr. Mundle right now.

9 Mr. Mundle is on top of the guy
10 that hit him, so he is not in a defensive
11 posture in any way.

12 BY MR. MANNING:

13 Q Is the gentleman, the police
14 officer you mentioned, does he have his back
15 to the screen or --

16 A He has his back to the screen. And
17 there is another one in all dark blue, which
18 probably could be mistaken as black, is in
19 front of him. So both officers will attempt
20 to subdue Mr. Mundle.

21 Q Okay.

22 MR. MANNING: If you could run the

1 tape, please?

2 (Whereupon, video played.)

3 THE WITNESS: Okay. So they are
4 yanking him or trying to yank him off of the
5 guy.

6 MR. MANNING: Pause, please.

7 (Whereupon, video paused.)

8 THE WITNESS: And they yanked him
9 off of the guy that he was on top of. The
10 officer in the dark, it looks like he threw
11 Mr. Mundle back and Mr. Mundle fell on the
12 ground.

13 BY MR. MANNING:

14 Q So, at this point, who is grasping
15 Mr. Mundle?

16 A Police officer.

17 Q Okay.

18 MR. MANNING: If you could run the
19 tape, please?

20 (Whereupon, video played.)

21 THE WITNESS: And it looks like
22 they are just separating, clearing the street

1 right now. The police officers are still
2 grabbing people.

3 MR. MANNING: Pause it, please.

4 (Whereupon, video paused.)

5 BY MR. MANNING:

6 Q So where is the police officer now
7 that you --

8 A Now, there is a police officer
9 directly in the middle of the screen. He
10 grabbed and threw somebody that was probably
11 rushing in or appeared to be rushing in. He
12 didn't -- I'm sure he didn't want to know
13 whether or not he wanted to be bothered or
14 not, so he just pushed him aside.

15 He is stopping the next person
16 from continuing. And this is paused, too.

17 Q Okay.

18 MR. MANNING: If you could run the
19 video, please?

20 (Whereupon, video played.)

21 THE WITNESS: And now, he is
22 pushing back. There is at least four police

1 officers that I can see and they are trying to
2 pushing their crowd in different directions.

3 BY MR. MANNING:

4 Q So if you could --

5 A At this point, I don't believe
6 there is any fighting going on. I think it is
7 mostly police telling everybody just to leave.

8 Q Okay. And from the beginning of
9 this third altercation until the end of the
10 third altercation, about how long did that
11 take?

12 A The beginning when Mr. Mundle
13 started fighting outside?

14 MR. MANNING: Could you pause,
15 please?

16 (Whereupon, video paused.)

17 THE WITNESS: Is that what you are
18 asking?

19 BY MR. MANNING:

20 Q Yes.

21 A With all the starting and
22 stopping, it's hard to say. I think 30

1 seconds.

2 Q Okay.

3 A It was very quick.

4 Q Okay.

5 MR. MANNING: If you could play
6 the video, please?

7 (Whereupon, video played.)

8 THE WITNESS: We might have the
9 time stamp right.

10 BY MR. MANNING:

11 Q Okay. Now, has the altercation
12 pretty much ceased?

13 A Now you see much more. It looks
14 like more squad cars are here with their
15 lights on. So there was a heavy police
16 presence on the street.

17 Q Would those squad cars have been
18 called by the MPD officers that you were
19 reimbursing that day?

20 A Possibly.

21 Q Okay.

22 A There is also other clubs in the

1 area and sometimes they -- their officers
2 respond as well.

3 Q Okay. Okay. Thank you.

4 MR. MANNING: You can stop the
5 video now.

6 (Whereupon, video stopped.)

7 MR. MANNING: And to the Board
8 again, my apologies. There was a problem in
9 technology in having the rewinding and the
10 time stamping go from a computer to your video
11 display system. So I know the investigator
12 has a copy, but if you would like an
13 additional copy, we can provide you one as
14 well.

15 THE WITNESS: May I sit down?

16 MR. MANNING: Yes.

17 BY MR. MANNING:

18 Q So I guess to recap what you saw
19 as compared to what was expected of -- what
20 you would expect of K Street and also what the
21 MPD would expect of K Street, how would you
22 describe the separate incidents?

1 A Well, I mean, you know, nobody
2 likes to have any conflict or fights
3 happening, but, I mean --

4 Q Can you speak up, please?

5 A Sorry. I said nobody really wants
6 something like that to happen, but, I think to
7 the best of our ability, we tried to contain
8 it. And we used the resources that were
9 available to us, which is MPD.

10 Q I want to show you an exhibit
11 here.

12 MR. MANNING: May I approach the
13 witness?

14 CHAIRPERSON MILLER: Oh.

15 MR. MANNING: I have exhibits for
16 all of you as well.

17 CHAIRPERSON MILLER: Okay. Can
18 you speak into the mike for a second?

19 MR. MANNING: Sorry, yes.

20 CHAIRPERSON MILLER: You wanted to
21 show your witness an exhibit?

22 MR. MANNING: Right. And I also

1 have copies for you as well.

2 CHAIRPERSON MILLER: And Mr.
3 Stern?

4 MR. MANNING: Yes, and Mr. Stern
5 as well.

6 CHAIRPERSON MILLER: Okay. And
7 can you identify what it is?

8 MR. MANNING: I was going to ask
9 him to do it.

10 CHAIRPERSON MILLER: Go ahead,
11 yes.

12 THE WITNESS: Thank you.

13 BY MR. MANNING:

14 Q Mr. Palladino, if you could
15 describe what this document is for me, please?

16 A This is the current MPD
17 Reimbursable Program Agreement.

18 Q Okay. And what does this document
19 generally describe for you?

20 MR. STERN: Objection. He hasn't
21 had affiliation with this document. First of
22 all, the document is current as of January 6,

1 2012, which has nothing to do with what was
2 happening at the time.

3 Second of all, he didn't write the
4 document. It's not going to his individual
5 records.

6 MR. MANNING: Okay. I --

7 MR. STERN: So --

8 MR. MANNING: If you don't mind,
9 if I try to lay a foundation?

10 MR. STERN: That would be fine.

11 MR. MANNING: Yes.

12 CHAIRPERSON MILLER: Go ahead.

13 MR. MANNING: I was, first of all,
14 asking him to describe what the document is.
15 And then we were going to begin to lay the
16 foundation for the document, so if you bear
17 with me.

18 BY MR. MANNING:

19 Q Mr. Palladino, have you ever seen
20 this document before today?

21 A Yes.

22 Q Okay. And how does -- and in what

1 way does K Street have any reason to have
2 possession of a document like this?

3 A Because we use reimbursable
4 detail.

5 Q Okay. And what does that mean,
6 Metropolitan Police Department/ABC
7 Establishment Reimbursement Program Agreement?

8 A We pay for a uniform police
9 officer to work at our establishment.

10 Q Okay. And have you had occasion
11 to see previous iterations of this document as
12 it applies to K Street?

13 A I do not recall.

14 Q Okay. Now, if you could turn to
15 page 4 of the document? Actually, page 3 of
16 the document. At the bottom bullet point --

17 MR. STERN: Objection. It hasn't
18 been testified that the document is what --
19 what the document says hasn't been -- he
20 hasn't laid a foundation that it has been
21 introduced.

22 MR. MANNING: Okay. Well, I would

1 like to introduce this document as exhibit --
2 I guess, Licensing Exhibit 1.

3 (Whereupon, the document was
4 marked as Licensee Exhibit 1 for
5 identification.)

6 MR. MANNING: And I do believe I
7 have established a foundation for the
8 document.

9 CHAIRPERSON MILLER: You can
10 object to its admission.

11 MR. STERN: Yes.

12 CHAIRPERSON MILLER: But he isn't
13 moving to admit it yet.

14 MR. STERN: A part of it is
15 submitted.

16 MR. MANNING: Okay. All right. I
17 would like to move this.

18 MR. STERN: Objection.

19 MR. MANNING: I would like to move
20 the admission of this as Licensing Exhibit 1.

21 CHAIRPERSON MILLER: Okay. Now,
22 we have an objection.

1 MR. MANNING: Now, let me --

2 CHAIRPERSON MILLER: Mr. Stern?

3 MR. STERN: Yes.

4 CHAIRPERSON MILLER: Okay.

5 MR. STERN: The objection is that
6 this document is marked current as of January
7 6, 2012. The witness just said he didn't see
8 previous iterations of this document, so he
9 doesn't know if it was the same as the
10 document that was in effect at the time.

11 It is not signed by anybody. He
12 didn't write the document. There is just no
13 foundation whatsoever, at this point.

14 CHAIRPERSON MILLER: Well, for
15 what purpose do you want to admit it?

16 MR. MANNING: Yes, for the purpose
17 -- the purpose is it's basically going to
18 describe the policy that MPD has of not
19 entering the facility. I want to establish
20 that with this document and then also ask Mr.
21 Palladino whether that had been the policy
22 previous to this document and at the time of

1 the incident at question.

2 MR. STERN: As to the second part,
3 first, you already asked that and it has been
4 answered.

5 As to the first part, he can't
6 answer what's in the document.

7 CHAIRPERSON MILLER: No. He didn't
8 answer. No, he didn't answer that question.

9 MR. STERN: He did.

10 CHAIRPERSON MILLER: Whether the
11 policy was in effect?

12 MR. STERN: His testimony was the
13 policy was that they should bring them
14 outside.

15 MR. MANNING: Okay. Well, if we--

16 CHAIRPERSON MILLER: Oh, okay.

17 MR. MANNING: -- can stipulate
18 that that was the policy, then we don't have
19 to --

20 MR. STERN: No. We can stipulate
21 that he testified that that was the policy.

22 MR. MANNING: Okay. Well, if we

1 will agree that that was his testimony that
2 the policy at the time in question was that
3 the MPD did not allow -- or required that
4 people be brought out of the establishment if
5 there was an altercation, then I don't think
6 that we have any use for the document.

7 If you are willing to stipulate to
8 that testimony.

9 MR. STERN: The testimony is what
10 the testimony is. I'm not stipulating to
11 anything.

12 CHAIRPERSON MILLER: Okay. And
13 what's the paragraph that you are looking at?

14 MR. MANNING: The paragraph -- if
15 we could just go on, it's very easy to go to.
16 The bottom paragraph.

17 CHAIRPERSON MILLER: The current
18 policy is now?

19 MR. MANNING: I'm sorry, excuse
20 me.

21 CHAIRPERSON MILLER: Excuse me.
22 You can show us the paragraph that is -- does

1 it go to the question of what the policy is
2 now?

3 MR. MANNING: It goes to the
4 question of whether or not this policy that is
5 reflected here was the policy at the time that
6 was in question in 2010. We unfortunately
7 don't have that policy from 2010.

8 CHAIRPERSON MILLER: Okay. Where
9 is it in the document?

10 MR. MANNING: It's the last bullet
11 point on page 3, which then carries over to
12 page 4. So it starts with "Consistent with
13 the legislative intent authorizing ABC
14 Reimbursable Detail Officers who are working
15 ABC Reimbursable Details are expected to
16 patrol the area surrounding the establishment
17 for the purpose of maintaining public safety
18 and control traffic.

19 Officers shall not, bullet point
20 1, work inside of the establishment unless
21 police action is required inside of
22 establishment."

1 MR. STERN: You know, I don't even
2 object to that. That wasn't it.

3 CHAIRPERSON MILLER: Okay. To me,
4 it just represents what the policy is now
5 period.

6 MR. MANNING: Okay. Fine. That's
7 fine. So I'll remove the document as an
8 exhibit.

9 CHAIRPERSON MILLER: Okay.

10 MR. MANNING: You made it easy for
11 me. I appreciate it, Mr. Stern.

12 So if we could go to -- well,
13 actually, strike that.

14 BY MR. MANNING:

15 Q Just to reiterate the policy that
16 you understood in 2010 with MPD, what was your
17 understanding of what MPD requested and
18 required of the flow of individuals who were
19 involved in an incident from inside to outside
20 of the facility?

21 A They explicitly requested us to
22 bring the individuals outside. That was

1 always the contention. Whether or not that
2 was appropriate, because we would prefer them
3 to come and remove them versus -- since they
4 are uniformed and licensed and badged.

5 And that has been an argument for
6 a long time.

7 Q Okay. Okay.

8 MR. MANNING: I don't have any
9 further questions, at this point.

10 CROSS-EXAMINATION

11 BY MR. STERN:

12 Q Yes, I'm going to just go back.

13 A Okay.

14 Q In terms of that policy, just as
15 you understood it to be, that isn't consistent
16 with any documents you have read from the
17 police department, is it?

18 A No, I did not. I don't have
19 anything in writing about that.

20 Q Thank you. Now, you said that --
21 one time you testified the incident took 20
22 seconds inside the incident -- the first

1 incident inside the establishment that you
2 looked at. Is that right?

3 A That was an estimate, yes.

4 Q Okay.

5 A It could have been a little more
6 or a little less.

7 Q Okay.

8 A It could have been.

9 Q Okay. Now, I noticed in the fifth
10 video at the end of the video, there were
11 lights. You noted there were lights and
12 police cars coming up. Is that right?

13 A Yes.

14 Q Now, prior to that last few
15 seconds when the police car lights and -- with
16 lights start coming up, did you see any other
17 police cars anywhere at any of those
18 businesses?

19 A I was not outside.

20 Q No, I know. That wasn't my
21 question. I'm sorry.

22 A The video --

1 Q My question was did you see any
2 police cars come up in any of the videos?

3 A I don't think so.

4 Q Okay.

5 A I would have to review.

6 Q Hold on.

7 MR. MANNING: Objection. If he
8 can answer the question before him.

9 THE WITNESS: I kind of want to
10 say that I did see at least two -- the two
11 police cars, but I'm guessing. I mean, the
12 proof is in the video. I don't have to guess.

13 BY MR. STERN:

14 Q Okay. What video did you see two
15 police cars?

16 A You can look at it as well.

17 Q No, no. If I may, my question to
18 you is do you remember seeing two police cars
19 in any one of the five videos?

20 A I have a recollection that I might
21 have.

22 Q And in which --

1 A I'm not sure.

2 Q -- video was that?

3 A I don't remember.

4 Q So between when you just saw them
5 now until now, you don't remember which one it
6 was?

7 A No. We just saw five videos. I
8 can't remember which one was which.

9 Q Okay. Now, we can move on.

10 MR. MANNING: Excuse me?

11 MR. STERN: You can move back
12 there if you want.

13 MR. MANNING: I'll go back once we
14 go back into --

15 MR. STERN: Would you like to move
16 back?

17 Now, can we roll the second video,
18 please, for us? I hope he's still listening.

19 CHAIRPERSON MILLER: Oh.

20 MR. STERN: Oh, okay, forget it.

21 CHAIRPERSON MILLER: We can check
22 on it if --

1 MR. STERN: No, let me just see if
2 he remembers.

3 THE WITNESS: May I add a piece or
4 one thing to that?

5 BY MR. STERN:

6 Q Yes.

7 A We have hired two reimbursable
8 details.

9 Q Right.

10 A They generally come in a squad
11 car.

12 Q Right. And there were four
13 officers for those two reimbursable details.

14 A Right. So --

15 Q So unless any other officers
16 arrived in police cars, four would have been
17 the maximum number of officers that were
18 there.

19 A Right, and two squad cars.

20 Q In two different cars, right?

21 A Correct.

22 Q Okay. So four was the maximum

1 officers that would have been there?

2 A Correct.

3 Q Okay. Now, by the way, Video 1,
4 Video 2 and Video 3 are all internal. Is that
5 correct?

6 A Um --

7 MR. MANNING: Objection. It's
8 vague. What does internal mean?

9 MR. STERN: They only show
10 pictures internally to the club.

11 THE WITNESS: Inside the venue.

12 BY MR. STERN:

13 Q Okay. So was it either Video 4 or
14 5, and you don't remember which one that would
15 have been?

16 A There were two angles outside
17 so --

18 Q Okay. Now, tell me if you recall
19 in Video 2 the very first person grabbed --
20 well, let me ask this.

21 How far from the doorway is the
22 scene in Video 2?

1 A You're going to have to clarify
2 what Video 1, 2, 3, 4 and 5 are.

3 Q Okay. Video 2 is the scene where
4 Mr. Mundle is punched in the face and has his
5 bra joke -- jaw broke.

6 A I was --

7 MR. MANNING: Objection.

8 THE WITNESS: Objection. That's--

9 MR. STERN: You are objecting?

10 MR. MANNING: I'm objecting. I'm
11 objecting.

12 CHAIRPERSON MILLER: All right.
13 The witness doesn't object, so let your
14 counsel object. Go ahead.

15 MR. MANNING: I'm objecting.
16 Essentially, Mr. Stern is testifying as to
17 what he believes might have happened in the
18 video.

19 MEMBER MOBLEY: These are leading
20 questions.

21 CHAIRPERSON MILLER: That's not an
22 established fact.

1 MR. MANNING: It's not an
2 established fact that his jaw was broken when
3 he was punched.

4 MR. STERN: I'm sorry.

5 CHAIRPERSON MILLER: Okay. He is
6 leading.

7 MR. STERN: If I may, Your Honor,
8 it was a leading question. He can answer yes
9 or he can answer no.

10 CHAIRPERSON MILLER: That's right.
11 You can answer --

12 MR. STERN: He can answer he
13 doesn't know.

14 CHAIRPERSON MILLER: -- you can
15 deny that you know that his jaw was broken or
16 whatever.

17 THE WITNESS: I'm sorry, can you
18 repeat the question?

19 BY MR. STERN:

20 Q Okay. Video 2, I'm asking you, do
21 you remember -- do you recall Video 2 that
22 where the gentleman seems to have come out of

1 nowhere and punched Mr. Mundle in the jaw?

2 A I recall that video.

3 Q Okay.

4 CHAIRPERSON MILLER: Thank you.

5 BY MR. STERN:

6 Q On that video, how far is the
7 scene taken on that video from the front door?

8 A 20 feet, 30 feet. 20 feet or 30
9 feet.

10 Q Okay. The first person grabbed by
11 your security guards on that video was the
12 person who punched Mr. Mundle. Is that right?

13 A I believe so.

14 Q Okay. And he was rushed in the
15 direction, at least in that video, towards the
16 door. Is that right?

17 A Yes.

18 Q Okay. And at the end of that
19 video, there are no patrons whatsoever still
20 in the club. Is that right?

21 A Um, I don't think I recall seeing
22 the complete end of that video, but everybody

1 seems to be --

2 Q Okay.

3 A -- heading towards the door. I
4 think there were -- I don't think the club was
5 completely empty.

6 Q Okay. How about in the first
7 video that shows the people walking around the
8 rope and then seems to show several of your
9 employees cleaning up. Was there any patrons
10 in the room for -- in that video?

11 A I would have to watch the video
12 again in order to have -- it's reasonable to
13 say that everybody is making their way to the
14 exit.

15 Q Okay. And you were visible in
16 both the first and second videos. Is that
17 right?

18 A Yes. I identified myself twice.

19 Q So when the attacker, I call him
20 the attacker, the person who hit Mr. Mundle,
21 first rushed towards the direction of the
22 door, you appear to be looking in that

1 direction. Is that correct?

2 A I'm actually talking to my staff.
3 I'm actually -- if the bar is on my left hand
4 side, I recall that I was addressing one of
5 the busboys that was standing in the kitchen
6 telling him to come over here.

7 Q So you didn't pay any attention to
8 what happened to that first gentleman?

9 A There was nothing that I could
10 see, my last sight. Once I saw what was
11 coming on video, I was observing everything
12 from the back on video once there was
13 happening violently in the club. I went to
14 handle the staff issue, the cleaning up.

15 Q I think you said in the videos and
16 at least in Video No. 4 and 5 that by the
17 conclusion of the video, your place was
18 closed.

19 A I think when I say closed, I mean,
20 we are no longer letting people in. We are no
21 longer serving alcohol. I mean, I think you
22 are saying closed meaning that there is nobody

1 else in the club except for staff. Am I
2 wrong?

3 Q Yes.

4 A Okay. So what do you mean by
5 closed?

6 Q That there is nobody else except
7 for staff.

8 A I don't know that. I mean, when I
9 say closed, I mean, we are done. There is no
10 admission being charged. There is no money
11 being made. We are trying to, you know, close
12 up the club.

13 Q All right. Now, tell me if you
14 recall seeing what I do, but I recall -- well,
15 tell me if you recall on Video No. 5, there
16 appears to be two patrons who are thrown out,
17 literally thrown out and onto the floor from
18 the establishment. Onto the sidewalk from
19 your establishment. Is that right?

20 A Two patrons, yes.

21 Q You don't think either one of them
22 was the attacker?

1 A Definitely not.

2 Q Okay.

3 A One of them was Mr. Mundle, so
4 clearly, he wasn't the attacker.

5 Q Okay.

6 A And the guy next to him had long
7 hair, which, obviously --

8 Q Okay. And you watched the same
9 thing -- I'm sorry, the fourth video that
10 showed the entire incident from the side doors
11 and the front door. Is that right?

12 A Um --

13 Q The fourth video showed the
14 incident as everybody is coming out the side
15 door?

16 A Pointing kind of westbound.

17 Q Right. Or is that the fifth
18 video? I apologize. It was one video where
19 you see people coming out the side door and
20 then we watched it all the way until --

21 A Yes.

22 Q -- people came out the front door.

1 A Yes. You can kind of see it at
2 that angle, yes.

3 Q Okay. Now, on that video, from
4 when people came out the side door until
5 people stopped coming out, at some point in
6 that time, the attacker had to have been taken
7 out of the establishment, right?

8 A You would think so, yes.

9 Q But you couldn't find him anywhere
10 on that video?

11 A No.

12 Q If the entire incident took 30
13 seconds, could there have been more than 30
14 seconds between when the attacker was taken
15 out and when Mr. Mundle was taken out?

16 A I think when I quoted 30 seconds,
17 I was referring to the moment Mr. Mundle got
18 hit outside to when I felt that the police had
19 separated everybody because they were down the
20 street. That's 30 seconds.

21 Q Okay. So --

22 A I'm not saying 30 seconds from the

1 first incident to the moment we closed.

2 Q What would you --

3 A The guess is meaningless, because
4 it's all time stamped. You don't have to ask
5 me what my exact time is. We can look it up
6 and find out.

7 Q Would it be as meaningless for you
8 to tell us what we could see on the video?

9 A I mean, I tried.

10 Q Okay. Can I ask you, the security
11 plan that was in place at the time this
12 occurred called for the establishment to take
13 people out separately. Is that right?

14 A At the time, that is correct.

15 Q Do you know why that was put into
16 place?

17 A Well, recently when we wrote the
18 security plan, we did not have a police
19 presence. It was just us on the street. And
20 we thought that when we wrote the security
21 plan, it was almost the same as a training
22 manual.

1 Q Okay. I really asked if you knew
2 why.

3 A I'm sorry.

4 Q Okay. Now, I ask --

5 MR. MANNING: Well, objection. If
6 he can answer the question?

7 CHAIRPERSON MILLER: What?

8 MR. STERN: No, the question was
9 do you know why it was put into place.

10 MR. MANNING: And --

11 MR. STERN: Not why was it put
12 into place. I will ask him --

13 CHAIRPERSON MILLER: Oh.

14 MR. STERN: -- the next question
15 when I get a chance.

16 MR. MANNING: I think he's getting
17 there.

18 THE WITNESS: So do you want a yes
19 or no?

20 MR. STERN: Yes. No.

21 MR. MANNING: I think he is
22 allowed to explain, Madam Chair, his answer.

1 MR. STERN: He can explain why he
2 understood.

3 CHAIRPERSON MILLER: Yes. So what
4 are you arguing about?

5 MR. STERN: He can't explain --

6 CHAIRPERSON MILLER: Okay. He
7 said did you know and he is going to say yes
8 or no.

9 MR. STERN: Right.

10 CHAIRPERSON MILLER: And he was
11 going to go further.

12 MR. STERN: And that reason is
13 because I'm allowed to lead the question with
14 questions and that's what I'm trying to do.

15 MR. MANNING: And I believe the
16 witness is also allowed to answer the
17 question.

18 CHAIRPERSON MILLER: True. It's a
19 valid point, because the witness is allowed to
20 explain his answer, too.

21 MR. STERN: Yes, but explaining
22 why he understood is not explaining why it was

1 -- the reason -- what the policy was.

2 CHAIRPERSON MILLER: Okay. So go
3 ahead, if you can follow Mr. Stern's
4 questioning.

5 MR. STERN: Okay.

6 BY MR. STERN:

7 Q The reason that policy was in
8 place is because it allows a cool down period
9 between the combatants, right?

10 A Yes.

11 Q And it protects the public outside
12 in case an incident spills out into the
13 outside. Isn't that right?

14 A Yes.

15 Q Okay. Now, in the first
16 altercation that you showed here, there was no
17 time period at all between when the first or
18 second group or when any group of people was
19 taken outside. Everybody was taken outside
20 together. Isn't that right?

21 A I can't tell.

22 Q You don't know? Okay. It's fine

1 to say you don't know.

2 A I don't know who was involved in
3 the fight.

4 Q Okay.

5 A So, therefore, I don't know who
6 was left behind.

7 Q Okay. But we saw in the fourth
8 video that there was fighting still going on
9 as your people are taking the combatants out
10 into the street, right?

11 A Okay. Again, I'm not sure what
12 you mean by the fourth video.

13 Q You showed four -- five videos?

14 A Yes. I didn't number them. So
15 which one is the fourth video?

16 Q Okay. The one that shows the
17 people spilling out onto the street from the
18 side door.

19 A Okay.

20 Q Okay. Do you recall that?

21 A Yes.

22 Q Okay. When they spilled out on

1 the street from the side door, do you recall
2 that they were still fighting?

3 A Outside?

4 Q Yes.

5 A No. It looks like they are being
6 separated. It looks like the police are
7 handling the situation. It's on camera.

8 Q I'm going to have to ask that we
9 play that again.

10 MR. STERN: You can queue it up.

11 MR. MANNING: Which video do you
12 want? I know they have a number.

13 MR. STERN: I want the one with
14 the side -- they spill outside the side door.

15 MR. MANNING: Okay. I guess there
16 are two, four and five.

17 MR. STERN: Right.

18 MR. MANNING: Do you want that
19 angle or do you want another angle?

20 MR. STERN: The other angle.

21 MR. MANNING: Okay. So that would
22 be --

1 MR. STERN: Five.

2 MR. MANNING: -- five, yes.

3 MR. STERN: Okay, five. I'll ask
4 other questions in the meantime.

5 CHAIRPERSON MILLER: Okay.

6 MALE PARTICIPANT: It's queued up.

7 MR. STERN: Okay. So I guess it
8 will take about four minutes to get to about
9 the --

10 MR. MANNING: Yes, if he can queue
11 it up to the place where we started last time?

12 MR. STERN: I'll leave it to you
13 to keep an eye on that.

14 MR. MANNING: Okay.

15 (Whereupon, at 5:00 p.m. the Show
16 Cause Hearing continued into the evening
17 session.)

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E-V-E-N-I-N-G S-E-S-S-I-O-N

(5:00 p.m.)

BY MR. STERN:

Q Now, are you prepared to at least admit that there was no attempt to keep separate sides separate in that first incident?

A Absolutely not, no.

Q Did you make -- did you see your security guards make any attempt to keep the separate sides of that altercation separate?

A From what I saw, they separated the hostile group. From what I saw, there was no more continued fighting outside. So the point was resolved. Either they were separated or they were separated outside, but they were separated at some point.

I don't know who was participating in that fight. It very well may be that Mr. Mundle got assaulted because he was a participant in some fashion.

Q Okay. But I want --

1 A The people that were still --

2 Q -- to understand --

3 A -- left behind continued to fight.

4 Q Okay. No, no, I think you
5 misunderstand my question. If I may? I'm
6 sorry. I wasn't asking about Mr. Mundle. I
7 was asking only about that first incident.

8 That first incident, there was
9 more than one person fighting, right?

10 A Yes.

11 Q It wasn't one person standing
12 there hitting himself, right?

13 CHAIRPERSON MILLER: Excuse me.
14 What do you mean the first incident? Just so
15 that I can follow, I don't know about the
16 other Members. You're talking about the one
17 that is inside now or outside?

18 MR. STERN: Inside.

19 CHAIRPERSON MILLER: Inside. The
20 very first incident?

21 MR. STERN: Right.

22 CHAIRPERSON MILLER: Okay.

1 MR. STERN: And it spills out onto
2 the street.

3 CHAIRPERSON MILLER: Okay. Okay.

4 MR. STERN: Okay.

5 BY MR. STERN:

6 Q The first incident that is inside,
7 there is more than one participant involved,
8 right?

9 A Yes.

10 Q Did you see on that tape anywhere
11 where your security guards attempted to
12 separate those people and hold them in
13 separate areas?

14 A I could not see anything about
15 that, no.

16 Q Okay. In fact, they seemed to
17 take all of the participants outside at the
18 same time?

19 A That would also be speculation,
20 because I didn't see whether they took them or
21 whether they pushed them all out, so I can't
22 answer that question.

1 Q You don't know whether they took
2 all the participants that they could find
3 outside at the same time?

4 A I don't know.

5 Q Okay. Now, you did not present to
6 us any tape about anything that happened about
7 an hour or so earlier, did you?

8 A No, I don't think so.

9 Q Okay. So you heard -- we did hear
10 testimony today though about an incident that
11 occurred, approximately, 12:00?

12 A I heard testimony, yes.

13 Q Okay. You didn't present any tape
14 about that, did you?

15 A No.

16 Q Okay. Thank you.

17 A I also heard testimony that --
18 MR. STERN: Objection. There's no
19 question.

20 CHAIRPERSON MILLER: Yes. Okay.

21 BY MR. STERN:

22 Q Now, you also testified that you

1 have an equity interest in this establishment.

2 Is that right?

3 A Yes.

4 Q So you stand to personally lose
5 money if this establishment is closed down.
6 Isn't that right?

7 A Absolutely.

8 Q Thank you.

9 MALE PARTICIPANT: Are we going
10 backwards or are we going forward?

11 MR. STERN: I think we're going
12 forward.

13 MR. MANNING: I think it's going
14 backwards.

15 MALE PARTICIPANT: Yes, it's going
16 forward.

17 MR. STERN: Okay. Well, I think
18 the first one has already happened.

19 MR. MANNING: Pause it right
20 there.

21 MR. STERN: People are coming out.

22 MR. MANNING: Okay. Actually, I'm

1 sorry. If you could advance it? It's about
2 to happen. Pause.

3 MALE PARTICIPANT: No, this is way
4 past the first incident.

5 THE WITNESS: There is nobody
6 fighting. This is later on.

7 MR. MANNING: You can stop it.

8 (Whereupon, video paused.)

9 MR. MANNING: That's later. We
10 didn't get to that point.

11 MR. STERN: The lead time on the
12 video running?

13 MALE PARTICIPANT: About four
14 minutes.

15 MR. STERN: Okay.

16 BY MR. STERN:

17 Q Do you recall seeing on the tape
18 that Mr. Mundle was thrown outside there onto
19 the sidewalk?

20 A I saw them take Mr. Mundle and go
21 down with him outside, yes.

22 Q Is that a part of the security

1 plan, throw patrons onto the floor?

2 A No. He is clearly resisting. He
3 could have -- I don't know what happened that
4 time.

5 Q Okay. Thank you.

6 MR. STERN: I don't have any
7 further questions.

8 CHAIRPERSON MILLER: Oh, are you
9 finished?

10 MR. STERN: Yes, I'm finished.

11 CHAIRPERSON MILLER: I'm sorry.
12 Okay. Board questions? No, I was studying my
13 questions, but go ahead. I'll let the others
14 go first. Are there others, questions?

15 MEMBER JONES: I do, but I'll let
16 you go first.

17 CHAIRPERSON MILLER: Oh, okay.
18 Okay. Mr. Palladino, I don't know if you know
19 the answer to this and I don't mean to ask a
20 speculative question, but from what you have
21 observed at least personally that night and on
22 this video, is it your view that Mr. Mundle

1 was a victim of attacks from others or was he
2 -- do you also see him being a participant, an
3 aggressor?

4 THE WITNESS: Well, I think the
5 initial fight, he seems -- it looked to me
6 like both -- I mean, I don't know if there
7 were words, but, you know, you shouldn't punch
8 anybody in the face, whether there was words
9 or not. So, yes, he looks like a victim
10 there.

11 Once he got outside, that changed.
12 He became the aggressor.

13 CHAIRPERSON MILLER: He became --
14 according to how you view the video?

15 THE WITNESS: According to how I
16 view the video.

17 CHAIRPERSON MILLER: Was he put
18 outside by security? Would you say it was
19 clear that he was on one side of a fight than
20 the others that were put outside at the same
21 time?

22 THE WITNESS: It looks to me if

1 there was only one person that was fighting
2 Mr. Mundle inside, that guy was nowhere -- was
3 not in any proximity where we could find him
4 on the video. So when Mr. Mundle came out, he
5 wasn't alone. He was with his group of
6 friends. He was no longer in proximity of
7 what happened inside or the attackers or
8 however you want to label them.

9 CHAIRPERSON MILLER: So on the
10 inside, are you saying there was really only
11 one aggressor against Mr. Mundle?

12 THE WITNESS: That's what it
13 appears on the tape.

14 CHAIRPERSON MILLER: But then
15 outside it became a group thing?

16 THE WITNESS: Outside it is still
17 just one guy, just a different guy.

18 CHAIRPERSON MILLER: Oh, a
19 different guy, okay. With respect to -- I
20 don't know if it's your policy, is your
21 policy, did you say, to try to get people who
22 are engaged in a fight or whatever outside, so

1 that the police will take it from there?

2 THE WITNESS: Well, our policy is
3 to try to separate groups to the best of our
4 ability. Best practice is keep one inside and
5 escort one outside until they leave or police
6 officers are able to secure that issue and
7 then bring the other ones outside.

8 We are not assuming one party is
9 innocent over the other. Both of them have to
10 go, just not together.

11 CHAIRPERSON MILLER: Okay. So is
12 there evidence that you did separate Mr.
13 Mundle from his aggressor?

14 THE WITNESS: Well, I think it may
15 be speculation, but I think the fact that he
16 is not in proximity of Mr. Mundle kind of
17 points to the fact that he was separated.

18 CHAIRPERSON MILLER: And do you
19 have any personal recollection from that
20 night? You were there.

21 THE WITNESS: I was there. It was
22 a long time ago. Most of my recollection

1 comes from the video. There is going to be
2 bits and pieces there personally, but I was
3 again in the office on the cameras and on the
4 radio.

5 CHAIRPERSON MILLER: When it
6 happened, you were in your office? Is that
7 what you are saying?

8 THE WITNESS: I think so, because
9 it looks like the camera moves, so that's me.
10 That would only be me.

11 CHAIRPERSON MILLER: Oh, okay. I
12 thought you were in the video.

13 THE WITNESS: Well, I came out.

14 CHAIRPERSON MILLER: So that was
15 after it happened?

16 THE WITNESS: Yes.

17 CHAIRPERSON MILLER: Okay. How
18 long -- oh, this video will show us how long
19 it was between the first incident and the last
20 one, correct?

21 THE WITNESS: Yes.

22 CHAIRPERSON MILLER: By the time

1 stamp?

2 THE WITNESS: Yes.

3 CHAIRPERSON MILLER: Do you know
4 what that is right now?

5 THE WITNESS: I don't know.

6 CHAIRPERSON MILLER: Okay. Do you
7 have communication with MPD after patrons are
8 escorted outside?

9 THE WITNESS: Generally, MPD
10 doesn't talk about issues, unless there is an
11 arrest or a report written up.

12 CHAIRPERSON MILLER: Okay. Did
13 you have an agreement with MPD with respect to
14 their reimbursable detail program similar to
15 the document that was shown to you, which
16 wasn't admitted into evidence, but was dated
17 January 2012?

18 THE WITNESS: I'm sure we would
19 have to have some type of agreement.

20 MEMBER MOBLEY: Sir, could you use
21 the microphone?

22 THE WITNESS: I'm sorry. I'm sure

1 we would have to have some type of an
2 agreement, but that would be probably
3 something that our office administrator would
4 have.

5 CHAIRPERSON MILLER: Okay. With
6 respect to Mr. Stern's characterizing, I
7 guess, Mr. Mundle as being thrown out of the
8 club onto the sidewalk, did you have -- you
9 had a different perception of that on the
10 video?

11 THE WITNESS: Well, I mean, you
12 know, from the video perspective, yes, it
13 looks like he was forcibly being pushed out,
14 it does. But from actually working and seeing
15 how thing happen, sometimes people -- when you
16 are trying to restrain somebody, people are
17 struggling away from you and they get away
18 from you and stuff like that happens.

19 So to be fair, I didn't do it. So
20 I can't speculate on whether he was thrown to
21 the ground or whether he just slipped out of
22 somebody's hands. I mean, it sounds

1 unbelievable, but it happens.

2 CHAIRPERSON MILLER: Does it show
3 on video that he is being escorted by
4 security?

5 THE WITNESS: It did.

6 CHAIRPERSON MILLER: It did?

7 THE WITNESS: When he got up,
8 security did grab him when he got up off the
9 ground. I mean, inside when he got hit. I
10 think it did hit the ground.

11 CHAIRPERSON MILLER: We don't have
12 a video from inside as to what happened right
13 before we see him fall on the sidewalk, do we?
14 We don't see a security --

15 MR. MANNING: Could you pause the
16 video just for a moment?

17 (Whereupon, video paused.)

18 CHAIRPERSON MILLER: Okay. Is
19 there a video that shows a security guard
20 pushing him?

21 THE WITNESS: There is an angle
22 where he is in the hands of security as they

1 are going out the front door, but it is the
2 back of the security guy.

3 CHAIRPERSON MILLER: Okay. All
4 right. Mr. Nophlin?

5 MEMBER NOPHLIN: Thank you, Madam
6 Chair. The female that was with the
7 gentleman, I think, I vaguely saw her on the
8 video. Can you explain what happened to her?
9 The one who fell or was involved in the
10 altercation?

11 THE WITNESS: From review of the
12 video, I did see one female on the ground.

13 MEMBER NOPHLIN: Yes.

14 THE WITNESS: Where -- near where
15 Mr. Mundle got hit.

16 MEMBER NOPHLIN: Yes.

17 THE WITNESS: But I was -- during
18 viewing the video, I was focused on Mr.
19 Mundle, so I didn't see what happened to her.

20 MEMBER NOPHLIN: Okay. Thank you.
21 That's the only thing I had. Thank you, Madam
22 Chair.

1 CHAIRPERSON MILLER: Okay. Other
2 Board questions? Mr. Jones?

3 MEMBER JONES: Thank you, Madam
4 Chair. Is it Mr. Palladino?

5 THE WITNESS: Palladino, yes.

6 MEMBER JONES: All right. Mr.
7 Palladino, so I'm having some difficulty
8 trying to reconcile the statements that you
9 have been making.

10 THE WITNESS: Okay.

11 MEMBER JONES: So the purpose of
12 my questions are trying to help me feel
13 comfortable with the reconciliation that comes
14 about as a result of your answers.

15 THE WITNESS: Okay.

16 MEMBER JONES: So are you familiar
17 with the security plan that was a matter of
18 policy, I guess, for your establishment at the
19 time of the incident?

20 THE WITNESS: I'm familiar, yes.

21 MEMBER JONES: All right. Part of
22 that document called for a dress code for your

1 security staff.

2 THE WITNESS: Okay.

3 MEMBER JONES: What was the dress
4 code enforced at that time?

5 THE WITNESS: My security staff
6 should be wearing black suit, black shirts.

7 MEMBER JONES: Black shirt?

8 THE WITNESS: Button-up shirt and
9 a black suit.

10 MEMBER JONES: And a black suit.
11 So that's a jacket, button-up shirt and
12 slacks?

13 THE WITNESS: Slacks, correct.

14 MEMBER JONES: And that was the
15 uniform that you were expecting all of your
16 security staff to be in?

17 THE WITNESS: Correct.

18 MEMBER JONES: Okay. Were all of
19 your security staff in that uniform the entire
20 night that they were on -- the entire time
21 that they were on duty on that night in
22 question?

1 THE WITNESS: To the best of my
2 knowledge, yes, with the exception of the
3 manager. He wears a different colored shirt.
4 And if anybody was outside that had a jacket
5 on, they would be permitted to wear a jacket.

6 MEMBER JONES: Jackets are part of
7 the uniform?

8 THE WITNESS: It's not written as
9 a part of the uniform, but when it's cold, I
10 would not forbid them not to wear a jacket.

11 MEMBER JONES: Okay. The other
12 provision of note that Mr. Stern has been
13 questioning you on has to do with separation
14 of the patrons that are involved in the
15 altercation.

16 THE WITNESS: Okay.

17 MEMBER JONES: Are you familiar
18 with the explicit words that are noted?

19 THE WITNESS: I am.

20 MEMBER JONES: Okay. "So when
21 breaking up incidents, separate the groups
22 immediately, one group outside, the other

1 group stays inside. Remember, the middle
2 doors are available as an emergency means of
3 egress."

4 So the way I interpret that is the
5 combatant either take him outside or keep him
6 inside and the individual that is being
7 assaulted, either keep him outside or take him
8 outside -- keep him inside or take him
9 outside.

10 But you do one with one and you do
11 one with the other. So in this instance where
12 the individual who got struck in the face, who
13 testified here today, he was clearly on one
14 side of the altercation.

15 Can you agree with that statement?

16 THE WITNESS: Yes.

17 MEMBER JONES: Okay. So if he was
18 on one side of the altercation and your
19 policy, as noted in your security plan that
20 was enforced at that time, is to keep one side
21 inside and escort the other side outside, why
22 is it that that did not appear to occur or did

1 it, in fact, occur and we just don't see it on
2 the video?

3 THE WITNESS: No. I mean, you've
4 seen the same thing I've seen. He is being
5 taken outside. But I think what needs to be
6 taken into perspective is accumulation of what
7 occurred.

8 You had an incident that happened
9 just prior to that and when we requested
10 assistance from police, they requested that we
11 bring everybody outside.

12 So it's the end of the night. We
13 have multiple police officers outside. And
14 trying to split up large groups of people
15 fighting, splits up our staff as well. And it
16 seemed that the best time -- at that time, the
17 best practice was to put everybody outside, so
18 that we could have all of our staff outside.
19 We could have the resources, we thought,
20 because -- and we don't have -- we didn't have
21 a unified approach to how to handle it.

22 Does the manual explicitly says to

1 try to separate them? Yes, it does. But at
2 that time, I think it was for the safety of
3 the club and the safety of the people around,
4 that manual is incorrect.

5 MEMBER JONES: Okay. So just to
6 be clear, there is no word in here that
7 resembles try?

8 THE WITNESS: To --

9 MEMBER JONES: It says that you
10 will do this, that's the policy that you are
11 going to follow.

12 THE WITNESS: That's right.

13 MEMBER JONES: So you made a
14 conscious decision, at that point in time,
15 whether it was you, the individual or you,
16 your staff made a conscious decision, at that
17 point in time, not to follow the guidelines
18 set forth in your stated security plan.

19 THE WITNESS: Yes. I don't know.
20 Conscious is kind of a strong word. But I
21 think instinctively, we wanted this to be with
22 the police officers and then handed over to

1 the police officers.

2 MEMBER JONES: So did the police
3 officers tell you explicitly to bring out all
4 parties involved in the altercation and bring
5 them outside at the same time?

6 THE WITNESS: There words were
7 bring them outside.

8 MEMBER JONES: So did they tell
9 you explicitly to bring out all parties
10 involved in the altercation and bring them out
11 at the same time?

12 THE WITNESS: I don't think those
13 words were used.

14 MEMBER JONES: Okay. Because if
15 they didn't tell you that, then you could have
16 complied with the police officers' guidance
17 and still complied with your security plan
18 guidance by bringing out one side of the
19 altercation at time X and waiting some period
20 of time later until you got authorization from
21 the police to bring out the other party.

22 THE WITNESS: We could have, yes.

1 MEMBER JONES: You could have?

2 THE WITNESS: That was a yes.

3 MEMBER JONES: Okay.

4 THE WITNESS: I mean, correct.

5 MEMBER JONES: So did you -- is it
6 part of your training process, when you bring
7 people out of your establishment that have
8 been involved in altercations, I have noticed
9 in other situations, where the policy and
10 procedure is to bring the combatants and hand
11 them over to the police, that you have hired
12 for your reimbursable detail, the RDO?

13 THE WITNESS: Yes, that is best
14 practice, yes.

15 MEMBER JONES: That is best
16 practice. Is that your practice?

17 THE WITNESS: Yes.

18 MEMBER JONES: Is that what you
19 train your personnel to do?

20 THE WITNESS: Yes.

21 MEMBER JONES: Is that the intent
22 that you would expect your security staff to

1 try to adhere to?

2 THE WITNESS: Yes.

3 MEMBER JONES: Was that
4 represented in the video that you showed us
5 today, based on your recollection of what you
6 showed us?

7 THE WITNESS: Yes.

8 MEMBER JONES: It is?

9 THE WITNESS: Yes.

10 MEMBER JONES: Okay. So I should
11 be able to witness your security staff handing
12 an individual over to a police officer?

13 THE WITNESS: Well, you will see
14 that the police officer got Mr. Mundle from
15 security.

16 MEMBER JONES: Would I be able to
17 see a security staff person while he is in
18 control of Mr. Mundle handing that person over
19 while in control to the control of a police
20 officer or would I see Mr. Mundle ejected from
21 the establishment whether he tripped, fall or
22 was thrown, I'll leave that to interpretation,

1 and then he stand up and then a police officer
2 come over to him and then engage him
3 independent of your security staff?

4 THE WITNESS: Well, I think you
5 will see a combination of the two.

6 MEMBER JONES: I'll see a
7 combination of the two in the video?

8 THE WITNESS: You will see that
9 the security takes him out, including he goes
10 to the ground. They are still standing there
11 and the police officer does not come over.
12 She is already there. So whether they are
13 bringing him to her and he didn't make it into
14 police control, but she is not coming to him.
15 She is already there.

16 MEMBER JONES: All right. And
17 what about the gentleman in the hat that
18 eventually assaulted Mr. Mundle outside of the
19 establishment? It appears from the video that
20 that gentleman was escorted out of the
21 establishment by your security staff. Do you
22 agree with that statement?

1 THE WITNESS: Yes.

2 MEMBER JONES: Do you see in your
3 video that you provided to us where that
4 individual was handed over by your security
5 staff to the control of a police officer?

6 THE WITNESS: No.

7 MEMBER JONES: Okay. Would that
8 be in agreement with your intended policy?

9 THE WITNESS: Well, I think that
10 it's not everybody has to get handed over. If
11 he was violently attacking somebody, then yes.
12 If he was a drunk person that was giving us a
13 hard time or for whatever reason he is being
14 asked to leave, not every person is required
15 to be handed over to the police officer.

16 MEMBER JONES: Why was that
17 gentleman being escorted out of the
18 establishment?

19 THE WITNESS: I do not know.

20 MEMBER JONES: So during your
21 testimony when we were watching the video, you
22 noted that someone on your staff had flashed

1 a light on him.

2 THE WITNESS: Um-hum.

3 MEMBER JONES: Thus identifying
4 him as a person of interest.

5 THE WITNESS: Correct.

6 MEMBER JONES: What is the
7 protocol for that occurring? Why would
8 someone on -- what are people trained on your
9 security staff to -- why would they do that?
10 What is their training?

11 THE WITNESS: Well, they have to
12 remove the person. Okay. When he gets
13 outside, then --

14 MEMBER JONES: But why? So I'm
15 going for the flashlight or flashing a light
16 upon someone.

17 THE WITNESS: Okay.

18 MEMBER JONES: What is the
19 protocol that dictates when your security
20 staff would feel the need to flash a light on
21 someone to uniquely identify him of -- as a
22 person of interest?

1 THE WITNESS: I don't think --
2 well, I know that wasn't security flashing a
3 light on him. That would be another staff
4 member, whether it would be a busboy or a
5 bartender. Somebody is telling security this
6 person is involved in what just happened. A
7 fight just happened, so they see that someone
8 is being pointed out as part of the fight. So
9 security wants to remove this person from the
10 venue.

11 MEMBER JONES: Because he is part
12 of the fight that just happened?

13 THE WITNESS: He's part of the
14 fight that just occurred.

15 MEMBER JONES: Okay. So if he is
16 part of the fight that just occurred and he is
17 being escorted out by your security staff, why
18 wouldn't it be logical to assume that that
19 individual should be handed over to the
20 control of the police?

21 THE WITNESS: I think --

22 MEMBER JONES: If that's part of

1 your policy.

2 THE WITNESS: -- from this
3 perspective that that makes perfect sense.
4 But I think at the time that security guy is
5 not being threatened by the guy, so he is
6 asking him to leave. He is leaving. He is
7 walking out. He doesn't feel he is a threat
8 at the time and he made a bad decision.

9 MEMBER JONES: Okay. And did you
10 also note during your responses to Mr. Stern
11 that you were not aware or you did not see any
12 fights occurring outside of your establishment
13 or did I mishear you?

14 THE WITNESS: No. I said I did
15 not see any fights occurring outside from the
16 first fight when they went through the middle
17 doors. He was asking me were they still
18 fighting outside. I did not see that. I saw
19 them being separated outside with officers.

20 MEMBER JONES: And this is from
21 the first instance?

22 THE WITNESS: Yes, from the first

1 incident.

2 MEMBER JONES: Okay. So in
3 reference to the second instance, are you
4 aware of there being ongoing fights occurring
5 outside of your establishment?

6 THE WITNESS: Yes.

7 MEMBER JONES: Regarding Mr.
8 Mundle and the gentleman with the hat,
9 etcetera?

10 THE WITNESS: Yes.

11 MEMBER JONES: Okay. And just to
12 make sure I'm clear, the gentleman that
13 originally assaulted, according to the video,
14 what appears to be the gentleman that
15 assaulted Mr. Mundle, in that video, was he
16 removed? Was he secured by your security
17 staff?

18 THE WITNESS: He was.

19 MEMBER JONES: He was?

20 THE WITNESS: In the video, I can
21 see security grabbing him.

22 MEMBER JONES: Okay.

1 THE WITNESS: After that, I cannot
2 find him.

3 MEMBER JONES: Okay. So I would
4 agree he was secured by your security staff.
5 What -- I know it's not on the video, because
6 that you have already testified to, but what
7 happened to him? So he clearly was a
8 combatant --

9 THE WITNESS: Yes.

10 MEMBER JONES: -- in the
11 altercation. He should have been handled by
12 security in some fashion.

13 THE WITNESS: Right.

14 MEMBER JONES: What possibly could
15 have happened to that individual? He is in
16 possession of your security staff.

17 THE WITNESS: Right.

18 MEMBER JONES: Did he take him --
19 did your security staff take him and lock him
20 up in a room?

21 THE WITNESS: No.

22 MEMBER JONES: Did they hold him

1 against the front door? What did your
2 security staff do?

3 THE WITNESS: I don't know.

4 MEMBER JONES: And if you don't
5 know, then who on your staff should know what
6 your security staff did with a combatant in a
7 fight?

8 THE WITNESS: Well, I don't know.
9 The guy that grabbed him is no longer my
10 employee. It's possible that he overpowered
11 him, because he was bigger than the security
12 guy. It's possible that he got away. It's
13 possible that they walked him outside and took
14 him down the street. I don't know.

15 MEMBER JONES: Do you have a
16 policy of interviewing your security staff or
17 have your security staff generate incident
18 reports? Did you have a policy of doing that,
19 at that time?

20 THE WITNESS: We do have a policy
21 for that.

22 MEMBER JONES: No, at that time.

1 THE WITNESS: Yes, yes.

2 MEMBER JONES: You did? So you
3 did generate incident reports?

4 THE WITNESS: Right.

5 MEMBER JONES: Did you have a
6 policy of having your individual security
7 members generate security reports or do they
8 report to some head person who then writes a
9 comprehensive security incident report?

10 THE WITNESS: Everybody writes in
11 their own words what happened and then it gets
12 summarized.

13 MEMBER JONES: Okay. Was that
14 person who grabbed the initial combatant, was
15 he in your employ the day after the night this
16 incident occurred?

17 THE WITNESS: Yes, he was.

18 MEMBER JONES: At what point would
19 you expect your security staff to generate an
20 incident report?

21 THE WITNESS: The night of.

22 MEMBER JONES: Did he generate an

1 incident report?

2 THE WITNESS: He may have. I
3 don't know. I'm sure he probably did.

4 MEMBER JONES: Well, is that your
5 policy, that's your requirement of security
6 staff?

7 THE WITNESS: That is our
8 requirement.

9 MEMBER JONES: So either he did
10 and you don't have a record of it or he didn't
11 and you allowed him to not follow your
12 procedures.

13 THE WITNESS: Well, again, you are
14 asking me if I have this report. I don't --
15 you know, again, it's all summarized after the
16 fact.

17 MEMBER JONES: Understood. So if
18 he did generate a report, you currently do not
19 have a record of the incident report that he
20 generated, correct?

21 THE WITNESS: Um, not to my
22 knowledge. It's possible that it's still

1 filed away. But right now, sitting here, do
2 I know? I don't know.

3 MEMBER JONES: Okay. Was there
4 any level of concern about how your security
5 staff handled the original -- the initiator of
6 the assault?

7 THE WITNESS: I think that when
8 this happened and there was no arrest, there
9 was no concern on the police department to
10 talk about it, it was -- the gravity of it
11 wasn't as -- you know, I wasn't aware of what
12 was happening at the time. It wasn't -- and
13 now, an investigation and we would need to
14 review these things. This was brought to our
15 attention by ABRA and the police department
16 four days later.

17 There wasn't an immediate report
18 filed. Then at that time, we have to
19 backtrack and find out what is going on.

20 MEMBER JONES: But at the time,
21 you were aware of the fact that a gentleman
22 assaulted --

1 THE WITNESS: Yes.

2 MEMBER JONES: -- another
3 gentleman in your establishment?

4 THE WITNESS: Yes. At the time, I
5 didn't know who did what.

6 MEMBER JONES: Understood. But
7 you were aware that there was an individual
8 who assaulted another individual in your
9 establishment. You just didn't know if it was
10 Mr. Mundle or --

11 THE WITNESS: Right, right.

12 MEMBER JONES: -- some other
13 unknown, unnamed individual.

14 THE WITNESS: Right.

15 MEMBER JONES: Do you have a
16 process or a policy of barring notices?

17 THE WITNESS: We do.

18 MEMBER JONES: Okay. If a
19 gentleman -- would someone be barred from your
20 establishment if they were involved in an
21 altercation where they were the initiator and
22 they cold-cocked somebody?

1 THE WITNESS: Absolutely.

2 MEMBER JONES: Okay. Would there
3 have been an interest in trying to ascertain
4 this individual's ID in order to put him on a
5 bar notice?

6 THE WITNESS: Yes.

7 MEMBER JONES: Okay. Was that
8 attempt made?

9 THE WITNESS: It's very difficult
10 sometimes.

11 MEMBER JONES: I understand. But
12 was that attempt made?

13 THE WITNESS: It doesn't appear
14 that that attempt was made due to the fact
15 that there was so much going on and the club
16 was, basically, cleared out. I mean, the
17 street was cleared by the police officers, so
18 there was no opportunity to get that done.

19 MEMBER JONES: Okay. Thank you.
20 Thank you, Madam Chair.

21 CHAIRPERSON MILLER: Who else?

22 MEMBER MOBLEY: Madam Chair?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER MOBLEY: Mr. Palladino,
3 when the incident occurred with Mr. Mundle
4 inside and they were pushing him to the
5 outside, did I not see in the video that you
6 were in the bar at the time and we saw you
7 rushing down along side the bar to see what
8 was happening?

9 THE WITNESS: I think we would
10 have to look at the timing on that, but I
11 don't think that was what was happening. To
12 my recollection, I'm not -- I'm no longer
13 addressing Mr. Mundle. I'm addressing my
14 staff. I'm not watching him.

15 MEMBER MOBLEY: Now, there was a
16 piece of video --

17 THE WITNESS: Yes.

18 MEMBER MOBLEY: -- where you
19 stated when you were pointing that you were --
20 you recognized that there was some sort of
21 commotion. So you were coming down -- running
22 down the bar --

1 THE WITNESS: Um-hum.

2 MEMBER MOBLEY: -- to see what was
3 happening.

4 THE WITNESS: That would be
5 incorrect. I don't know if I said that, then
6 I must have misspoke or maybe you
7 misunderstood me. I was coming out to the
8 bar, because I wanted to get my staff to stop
9 -- they were frozen watching the incident.
10 And when, you know, the -- they were on the
11 ground and clean the club up.

12 MEMBER MOBLEY: Okay. So, Mr.
13 Palladino, you would have us to believe that
14 you are an equity partner in this business, a
15 responsible manager and you know that there is
16 a brawl, there is some sort of incident going
17 on and that you are going to take the time to
18 ask your people to clean up the glass, but not
19 go outside and see what is going on or to make
20 sure that your security is doing what they are
21 supposed to be doing?

22 THE WITNESS: No, like I said, I

1 don't know what my participation was at that
2 time. I may have gone back into the office to
3 look at the cameras. I am in contact with my
4 staff by the radio. You know, I'm not a big
5 guy. I don't plan on, you know, getting
6 involved in any type of fights or things like
7 that.

8 Sometimes my best service is to
9 observe and report and try to quarterback it
10 from the radio.

11 MEMBER MOBLEY: Okay. Following
12 along Board Member Jones' questions, do you
13 recall talking to ABRA Investigator Mr.
14 Bailey?

15 THE WITNESS: I don't recall
16 talking to him, no. But I know -- I mean,
17 it's on the record that I did.

18 MEMBER MOBLEY: Because on the
19 record it is showing that you stated that the
20 security staff escorted both males out.

21 THE WITNESS: Right. Yes, I
22 remember that statement.

1 MEMBER MOBLEY: Okay. Which goes
2 back to the question that Mr. Jones had where
3 your security plan is indicating that you
4 shouldn't escort both people out.

5 THE WITNESS: I understand.

6 MEMBER MOBLEY: Okay.

7 THE WITNESS: Can I clarify?

8 MEMBER MOBLEY: Please.

9 THE WITNESS: Okay. Like I said,
10 Mr. Bailey's report is a conversation between
11 Mr. Bailey and -- well, for me to say he may
12 not have -- you know, he might have said we
13 are both patrons, you know. The answer would
14 have been yes. I don't think there was any
15 clarification I -- we took both patrons out at
16 the same time.

17 But then again, you asked me if I
18 recall talking to him and I don't. But for me
19 to say that, you know, we pull patrons out, I
20 think that was the purpose of saying that they
21 were no longer in the club.

22 MEMBER MOBLEY: Okay. Because the

1 reports says that you stated that they both
2 were escorted out and that the physical
3 altercation started again outside and MPD
4 broke up the altercation, which goes back to
5 the question that Mr. Jones had.

6 If MPD broke up the altercation,
7 what did he do? What did MPD do with that
8 individual?

9 THE WITNESS: I don't know what
10 the MPD did.

11 MEMBER MOBLEY: Okay. Are you
12 aware that you indicated that your video does
13 not have time? That it was not time and date
14 stamped?

15 THE WITNESS: No.

16 MEMBER MOBLEY: Is there a reason?
17 Do you -- is there a reason why it wasn't time
18 and date stamped? Because normally, even on
19 the video, you would see if there was.

20 THE WITNESS: There is no reason
21 to my knowledge. I would think we should have
22 time and date stamped.

1 MEMBER MOBLEY: Okay. No more
2 questions, Madam Chair.

3 CHAIRPERSON MILLER: Any other
4 questions? Yes? Yes, Mr. Jones.

5 MEMBER JONES: All right. Thank
6 you, Madam Chair. Thank you, Board Member
7 Mobley.

8 I wanted to queue up the video of
9 the -- I think it is Video No. 3 that was
10 shown by your attorney, I mean, that you kind
11 of walked us through.

12 THE WITNESS: Okay.

13 MEMBER JONES: And right at this
14 point, I believe, if it's queued up properly,
15 I believe that this is the individual that
16 originally struck Mr. Mundle in the face. And
17 he is being escorted out by this black
18 security guy, a fairly large gentleman, in
19 what appears to be a security uniform.

20 THE WITNESS: Okay.

21 MEMBER JONES: All right. And I
22 want you to look at this and help me reconcile

1 that.

2 THE WITNESS: Okay.

3 MEMBER JONES: Bill, let it roll.

4 (Whereupon, video played.)

5 MR. MANNING: Could you pause it
6 right there? Sorry, sorry.

7 THE WITNESS: I think it would be
8 better if you started a little bit before
9 that, because it kind of skipped.

10 MR. MANNING: I think the
11 individual actually just left, that's correct.

12 MEMBER JONES: You think he just
13 left?

14 THE WITNESS: Yes.

15 MR. MANNING: He left on the left
16 side. It's an individual with short hair and
17 brown sweater on.

18 MEMBER JONES: So you think -- so
19 you are thinking the video shows him walking
20 out on his own and not being escorted out by
21 security?

22 MR. MANNING: We should roll it

1 again.

2 MEMBER JONES: But you're not
3 testifying, right?

4 MR. MANNING: I'm not, of course,
5 of course not.

6 MEMBER JONES: Okay.

7 MR. MANNING: But what I'm saying
8 is just to help everyone here, I think I just
9 saw the security guard handling the gentleman
10 with short hair who had struck the individual.

11 MEMBER JONES: Okay.

12 MR. MANNING: If we could back it
13 up somehow?

14 THE WITNESS: I recall he had a
15 dark sweater with a gray stripe across it, so
16 that's what I'm going to be looking for.

17 (Whereupon, video played.)

18 MEMBER JONES: Just for the
19 record, the gentleman that is on the video
20 right now on the left hand side right in the
21 middle of the screen directly underneath what
22 appears to be an exit sign with a jacket on,

1 that, obviously, is not the individual that
2 struck.

3 THE WITNESS: He is actually our
4 security guy.

5 MEMBER JONES: He is a security
6 person?

7 THE WITNESS: Yes.

8 MEMBER JONES: Okay.

9 MR. MANNING: May I make a
10 suggestion that I clarify things? On this
11 computer, we have the ability to quickly go
12 back and forth to review.

13 CHAIRPERSON MILLER: Yes.

14 MR. MANNING: It's not going to be
15 able to be on this system, but if it would
16 help at least while we are sitting here to
17 somehow bring your computer up there, I can
18 assure you it's the same video. But if we
19 could be able to do this without having to
20 rewind it all the way back to the beginning,
21 which is what he is going to have to do.

22 MEMBER JONES: I personally don't

1 have an issue with that. I just don't know if
2 it's appropriate from a protocol standpoint.

3 CHAIRPERSON MILLER: Well --

4 MR. MANNING: My point is we can
5 very quickly review these things over and over
6 with out having to --

7 MALE PARTICIPANT: We have done it
8 before.

9 MR. MANNING: -- queue them back
10 up and watch five minutes.

11 CHAIRPERSON MILLER: You have done
12 it? So you would show us, but you couldn't
13 see what he was showing. We all can't see
14 this at the same time.

15 MR. MANNING: I guess I could put
16 it on the corner of that witness stand.

17 MEMBER JONES: Well, I'll tell you
18 what, I'm open to your recommendation. If you
19 can queue it up quickly on your system,
20 because I primarily just want Mr. Palladino to
21 be able to see that individual --

22 THE WITNESS: Yes, I want to see

1 that.

2 MEMBER JONES: -- appears to be
3 dragged out by security. So I know it's Video
4 3 or the third video you guys showed.

5 MR. MANNING: If I may?

6 MEMBER JONES: Oh, I think we're
7 going to -- I think we will take a little
8 break.

9 (Whereupon, off the record for a
10 recess.)

11 CHAIRPERSON MILLER: All right.
12 Are you on the record?

13 MEMBER JONES: Just for
14 clarification.

15 CHAIRPERSON MILLER: Is he on the
16 record? I'm sorry, is he on the record when
17 he is speaking now? You're on the record.
18 Okay. You have a microphone somewhere down
19 there?

20 MEMBER JONES: So just for
21 clarification, this is the second video that
22 you originally showed when we were going

1 through the video testimony. Is that correct?

2 THE WITNESS: Correct.

3 MEMBER JONES: Okay. This is
4 inside of the establishment and this video
5 should be representative or should show the
6 individual being assaulted.

7 THE WITNESS: Correct.

8 MEMBER JONES: Okay.

9 MR. MANNING: I guess the witness
10 should be identifying these people.

11 MEMBER JONES: Yes.

12 CHAIRPERSON MILLER: Yes.

13 MR. MANNING: Go ahead, please.

14 MEMBER JONES: Yes, he should be.

15 MR. MANNING: So you identify
16 these people.

17 THE WITNESS: Okay. Okay. So Mr.
18 Mundle is wearing the plaid.

19 MEMBER MOBLEY: Sorry, can you --

20 CHAIRPERSON MILLER: You have to
21 be louder, sir, or on the mike.

22 MEMBER JONES: Don't move the

1 mike. Just speak up.

2 THE WITNESS: Okay.

3 CHAIRPERSON MILLER: At least it
4 will look to --

5 THE WITNESS: Okay. Mr. Mundle is
6 wearing plaid. He is walking towards the
7 front of the club in front of the couches
8 here. The gentleman is on the couch. They
9 are exchanging words.

10 MEMBER JONES: You can play.

11 (Whereupon, video played.)

12 THE WITNESS: It looks like he is
13 fixated on the guy up there. And then out of
14 nowhere, this guy comes from the left hand
15 side.

16 CHAIRPERSON MILLER: Oh.

17 THE WITNESS: And it looks like he
18 may have been on this small platform.

19 MEMBER JONES: Pause.

20 (Whereupon, video paused.)

21 THE WITNESS: Yes.

22 MEMBER JONES: So what is he

1 wearing?

2 THE WITNESS: A dark sweater with
3 a gray stripe, short hair.

4 MEMBER JONES: And is he wearing
5 jeans?

6 THE WITNESS: I would think so.

7 MEMBER JONES: So right there. So
8 based on my view of the video, it appears as
9 if this gentleman, who just assaulted the
10 other individual, Mr. Mundle, short haircut,
11 sweater, dark colored sweater, perhaps navy
12 blue with gray stripe right in the middle and
13 a gray stripe on each arm.

14 THE WITNESS: Correct.

15 MEMBER JONES: And he appears to
16 be wearing jeans, dark colored jeans, either
17 black or dark gray.

18 THE WITNESS: That's right, yes.

19 MEMBER JONES: Do you agree with
20 that?

21 THE WITNESS: I agree.

22 MEMBER JONES: Okay. So if we go

1 to the Video No.4, clearly, he is in the
2 possession -- does that look as if he is in
3 the possession of your security staff or is
4 that some random person that just grabbed him
5 from behind?

6 THE WITNESS: That's my security
7 taking control of him.

8 MEMBER JONES: So is your security
9 attempting to take control of him now?

10 THE WITNESS: Yes.

11 MEMBER JONES: And it's shown on
12 the video?

13 THE WITNESS: Yes.

14 MEMBER JONES: Okay. If you let
15 it play?

16 (Whereupon, video played.)

17 MEMBER JONES: Where does it
18 appear as if your security is taking that
19 gentleman?

20 THE WITNESS: They are heading
21 towards the front door.

22 MEMBER JONES: Okay. Did you also

1 see Mr. Mundle?

2 THE WITNESS: I did, yes.

3 MEMBER JONES: Did you see Mr.
4 Mundle in the possession of your security
5 staff?

6 THE WITNESS: Yes.

7 MEMBER JONES: Where did it appear
8 as if your security staff was taking Mr.
9 Mundle?

10 THE WITNESS: Towards the front
11 door.

12 MEMBER JONES: How long of a delay
13 or gap is there between Mr. Mundle being
14 escorted out and the individual who committed
15 the assault?

16 THE WITNESS: There is really not
17 much.

18 MEMBER JONES: Not much of a delay
19 at all. Okay. So they appear to be going to
20 the front, correct?

21 THE WITNESS: Yes.

22 MEMBER JONES: Now, if you go to

1 the Video No. 3?

2 (Whereupon, video stopped/played.)

3 MEMBER JONES: So we are on Video
4 No. 3. This is inside the establishment, but
5 the front door of the establishment?

6 THE WITNESS: Yes, inside, yes,
7 front door, right, looks like.

8 MEMBER JONES: Thank you. Can you
9 speak up a little bit, sir?

10 THE WITNESS: I said it looks like
11 security is with him. Why? I don't know.
12 Maybe they are checking to see if there is
13 anybody else or any other issues happening.
14 There he went right back outside. I can't see
15 anything happening yet.

16 Okay. Now, something -- I think
17 they went out.

18 MEMBER JONES: Now, if you could
19 go through -- that right there, that gentleman
20 right there who appears to be having his
21 sweater pulled up, so that you can see his
22 torso.

1 THE WITNESS: Yes.

2 MEMBER JONES: That gentleman
3 appears to be wearing the same clothing. He
4 had a short haircut and he appears to be
5 wearing the same color jeans as the individual
6 who struck.

7 THE WITNESS: I disagree. It
8 looks like he has dreads.

9 MEMBER JONES: He has dreads? Oh,
10 okay.

11 THE WITNESS: Yes, there you go.

12 MEMBER JONES: That's Mr. Mundle.

13 THE WITNESS: No, I think --

14 MEMBER JONES: That's the
15 gentleman?

16 THE WITNESS: We'll watch and see.

17 MR. MANNING: I think -- I'm not
18 testifying here, but my thought was this was
19 an individual that we don't know, the
20 individual with the brown sweater I just saw
21 appeared to go along this wall.

22 MEMBER JONES: Please, rewind.

1 MR. STERN: It wasn't a brown
2 sweater. It was a gray sweater.

3 MR. STERN: As long as we're all
4 testifying.

5 MR. MANNING: No, I'm not. It
6 appears to me as though that was the same
7 individual.

8 MR. STERN: Well, let's look at
9 it. Let's look at it.

10 MR. MANNING: And they came out at
11 the same time, just like they were taken.

12 THE WITNESS: Right.

13 MR. MANNING: There is another
14 video.

15 CHAIRPERSON MILLER: All right.

16 THE WITNESS: I think the guy goes
17 through and I think if you watch from the
18 other angle as he comes out, you'll see it is
19 the guy.

20 MR. STERN: No.

21 MEMBER JONES: That's Mr. Mundle.

22 THE WITNESS: If you look at the

1 angle from outside, you will see Mr. Mundle
2 come out with this guy and he has long hair.

3 MEMBER JONES: With all due
4 respect, I understand that. I'm just trying
5 to understand what I'm seeing on the video --

6 THE WITNESS: Okay.

7 MEMBER JONES: -- that you are
8 presenting to us right here and now.

9 THE WITNESS: Okay.

10 MEMBER JONES: So I saw Mr. Mundle
11 being escorted out. And are you saying that
12 there is a gentleman over here on the left
13 side of the screen who appears to be in the
14 embrace of your security people? Do you agree
15 with that statement?

16 THE WITNESS: Right now?

17 MEMBER JONES: Right now.

18 THE WITNESS: Yes.

19 MEMBER JONES: Okay. That
20 gentleman -- or do you believe that that's the
21 gentleman that originally struck Mr. Mundle?
22 Is that what you are --

1 THE WITNESS: I would have to see
2 it.

3 MEMBER JONES: Okay. Can you let
4 it play?

5 (Whereupon, video played.)

6 CHAIRPERSON MILLER: Now, rewind
7 it. That was fast.

8 (Whereupon, video stopped.)

9 MEMBER JONES: Okay.

10 THE WITNESS: It could be.

11 MEMBER JONES: It could be? We're
12 not sure?

13 THE WITNESS: No.

14 MEMBER JONES: Okay. Thank you.

15 MR. MANNING: I guess similarly, I
16 would say that there is one additional part of
17 the video to be seen, it's the people that
18 exit in reference the time. Okay. No, I'm
19 saying that if I can show one more bit of --

20 MEMBER JONES: No. I didn't ask.

21 MR. MANNING: Okay.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER JONES: I've seen enough.

2 MR. MANNING: Okay. Well, I'll
3 ask -- I guess I'll pass -- have it as part of
4 my testimony.

5 MEMBER JONES: Thank you, Madam
6 Chair.

7 CHAIRPERSON MILLER: Okay. I just
8 want to clarify one thing about the policy to
9 hand over aggressors or whatever to the
10 police. No one was handed over in this case.
11 Is that correct? It's just that the police
12 were out there and you got the people out
13 there and the police were there. Is that why
14 you didn't hand anybody to the police?

15 THE WITNESS: No. In this
16 instance, that's what it was.

17 CHAIRPERSON MILLER: Okay.

18 THE WITNESS: Like as soon as you
19 came outside, the police officer was there,
20 so --

21 MEMBER MOBLEY: Sir, could you,
22 please, speak into the mike?

1 THE WITNESS: In this incident, it
2 looks like the police officer was just by
3 default there. And the hand-off wasn't as,
4 you know, eloquent as we would like to have.
5 It was just right there.

6 CHAIRPERSON MILLER: Okay. Any
7 other questions?

8 MEMBER MOBLEY: No, Madam Chair.

9 CHAIRPERSON MILLER: Okay. Thank
10 you.

11 MR. MANNING: I do have some
12 redirect.

13 REDIRECT EXAMINATION

14 BY MR. MANNING:

15 Q Just to start off, when did this
16 incident occur?

17 A When Mr. Mundle got hit?

18 Q Right.

19 A Towards closing, maybe 2:50.

20 Q So it occurred two years ago and
21 our -- is it true or do your security policies
22 evolve over time?

1 A Yes.

2 Q Okay. In what way?

3 A Well, I mean, we learn from our
4 mistakes and we -- it's a living document. We
5 changed it internally, whether we changed it
6 on record with ABRA is a different issue.

7 Q How often does an incident like
8 what happened on November 6, 2010 happen?

9 A Not often. I don't think we have
10 ever had something like that happen like that.

11 Q And would this be one of those
12 incidents that you just described which was
13 something you had learned from?

14 A Yes, absolutely.

15 Q And, in fact, has your security
16 policy changed since this incident?

17 A Yes, it has.

18 Q Okay. Now, speaking of your
19 security policy, I believe it is in the
20 investigation report, when was this security
21 policy instituted?

22 A When we opened.

1 Q Okay. And when was that?

2 A Which was 6 -- was it in 2000?

3 Q What year did you open?

4 A 2005 or 2006.

5 Q Okay. In 2005/2006, did you have
6 MPD personnel that you worked with as a
7 reimbursement program?

8 A No, we did not.

9 Q Okay. Now, why did this policy
10 require -- and you said that this was
11 instituted at a time when you didn't have MPD.
12 Why did this policy request that groups be
13 separated by inside groups and outside groups?

14 A Well, I mean, in theory, that's
15 what we consider best practice. Obviously,
16 not to allow the altercation to continue by
17 separating the groups.

18 What we learned in practice, it's
19 not as easy as that and it's not black and
20 white and, therefore, the policy shouldn't be
21 written in black and white the way it is.

22 Q What is your job? Is your job to

1 make sure that policies are followed or is
2 your job to protect your patrons?

3 A I think it's a combination of the
4 two. I think that -- but the protection of
5 the patrons would come first.

6 Q Okay. So what happens when you
7 believe that the protection of the patrons
8 would override the following of the black
9 letter law, so to speak, of the policy?

10 A Could you repeat that? I didn't
11 completely follow.

12 Q Sure. If you have a choice
13 between following the black letter law of the
14 policy and protecting the patrons, assuming
15 that your patrons wouldn't be protected by the
16 black letter law of the policy, which would
17 you choose?

18 A Well, I think we would choose to
19 protect the patrons. But again, it's not a
20 conscious decision to violate any policy or go
21 against anything. It's just what is happening
22 at the time that makes sense. And then later

1 in review, you can say, hey, that doesn't make
2 sense, what we wrote down. And then you can
3 change it.

4 Q Do things happen very quickly in
5 these types of contexts?

6 A Yes, they do.

7 Q Okay. Now --

8 CHAIRPERSON MILLER: Okay. I
9 think Mr. Stern is getting a little annoyed at
10 leading questions, so maybe --

11 MR. MANNING: No, understood. Mr.
12 Stern can certainly object.

13 CHAIRPERSON MILLER: Okay.

14 MR. MANNING: Okay. Well, we're
15 almost there.

16 BY MR. MANNING:

17 Q So just to clarify, now, the
18 gentleman who -- did the gentleman who was on
19 the chair with the hat on in that video, did
20 you see him in that video during the second
21 altercation strike Mr. Mundle inside of the
22 establishment?

1 A Did I see him strike Mr. Mundle
2 inside the establishment?

3 Q Correct.

4 A No.

5 Q Okay. Now, I guess if I can be
6 indulged now, I promise that it is quick, I
7 would like to see, because I think there might
8 be some evidence that we lustered in. And I
9 would like to see one very small clip of the
10 video again showing everyone leaving outside
11 of the exit to see if we can find that
12 gentleman with the gray sweater and the jeans.

13 MR. STERN: I -- actually, if
14 counsel wishes to move those exhibits into
15 evidence, I don't have an objection. The
16 Board can look at it at their leisure. Unless
17 there is a question about it that this
18 gentleman is going to shed light on, other
19 than looking at the video?

20 CHAIRPERSON MILLER: Yes.

21 MR. MANNING: I have a specific
22 question in relation to the activity of that

1 person that is being carried out. It will
2 literally take maybe two to three minutes to
3 queue this up and to actually view the video.

4 MR. STERN: Again, I don't see how
5 he can add what the Board can't see
6 themselves.

7 MR. MANNING: I just want to be
8 able to show it to you know instead of having
9 to --

10 CHAIRPERSON MILLER: Is it related
11 to some cross-examination before that you are
12 redirecting on?

13 MR. MANNING: It's related to the
14 identity. Specifically, Mr. Stern is trying
15 to tell who was escorted out as an aggressor
16 and when they were escorted out and what
17 happened to them afterwards.

18 CHAIRPERSON MILLER: Okay. It's
19 going to the point that maybe two aggressors
20 worked together at the same time?

21 MR. MANNING: Or that possibly
22 that they were split up. I'm sorry to

1 interrupt.

2 CHAIRPERSON MILLER: Okay. No,
3 it's the same point. All right.

4 MR. MANNING: Okay. It will take
5 two seconds.

6 CHAIRPERSON MILLER: Two minutes.

7 MR. STERN: Oh, boy.

8 (Whereupon, video played.)

9 MR. STERN: Okay. So what are we
10 looking at here?

11 THE WITNESS: All right. The
12 front entrance.

13 CHAIRPERSON MILLER: Wait a
14 second. Excuse me.

15 THE WITNESS: Okay.

16 CHAIRPERSON MILLER: All the Board
17 Members need to look at this. Can you see?

18 THE WITNESS: Okay. Front
19 entrance pointing eastbound on K Street.
20 Okay. Something is happening. I see security
21 rushing inside. Someone outside, police
22 officer gets him while he is standing up.

1 There is other people coming out at the same
2 time.

3 The guy in the dark, that I said
4 had dreads, he comes out first actually, then
5 Mr. Mundle. He's the first one. They must
6 come out after that. And then some more
7 people are going this way to the left. It
8 looks like security is taking someone to the
9 left.

10 So the, what do you call it,
11 barricade has been moved. They are pushing
12 someone that way. So if that is the guy in
13 the sweater, then they are separating
14 interaction.

15 BY MR. MANNING:

16 Q So on which side are you pointing
17 to when you are looking at this?

18 A Left. He is going to go left,
19 because they moved the barricades. The white
20 security guy with a bald head has got him.
21 Right there. My security is going that way.

22 MEMBER JONES: That way being

1 left?

2 THE WITNESS: Yes, sorry, left.

3 MEMBER JONES: Okay.

4 THE WITNESS: Now, who he has --

5 MEMBER MOBLEY: Sorry, could you
6 use the microphone, please?

7 THE WITNESS: I'm just talking.

8 CHAIRPERSON MILLER: That's what
9 she means.

10 THE WITNESS: Oh.

11 CHAIRPERSON MILLER: Okay. Go
12 ahead.

13 THE WITNESS: Okay. You might
14 want to review that on your own time. It
15 looks like it could be the stripe on the
16 sweater.

17 MEMBER JONES: Understood. Thank
18 you.

19 BY MR. MANNING:

20 Q If an individual wants to get out
21 of the establishment, do you -- is it your
22 policy to physically restrain that person from

1 getting out of the establishment?

2 A We -- no, we cannot physically
3 restrain them. We make our best efforts and
4 coerce them to stay, but if they parse their
5 way out, we are not able to hold them in.

6 Q Now, based on your review of that
7 video, was Mr. Mundle struggling, trying to
8 get out of the establishment or trying to
9 stay?

10 A I can't tell. I mean, I think --
11 I don't know why we have a blank screen. It
12 doesn't look like he is trying to cooperate,
13 let's put it that way.

14 Q Okay.

15 MR. MANNING: Nothing further.

16 MR. STERN: I have just one or two
17 follow-ups.

18 RECROSS-EXAMINATION

19 BY MR. STERN:

20 Q You have already said who was who
21 in that video. Am I correct that we saw
22 somebody being pulled out of your

1 establishment, dragged out by their sweater
2 and thrown outside?

3 A It looks that way, yes.

4 Q Is that part of your policy?

5 A No.

6 Q Okay. You are familiar with --
7 you said you were familiar with your security
8 manual. Is that right?

9 A To some degree, yes.

10 Q Are you familiar with the portion
11 that's K Street Lounge which reports 16
12 surveillance cameras throughout the venue?

13 A I don't know it verbatim, but that
14 sounds about right.

15 Q Did you have 16 surveillance
16 cameras?

17 A We may.

18 Q Why didn't you --

19 A We should.

20 Q -- give us 16 angles then?

21 A We weren't requested to show every
22 angle. The request for video was made and --

1 Q You are defending yourself when
2 you say you didn't do anything wrong. Why
3 wouldn't you bring in 16 angles to show that?

4 A Well, 16 angles, would you like to
5 see my office, the liquor room, the kitchen,
6 they are not all angles that were relevant to
7 what happened. You've got a room that was not
8 even open.

9 Q Did you know you had 16 cameras at
10 that time?

11 A If you ask me to count them, I
12 probably could. I mean, we have upgraded our
13 system multiple times. I mean, even at the
14 request of the Board, we upgraded our system,
15 so, you know, two years ago if I said we have
16 16 cameras, then I'm pretty sure we had 16
17 cameras.

18 Q You also testified that this sort
19 of thing hardly ever happens at K Street. Is
20 that right?

21 A Yes, something to this level.

22 Q Are you aware that since 2006 that

1 you have had 27 different incidents that the
2 Board has had to investigate.

3 A I am not aware of that.

4 Q Do you consider that not happening
5 very often?

6 A I don't know what the extent of
7 those incidents are. You asked me if this
8 type of thing happens and my opinion is no, it
9 does not.

10 Q Okay. Thank you.

11 MR. MANNING: I have nothing
12 further.

13 CHAIRPERSON MILLER: I have just
14 one question about the video.

15 THE WITNESS: Yes, ma'am.

16 CHAIRPERSON MILLER: I thought I
17 heard you testify that you thought some
18 individual was taken off the left while Mr.
19 Mundle went to the right?

20 THE WITNESS: Yes.

21 CHAIRPERSON MILLER: And then it
22 was off camera once it went to the left,

1 correct?

2 THE WITNESS: Yes.

3 CHAIRPERSON MILLER: Okay. Could
4 that person have been being taken to the
5 police?

6 THE WITNESS: Could he have been
7 delivered to the police?

8 CHAIRPERSON MILLER: Yes.

9 THE WITNESS: At the time, I don't
10 think so.

11 CHAIRPERSON MILLER: Okay.

12 THE WITNESS: I think the
13 proximity of the police to what was happening
14 and to what was -- all the other things
15 happening at the same time, I think trying to
16 take -- bring him back would have been
17 inappropriate.

18 CHAIRPERSON MILLER: No, I mean, I
19 didn't know if the police were off to the left
20 as well.

21 THE WITNESS: I don't think they
22 were. From the video that I saw, they were

1 mostly focused towards the -- to the right.

2 CHAIRPERSON MILLER: Okay. So
3 that person was just taken off to the left to
4 get off the premises that way?

5 THE WITNESS: Yes, I think so.

6 CHAIRPERSON MILLER: Okay. Any
7 other questions?

8 MR. MANNING: No.

9 CHAIRPERSON MILLER: Okay. Thank
10 you can be excused.

11 MR. PALLADINO: Thank you.

12 (Whereupon, witness was excused.)

13 CHAIRPERSON MILLER: Thank you.
14 Do you have any other witnesses?

15 MR. MANNING: None from the
16 licensee.

17 CHAIRPERSON MILLER: Closing, Mr.
18 Stern?

19 MR. STERN: Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. STERN: The Government
22 believes that even with videotape as often

1 happens, we don't get to see everything.

2 In this case, it's especially true
3 and it's especially true in ABRA hearings,
4 because or ABC Board hearings, because it is
5 always the establishment that gets to pick and
6 choose what videotapes to bring in and what to
7 turn over and what to give to us and what to
8 show to the Board.

9 In this incident, we didn't get
10 any videotape of the incident that happened at
11 12:00. There is two testimonies that there
12 was a fight at 12:00. The establishment would
13 try to confuse you and say oh, no, no, it's
14 this -- all of these incidents that occurred
15 were within 20 seconds of each other.

16 I would contend that it is
17 virtually impossible while it is true that
18 everybody sees things differently and that I'm
19 going to see, you know, a guy taken down with
20 handcuffs where another guy sees me grabbing
21 the person's wrist and not having handcuffs.

22 It is virtually impossible that

1 two witnesses could have saw something and
2 said they were an hour to two hours earlier
3 and it had only been 30 seconds or less than
4 30 seconds actually, by the testimony.

5 So what happened here is we didn't
6 get the videotape of the first incident that
7 there was testimony to. So there were
8 actually four incidents.

9 The first incident -- that means
10 four incidents related to this establishment
11 in one night. Now, the second incident, the
12 Board will look at the evidence and look at
13 the tape again, but there is no attempt, and
14 the testimony from the general manager is
15 there was no attempt, to separate the
16 individuals in that fight. This is a clear
17 violation of the security agreement.

18 The third incident that happened
19 inside, both individuals are literally thrown
20 out. There is no handing over to the police.
21 The whole idea that you hand over to the
22 police, these are people who witnessed the

1 incidents, by the way. The security guard
2 witnessed the incidents.

3 They saw that Mr. Mundle was doing
4 nothing and was punched in the face. He gets
5 thrown out outside. He isn't handed over to
6 the police. You can see from the video he
7 isn't handed over to the police. He is
8 literally dragged and thrown out outside.

9 And how do we know that and he
10 wasn't just falling? Because there is a
11 second patron who is also literally dragged
12 outside and thrown down.

13 Now, the line view of the tape,
14 the Government believes, that that tape shows
15 that that second individual was the assaulter,
16 the person who had assaulted Mr. Mundle. And
17 they were brought out together. And that
18 imports with the fact that they both are
19 wearing a gray sweatshirt, not a brown one,
20 sweater, and not a brown one. And the fact
21 that they were both taken out at the same
22 time.

1 So since they are both being
2 rushed out at the same exact moment, it only
3 makes sense that they would come out at the
4 same exact moment. There is just no evidence
5 that they sought to separate it.

6 What occurs then is that there is
7 more incidents outside. The respondent would
8 have Mr. Mundle painted as the aggressor on
9 that.

10 You can see the video and look at
11 the video. He is being surrounded and
12 protected by friends, not going after anybody.
13 They are cornering him off to make sure that
14 nobody else attacks him. He is not the
15 aggressor. The only time he is involved with
16 somebody else is when he is -- somebody else
17 comes after him and that's the man who is also
18 involved in this in the hat.

19 The man who the security guard
20 identified as being involved in this and then
21 let go out without turning him over to the
22 police, without separating them, without

1 anything, so that he could start another fight
2 with Mr. Mundle.

3 You know, one of the testimony
4 from the respondent was very telling to me.
5 He said he wasn't aware of the gravity of the
6 situation at the time, that's why there was no
7 incident reports and he didn't look over
8 things and such like that.

9 If he had followed the security
10 plan, if he had separated and spoken to each
11 of the individuals, if he had done what he was
12 supposed to do, they would have been aware of
13 the gravity. They would have been able to get
14 this man's identity and there would have been
15 no fight outside.

16 And Mr. Mundle wouldn't have
17 additionally hurt his wrist in addition to the
18 broken jaw that he got at this place.

19 Now, the respondent testified that
20 oh, this sort of thing doesn't happen very
21 often. Well, in the last four years, there
22 have been four prior convictions for primary-

1 type violations. Those are convictions.

2 There have been 27 investigations
3 in the last six years. The District of
4 Columbia is over it, to use a vernacular. We
5 are tired of K Street coming back here time
6 and time again. It is a dangerous place.
7 Just the three incidents that evening show
8 that it's a dangerous place.

9 It is time to give them the
10 ultimate penalty. The Board was reconsidering
11 that very request in the last case that they
12 were convicted of. I don't know how that is
13 going to come out, but this should put any
14 such thoughts right over the edge.

15 The appropriate count whether it
16 is -- whether the Board decides that
17 ultimately it is required because it is the
18 fifth serious violation in four years or
19 whether it is just part of the Board's
20 permissive authority, it is time to revoke the
21 license of this establishment and bring some
22 peace to this area. Thank you.

1 CHAIRPERSON MILLER: Thank you.

2 MR. MANNING: First, I would like
3 to move the 5(b) in evidence. I realize I
4 neglected to do that.

5 CHAIRPERSON MILLER: What exhibit
6 are they?

7 MR. MANNING: I guess that would
8 be -- it's -- since the first exhibit for the
9 respondent was withdrawn, it will be Exhibit
10 1 for the licensee.

11 CHAIRPERSON MILLER: Any
12 objection, Mr. Stern?

13 MR. STERN: No.

14 CHAIRPERSON MILLER: Okay.
15 Admitted.

16 (Whereupon, the document marked as
17 Licensee Exhibit 1 was received in
18 evidence.)

19 MR. MANNING: So let's back up.
20 The goal of the security detail at K Street is
21 to try to ensure that fights get split up and
22 that people ultimately get delivered to the

1 proper authorities.

2 At K Street, in 2010 by the way,
3 which is two years ago or a year and a half
4 ago from the incident, they had a policy that
5 in some ways conflicted with the dictates that
6 the MPD required of K Street.

7 The MPD wanted K Street to take
8 everyone out of the facility, so that the MPD
9 could properly handle those people.

10 K Street, especially on November
11 6, 2010, abided by the MPD's directive, which
12 is there is a lot of activity going on inside,
13 let's get everyone outside as quickly as
14 possible, so that we can then handle this
15 situation with the proper legal authorities,
16 saving the other patrons and also the other
17 workers inside K Street from further violence.

18 There was a lot of confusion
19 inside K Street that night. Ultimately, it
20 was difficult to discern who was on whose side
21 and who was on the other. In fact, if you
22 look at the gentleman on the chair who was

1 pointing at Mr. Mundle, it is difficult during
2 that video to determine whether or not he is
3 one of Mr. Mundle's friends or whether he is
4 one of Mr. Mundle's enemies.

5 It is very clear though to
6 determine that the gentleman that hit Mr.
7 Mundle was certainly someone who had to be
8 taken care of and gotten out as quickly as
9 possible.

10 So what did K Street do? K Street
11 followed the directive of the MPD to get
12 everyone out as quickly as possible to put
13 them in the hands of the authorities.

14 Now, let's talk about Mr. Mundle,
15 in particular. Mr. Mundle today purported
16 that there were three incidents. By the way,
17 he never purported that there were four
18 incidents. And also, in addition, Mr. -- the
19 general manager of K Street also indicated
20 that there were no other incidents aside from
21 these three.

22 But let's talk about what Mr.

1 Mundle allegedly remembers. Three incidents.
2 One that happened in the middle of the dance
3 floor where all of the individuals, he said,
4 were kicked out through that middle door.
5 That's clearly the first incident that we saw
6 on the videotape.

7 Well, as we saw on the videotape
8 however, unlike Mr. Mundle's testimony where
9 supposedly everyone was attacking one person
10 and there was no security around, instead,
11 when the altercation happened, there was
12 security there immediately. People were split
13 up. Apparently, some people were left inside.
14 Some people were escorted outside through that
15 middle emergency door to immediately be handed
16 over or at least given the opportunity to be
17 interactive with the police department.

18 The area was cleaned. Then you
19 saw Mr. Mundle, who said that he never
20 interacted with anyone over by the fight, who
21 said that he stayed near the bar the entire
22 time, on the videotape go over and seemingly

1 taunt some of those fighters. And then also
2 kind of bizarrely dance by himself on the way
3 back.

4 Clearly, something happened during
5 that time frame that provoked someone within
6 that group to be interested in going after Mr.
7 Mundle.

8 Mr. Mundle then, as we saw, stuck
9 around the bar for maybe another minute or
10 two. The bar was then cleared out, because
11 not only was it closing time, but people
12 needed to get out of that bar in order to get
13 the authorities to handle the situation
14 properly.

15 Mr. Mundle is leaving. The
16 gentleman on the chair interacts with him in
17 some way. We don't know whether he is on his
18 side or not on his side. And then Mr. Mundle
19 gets blindsided by someone who, I would say,
20 the security guards could have never figured
21 would come out of nowhere to hit Mr. Mundle.

22 Mr. Mundle clearly provoked that,

1 based on his previous taunting on the dance
2 floor.

3 What happened whenever that melee
4 happened? After one strike of Mr. Mundle, he
5 was separated from both the gentleman on the
6 chair and also separated from the gentleman
7 who punched him in the face.

8 Now, according to the directive of
9 the MPD and there was a -- K Street wishes
10 they could have followed their policy to the
11 letter and separated everyone, but, at that
12 point, according to the directive of the MPD,
13 everyone needed to be outside, so that the MPD
14 could take care of everyone.

15 Everyone was escorted outside. In
16 a situation like that, do we wish that things
17 could have happened differently? Do we wish
18 that we could have sat everyone down and
19 called a police officer over to each
20 individual? Absolutely, yes.

21 But we are talking about a
22 situation that very unexpectedly got much more

1 intense than was expected. And the fact that
2 it was as intense and the fact that the rules
3 weren't followed as perfectly as they were,
4 speaks to the fact that it doesn't happen at
5 K Street very often.

6 So what did K Street try to do?
7 They got everyone out. They got everyone to
8 the authorities. Unfortunately, the man with
9 the hat who had never struck anyone before
10 this time on camera, came out and hit Mr.
11 Mundle. But if you notice, Mr. Mundle was
12 certainly not immediately inundated by people
13 upon leaving the establishment.

14 Instead, Mr. Mundle had about 10
15 or 20 seconds to cool off and go talk to his
16 friends. Mr. Mundle says that he was just
17 barraged by people immediately upon leaving.
18 Instead, he walked over to a few friends. We
19 then saw the female police officer talking on
20 her CB trying to call in assistance, because
21 Mr. Mundle was being belligerent.

22 You didn't see the man with the

1 hat come out. Mr. Mundle points at the man
2 with the hat and presumes -- and even lunges
3 at him, it appears on the video, and as a
4 result the man with the hat punches Mr.
5 Mundle.

6 Mr. Mundle and also Ms. -- I
7 forget her name right now, the other witness,
8 Posely, she -- they testified that the fight
9 went on for 10 minutes. The fight went on for
10 maybe 30 seconds, as you will see from the
11 video, maybe.

12 So Mr. Mundle wasn't this helpless
13 victim. Mr. Mundle was getting up, falling
14 down and ultimately and most importantly was
15 gotten under control by two separate police
16 officers. The situation was diffused within
17 30 seconds and ultimately what the plan was
18 between the MPD and K Street, it ultimately
19 worked.

20 Did it work perfectly? Absolutely
21 not. But it ultimately worked, because in 30
22 seconds everything was diffused.

1 Now, K Street has learned since
2 2010. K Street has changed its policies and
3 as a result it's much more in congruence with
4 what MPD wants and doesn't require this
5 separation inside and outside. It instead
6 follows MPD's directive.

7 So they have learned. But does,
8 you know, five minutes on November 6, 2010
9 require that someone lose their entire
10 license? I would think not. There certainly
11 have been other violations, but not 27
12 violations like this.

13 This was a particularly unique
14 night that should be handled in a particularly
15 unique way, which is to give K Street another
16 chance.

17 Now, Mr. Stern referred to very
18 glancingly some other matters that were
19 supposedly primary offenses. Well, as Mr.
20 Stern knows and as the Board knows, they
21 weren't considered primary for revocation
22 purposes. They were considered primary for

1 fining purposes.

2 And that was the decision, my
3 understanding is, from this Board. And so
4 there has not accumulated that -- now, if this
5 were to be considered primary, five primary
6 offenses.

7 Instead, Mr. Stern has asked for
8 reconsideration of that ruling that it was a
9 primary offense as it relates to a fine as
10 opposed to revocation. And so we are not at
11 that point where you have no discretion.

12 Instead, we are at a point where
13 you are looking at one evening. You are
14 looking at a place that has gotten better, has
15 learned from their mistakes and certainly
16 doesn't deserve to lose their entire
17 enterprise based on one evening.

18 So I would ask that the Board
19 consider the extent of the effort that K
20 Street put into this evening. This was not a
21 time when there was no security. This was not
22 a time where it was just a free-for-all.

1 K Street did the best they could,
2 based on the directives of MPD and based on
3 the very extraordinary situation that was
4 presented to them.

5 So I ask you to give them the
6 leniency that they deserve and respect the
7 effort that they put into this and require
8 that there be no violation in this case.

9 CHAIRPERSON MILLER: Okay. To
10 finish up, at the beginning of this hearing,
11 you know, you raised the issue about default
12 orders and collateral estoppel and we said no,
13 we are going to have the hearing and at the
14 end of the hearing, I would hear whether or
15 not you wanted to pursue that argument in a
16 written brief.

17 So, at this point, I wanted to ask
18 you if you still did, given the hearing that
19 we just had.

20 MR. MANNING: I would like to
21 consult with my client, if I could --

22 CHAIRPERSON MILLER: Okay.

1 MR. MANNING: -- following the
2 hearing. And then could I get back to the
3 Board, at that point?

4 CHAIRPERSON MILLER: Um --

5 MR. MANNING: Okay. Well,
6 actually, we can consult now.

7 CHAIRPERSON MILLER: Well, I'll
8 just throw the other question out, too.

9 MR. MANNING: Okay.

10 CHAIRPERSON MILLER: Because I
11 know you are new to these proceedings. And in
12 general as I understand it, it is the policy
13 of most parties will also waive the right to
14 findings of fact and conclusions of law. And
15 so you don't have to, so you might want to
16 think about that as well, unless you have an
17 answer right now?

18 MR. MANNING: In this case, we
19 would not waive the right to findings of fact
20 and conclusions of law.

21 CHAIRPERSON MILLER: Okay. Do you
22 want to take a few minutes and talk about

1 whether you intend to file a motion?

2 MR. MANNING: The default issue?

3 CHAIRPERSON MILLER: Yes.

4 MR. MANNING: We will literally
5 take 30 seconds.

6 CHAIRPERSON MILLER: Yes, okay.

7 MR. MANNING: So we've decided we
8 won't file a motion.

9 CHAIRPERSON MILLER: Okay. Okay.
10 So then the time for filing findings of fact
11 and conclusions of law is 30 days from today.

12 MR. MANNING: Okay.

13 CHAIRPERSON MILLER: Thank you.
14 If you have other questions after the hearing,
15 you can ask staff.

16 MR. MANNING: Okay. I appreciate
17 it.

18 CHAIRPERSON MILLER: That's
19 correct. Okay. Well, thank you all very
20 much.

21 MR. STERN: Thank you.

22 CHAIRPERSON MILLER: And you have

1 left us a copy with the video?

2 MR. MANNING: Yes. It's right
3 here.

4 CHAIRPERSON MILLER: Okay. Thank
5 you.

6 MR. MANNING: Shall I just give it
7 to you?

8 CHAIRPERSON MILLER: Thanks.

9 (Whereupon, the Show Cause Hearing
10 in the above-entitled matter was concluded at
11 6:18 p.m.)

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