

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: :  
: :  
De Amigo, LLC t/a Sesto Senso/:  
Andalu/Spot/Lupe/M.I.A. : Show  
1214 18th Street, NW : Cause  
Retailer CT - ANC-2B : Hearing  
License No. 81092 :  
Case #11-251-00372 :  
: :  
(Allowed Establishment to be :  
Used for Unlawful/Disorderly :  
Purpose, Failed to Follow :  
Security Plan) :  
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November 13, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member  
DONALD BROOKS, Member  
HERMAN JONES, Member  
MIKE SILVERSTEIN, Member

ALSO PRESENT:

LOUISE PHILLIPS, OAG  
ABYIE GHENENE, ABRA Investigator

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

2 (10:35 a.m.)

3 CHAIRPERSON MILLER: Would you  
4 like me to call your case? Okay. Case No.  
5 11-251-00372, M.I.A. located at 1214 18th  
6 Street, N.W., License No. 81092, in ANC-2B.  
7 This is a Show Cause Hearing.

8 MS. PHILLIPS: Louise Phillips,  
9 Assistant Attorney General for the District of  
10 Columbia.

11 MR. MPRAS: Emanuel Mpras for the  
12 respondent.

13 MR. BENKHAYAT: Mehti Benkhayat,  
14 managing partner.

15 CHAIRPERSON MILLER: Could you  
16 spell your last name, please?

17 MR. BENKHAYAT: B-E-N-K-H-A-Y-A-T.

18 CHAIRPERSON MILLER: Okay. Are  
19 there any preliminary matters in this case?

20 MS. PHILLIPS: This is a  
21 continuation of a Show Cause Hearing that was  
22 held on, I think, May 15th.

1 CHAIRPERSON MILLER: Okay.

2 MS. PHILLIPS: So --

3 MR. MPRAS: We don't have any.

4 CHAIRPERSON MILLER: All right.

5 Could you remind me then or us where we are?

6 We will pick up from there.

7 MS. PHILLIPS: Louise Phillips,  
8 Assistant Attorney General for the District of  
9 Columbia. We have called three civilian  
10 witnesses and we have one witness left, the  
11 Investigator. We have admitted A through, I  
12 think it is, either G or F, let me check.

13 CHAIRPERSON MILLER: Okay.

14 MS. PHILLIPS: A through F  
15 exhibits. And at the end of the hearing, we  
16 got E and F during the last hearing and I  
17 asked permission to redact the medical  
18 records. And on June 28th, I sent redacted  
19 medical records to Ms. Jenkins and Mr. Mpras.  
20 They were the medical records of Ms. Kiflezghi  
21 and Ms. Medhani. K-I-F-L-E-Z-G-H-I and  
22 Medhani, M-E-D-H-A-N-I. And so I assume the

1 Board received those.

2 And the non-redacted E and F were  
3 taken back by the District, so that the only  
4 thing you should have in your file now is E,  
5 F in the redacted form. And that's where we  
6 were, I think.

7 MR. MPRAS: I believe you had one  
8 more witness before --

9 MS. PHILLIPS: Right, one more  
10 witness.

11 CHAIRPERSON MILLER: Okay. All  
12 right. So whenever you are ready to call your  
13 witness then.

14 MS. PHILLIPS: Did everybody  
15 introduce themselves? I introduced myself.

16 CHAIRPERSON MILLER: Yes.

17 MS. PHILLIPS: Okay. All right.  
18 The District calls the Investigator.

19 CHAIRPERSON MILLER: Good morning.

20 INVESTIGATOR GHENENE: Morning.

21 Whereupon,

22 INVESTIGATOR ABYIE GHENENE

1 was called as a witness by Counsel for the  
2 Government, and having been first duly sworn,  
3 assumed the witness stand and was examined and  
4 testified as follows:

5 CHAIRPERSON MILLER: Okay. Good.  
6 Thank you. Have a seat.

7 MS. PHILLIPS: And can I approach  
8 the witness to give him a copy of the  
9 investigation report?

10 CHAIRPERSON MILLER: Yes.

11 MS. PHILLIPS: Thank you.

12 DIRECT EXAMINATION

13 MS. PHILLIPS: Will you state your  
14 name, please, and spell it for the court  
15 reporter?

16 INVESTIGATOR GHENENE: Sure. It's  
17 Abyie Ghenene, A-B-Y-I-E last name G-H-E-N-E-  
18 N-E.

19 MS. PHILLIPS: All right. And  
20 your occupation?

21 INVESTIGATOR GHENENE:  
22 Investigator for the Alcoholic Beverage

1 Regulation Administration.

2 MS. PHILLIPS: And I hate to say  
3 this, but your voice is pitched really low  
4 today.

5 INVESTIGATOR GHENENE: Oh.

6 MS. PHILLIPS: I'm having trouble  
7 hearing you.

8 INVESTIGATOR GHENENE: I  
9 apologize.

10 MS. PHILLIPS: It seems to be a  
11 continuing infliction. All right. And you  
12 are an Investigator with ABRA. Is that  
13 correct?

14 INVESTIGATOR GHENENE: Yes, ma'am.

15 MS. PHILLIPS: And briefly, what  
16 do you do as an Investigator for ABRA?

17 INVESTIGATOR GHENENE: We conduct  
18 investigations and inspections of licensed  
19 establishments within the District of  
20 Columbia.

21 MS. PHILLIPS: And as part of your  
22 job, did you conduct an investigation at, I

1 believe we are calling this for this case,  
2 Spot?

3 INVESTIGATOR GHENENE: Yes, ma'am.

4 MS. PHILLIPS: I believe that's  
5 what we decided at the first hearing, because  
6 it has got a long name, Sesto  
7 Senso/Andalu/Spot/Lupe/M.I.A., but for  
8 purposes of this Show Cause Hearing, I think,  
9 we called it Spot last time.

10 CHAIRPERSON MILLER: Okay.

11 MS. PHILLIPS: So for Spot.

12 CHAIRPERSON MILLER: I called it  
13 M.I.A. when I called it, by the way, so I'll  
14 correct that for the record.

15 MS. PHILLIPS: Okay.

16 CHAIRPERSON MILLER: And call it  
17 Spot now.

18 INVESTIGATOR GHENENE: I had it  
19 listed as Sesto Senso.

20 MS. PHILLIPS: Right. To be  
21 clear, that's the way it's in my file, too.

22 CHAIRPERSON MILLER: Okay.

1 MS. PHILLIPS: But be that as it  
2 may, did you conduct an investigation on  
3 November 24, 2011?

4 INVESTIGATOR GHENENE: Yes, ma'am.

5 MS. PHILLIPS: Okay. And my  
6 recollection from the testimony previously is  
7 that's the day before Thanksgiving?

8 INVESTIGATOR GHENENE: I believe  
9 so. Yes, ma'am.

10 MS. PHILLIPS: All right. And as  
11 part of your investigation, did you interview  
12 witnesses?

13 INVESTIGATOR GHENENE: Yes, ma'am.

14 MS. PHILLIPS: And did you collect  
15 reports?

16 INVESTIGATOR GHENENE: Yes, ma'am.

17 MS. PHILLIPS: And as part of your  
18 investigation process, did you reduce the  
19 findings of your investigation to a report?

20 INVESTIGATOR GHENENE: Yes, ma'am.

21 MS. PHILLIPS: And is that report  
22 what I placed in front of you?

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: And on the last  
3 page of the report, page 5, is that your  
4 signature?

5 INVESTIGATOR GHENENE: Yes, ma'am.

6 MS. PHILLIPS: And the date on  
7 that of your signature is?

8 INVESTIGATOR GHENENE: I believe  
9 it's February 22, 2012.

10 MS. PHILLIPS: And there is  
11 another signature on that last page. Whose is  
12 that?

13 INVESTIGATOR GHENENE: That's the  
14 Chief Investigator Johnnie Jackson.

15 MS. PHILLIPS: Okay. And he  
16 signed it it looks like the same day to me.  
17 Is that what your's says?

18 INVESTIGATOR GHENENE: Yes, ma'am.

19 MS. PHILLIPS: All right. And I  
20 would like to make this a part of the record.  
21 It will be Exhibit G maybe. Just a second.  
22 Yeah, G.

1 CHAIRPERSON MILLER: The  
2 investigation report?

3 MS. PHILLIPS: Yes, ma'am.

4 CHAIRPERSON MILLER: Okay.

5 MR. MPRAS: No objection.

6 CHAIRPERSON MILLER: Yes, okay.

7 So Government's Exhibit G is admitted.

8 (Whereupon, the document was  
9 marked for identification as  
10 Government Exhibit G and was  
11 received in evidence.)

12 MS. PHILLIPS: All right. Mr.  
13 Ghenene, prior to being employed by ABRA as an  
14 Investigator, had you had any other  
15 investigative experience?

16 INVESTIGATOR GHENENE: Yes, ma'am.

17 MS. PHILLIPS: Briefly tell for  
18 the record what that experience was.

19 INVESTIGATOR GHENENE: I worked  
20 for a while as a Regional Internal  
21 Investigator for Nordstrom as well as a fraud  
22 investigator for a while for Saks Fifth

1 Avenue.

2 MS. PHILLIPS: And did you conduct  
3 investigations in those two capacities?

4 INVESTIGATOR GHENENE: Yes, ma'am.

5 MS. PHILLIPS: And did you  
6 interview witnesses, compile reports and then  
7 reduce your findings into a report at either  
8 of those establishments?

9 INVESTIGATOR GHENENE: Yes, ma'am.

10 MS. PHILLIPS: Okay. And how long  
11 did you do that prior to coming to ABRA?

12 INVESTIGATOR GHENENE:

13 Approximately, 10 years.

14 MS. PHILLIPS: 10 years. And how  
15 long have you been with ABRA?

16 INVESTIGATOR GHENENE:

17 Approximately, three years.

18 MS. PHILLIPS: Okay. You started  
19 an investigation for an occurrence that  
20 occurred on November 24, 2011. How did that  
21 investigation come to your attention?

22 INVESTIGATOR GHENENE: I was, I

1 believe, given a 251 report.

2 MS. PHILLIPS: And a 251 report is  
3 what?

4 INVESTIGATOR GHENENE: I'm sorry.  
5 It's a report issued by Metropolitan Police  
6 Department.

7 MS. PHILLIPS: Okay. So did --  
8 and as a result of that report, did you begin  
9 to conduct an investigation?

10 INVESTIGATOR GHENENE: Yes, ma'am.

11 MS. PHILLIPS: I noticed in the  
12 report that -- your investigative report that  
13 you had some details from the 251 MPD report.  
14 Is that fair?

15 INVESTIGATOR GHENENE: Yes, ma'am.

16 MS. PHILLIPS: And even though you  
17 write them in your report on page 1, you take  
18 that -- and the top of page 2, you take that  
19 directly from the report written by the MPD  
20 police officer. Is that fair?

21 INVESTIGATOR GHENENE: Yes, ma'am.

22 MS. PHILLIPS: And did you attach

1 a copy of the MPD 251 to the investigative  
2 report?

3 INVESTIGATOR GHENENE: Yes, ma'am.

4 MS. PHILLIPS: And that's Exhibit  
5 1?

6 INVESTIGATOR GHENENE: Yes, ma'am.

7 MS. PHILLIPS: And who was the  
8 investigating MPD officer who authored that  
9 report according to the report?

10 INVESTIGATOR GHENENE: I believe  
11 it was Officer Brown.

12 MS. PHILLIPS: Yeah, Brian Brown  
13 from 2D. Is that fair?

14 INVESTIGATOR GHENENE: Yes, ma'am.

15 MS. PHILLIPS: Did you meet with  
16 Officer Brown at any point in time?

17 INVESTIGATOR GHENENE: No, ma'am.

18 MS. PHILLIPS: Did you try to  
19 reach out to Officer Brown to interview him  
20 about what he knew about the event?

21 INVESTIGATOR GHENENE: Yes, ma'am.

22 MS. PHILLIPS: And were you able

1 to do so?

2 INVESTIGATOR GHENENE: Was I able

3 to?

4 MS. PHILLIPS: Reach him and speak

5 with him?

6 INVESTIGATOR GHENENE: No, ma'am.

7 MS. PHILLIPS: How did you try to

8 reach him?

9 INVESTIGATOR GHENENE: I believe I

10 called. I wasn't sure which Officer Brian

11 Brown it was, so I emailed the two that are,

12 I guess, on file in the global contact list

13 for DC Government. And I believe I called the

14 2nd District just on a hunch.

15 MS. PHILLIPS: So Exhibit 3 is a

16 copy of the email that you sent to Brian F and

17 Brian H --

18 INVESTIGATOR GHENENE: Yes, ma'am.

19 MS. PHILLIPS: -- Brown. Is that

20 fair?

21 INVESTIGATOR GHENENE: Yes, ma'am.

22 MS. PHILLIPS: And that you asked

1           some questions, but you received responses  
2           from neither of them?

3                           INVESTIGATOR GHENENE:   Yes, ma'am.

4                           MS. PHILLIPS:   And that would be a  
5           fair statement, right?

6                           INVESTIGATOR GHENENE:   Yes, ma'am.

7                           MS. PHILLIPS:   Okay.   All right.  
8           As part of your investigation, did you try to  
9           interview the civilian witnesses?

10                           INVESTIGATOR GHENENE:   Yes, ma'am.

11                           MS. PHILLIPS:   And you saw that  
12           they testified during the hearing, because you  
13           were here during that.   Is that fair?

14                           INVESTIGATOR GHENENE:   Yes, ma'am.

15                           MS. PHILLIPS:   Okay.   Were you  
16           able to reach all three of the victim injured  
17           parties?

18                           INVESTIGATOR GHENENE:   I believe I  
19           only spoke with two out of the three.

20                           MS. PHILLIPS:   So would it be fair  
21           to summarize Ms. Solomon and Ms. Kiflezghi you  
22           spoke to?

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: And so you didn't  
3 reach Ms. Medhani?

4 INVESTIGATOR GHENENE: No, ma'am.

5 MS. PHILLIPS: Okay. And they  
6 testified as to their -- what happened as they  
7 recollected it when they came --

8 MR. MPRAS: I'm going to object.  
9 If you could ask the questions without  
10 leading?

11 CHAIRPERSON MILLER: Do you want  
12 to --

13 MS. PHILLIPS: You know, I can  
14 summarize because their testimony is already  
15 in the record or I can not summarize.

16 CHAIRPERSON MILLER: Right. I  
17 mean, I was listening to this too and it does  
18 sound like leading, but it also just seems  
19 efficient and not really prejudicial because  
20 it is already in the report. Is that right?

21 MS. PHILLIPS: Yes.

22 CHAIRPERSON MILLER: Or it's in

1 the --

2 MS. PHILLIPS: It's in the report.  
3 They testified at length and got cross-  
4 examined at length. So I was just sort of  
5 doing a predicate.

6 MR. MPRAS: You can also ask him--  
7 he was here, so you could ask him what he  
8 remembers from it.

9 MS. PHILLIPS: Yes, but that's not  
10 what I want to ask him.

11 CHAIRPERSON MILLER: Okay. So  
12 right.

13 MR. MPRAS: Okay.

14 MS. PHILLIPS: All right.

15 CHAIRPERSON MILLER: Okay. I'm  
16 going to overrule it for right now, because I  
17 don't hear it being prejudicial.

18 MS. PHILLIPS: You heard their  
19 testimony on May 15th. Is that fair?

20 INVESTIGATOR GHENENE: Yes. Yes,  
21 ma'am.

22 MS. PHILLIPS: Did you review the

1 transcript of their testimony after it was  
2 rendered into a transcript form?

3 INVESTIGATOR GHENENE: Yes, I  
4 skimmed it.

5 MS. PHILLIPS: Okay. Do you  
6 recall any major differences from what they  
7 told you when you interviewed them? On what  
8 date was that?

9 INVESTIGATOR GHENENE: I believe I  
10 interviewed them on December 2, 2011.

11 MS. PHILLIPS: Okay. Did you  
12 recall any differences from their testimony or  
13 any major differences from their testimony on  
14 May 15th versus what they told you happened on  
15 December 2nd?

16 INVESTIGATOR GHENENE: If there  
17 were any differences, I kind of remember them  
18 being just being more detailed than our  
19 telephone conversation.

20 MS. PHILLIPS: So was it fair to  
21 say your telephone -- well, let's ask this.  
22 When you spoke to Ms. Solomon, do you recall

1           how long your telephone conversation was?

2                       INVESTIGATOR GHENENE:  It wasn't  
3           very long.  Maybe -- this was two years ago.

4                       MS. PHILLIPS:  Right.

5                       INVESTIGATOR GHENENE:  Maybe 15  
6           minutes.

7                       MS. PHILLIPS:  All right.  And  
8           similar for Ms. Kiflezghi?

9                       INVESTIGATOR GHENENE:  My  
10          conversation with her might have been shorter.

11                      MS. PHILLIPS:  Okay.  But both of  
12          those conversations were by telephone.  You  
13          did not meet with them in person.  Is that  
14          fair?

15                      INVESTIGATOR GHENENE:  Yes, yes,  
16          ma'am.

17                      MS. PHILLIPS:  Okay.  And you  
18          never got a response from Ms. Medhani?  Is  
19          that fair?

20                      INVESTIGATOR GHENENE:  Yes, ma'am.

21                      MS. PHILLIPS:  Did you leave her a  
22          message?

1 INVESTIGATOR GHENENE: I believe  
2 so, yes, ma'am.

3 MS. PHILLIPS: Okay. All right.  
4 And I understand, as I recall the record, that  
5 there was another witness that was not injured  
6 or listed on the police report. Who was that?

7 INVESTIGATOR GHENENE: I believe  
8 that was a gentleman named Solomon Gabretens.

9 MS. PHILLIPS: You would spell  
10 that for the record, please?

11 INVESTIGATOR GHENENE: First name  
12 S-O-L-O-M-O-N last name G-A-B-R-E-T-E-N-S.

13 MS. PHILLIPS: And do you -- were  
14 you able -- ever able to reach this gentleman?

15 INVESTIGATOR GHENENE: No, ma'am.

16 MS. PHILLIPS: Okay. Do you know  
17 what his relationship to the events were?

18 INVESTIGATOR GHENENE: I don't. I  
19 believe that he was just with them, with the  
20 group.

21 MS. PHILLIPS: Okay.

22 INVESTIGATOR GHENENE: But the

1 relationship I'm not sure.

2 MS. PHILLIPS: Okay. And you  
3 don't recall whether he was the person that  
4 assisted one of these persons, one of these  
5 injured victims on the outside, was that who  
6 he was or do you not know?

7 INVESTIGATOR GHENENE: I don't  
8 know.

9 MS. PHILLIPS: Okay. Now, in  
10 addition to interviewing the injured parties,  
11 did you go to the establishment to discuss the  
12 events of the day before Thanksgiving?

13 INVESTIGATOR GHENENE: Yes, ma'am.

14 MS. PHILLIPS: And who did you  
15 speak to?

16 INVESTIGATOR GHENENE: I spoke  
17 with an ABC Manager, Mr. Mehdi Ben El Ahmar.

18 MS. PHILLIPS: Okay.

19 INVESTIGATOR GHENENE: And I spoke  
20 with a -- I think I spoke with two security  
21 guards at the time, but one was primarily  
22 answering the questions, Mr. Mbeleg.

1 MS. PHILLIPS: Will you spell both  
2 of those names for the record, so we will be  
3 sure and --

4 INVESTIGATOR GHENENE: Sure. The  
5 ABC Manager's name is Mehdi, M-E-H-D-I, B-E-N  
6 E-L A-H-M-A-R. And the security guard's name  
7 is --

8 MS. PHILLIPS: Is that Matali?  
9 Right there, is that what that says?

10 INVESTIGATOR GHENENE: I believe  
11 so. It is --

12 MS. PHILLIPS: I'm just reading  
13 about third paragraph down.

14 INVESTIGATOR GHENENE: Yeah, I --  
15 no, I believe it is Jeremy, G-E -- J-E-R-E-M-Y  
16 M-B-E-L-E-G. But it was -- there was also  
17 another security guard there and his name is  
18 L-O-N-E-N-A last name M-A-T-A-L-I.

19 MS. PHILLIPS: Did any of the  
20 three people from the establishment that you  
21 spoke to, and identified them for the record  
22 moments ago, see any of the incidents in

1 question?

2 INVESTIGATOR GHENENE: I believe  
3 Mr. Mbeleg said that he did see the incident.

4 MS. PHILLIPS: Okay.

5 INVESTIGATOR GHENENE: Inside the  
6 establishment.

7 MS. PHILLIPS: Inside the  
8 establishment. And would it be fair to  
9 summarize that the witness' testified that  
10 there were assaults inside the establishment  
11 and outside the establishment?

12 INVESTIGATOR GHENENE: I believe  
13 so, yes, ma'am.

14 MS. PHILLIPS: All right. And  
15 that was part of -- that was the entire -- so  
16 there were two separate instances of assault.  
17 One inside, yes?

18 INVESTIGATOR GHENENE: Yes, ma'am.

19 MS. PHILLIPS: And then one  
20 outside?

21 INVESTIGATOR GHENENE: Yes, ma'am.

22 MS. PHILLIPS: But they involved

1 all three victims both inside and outside. Is  
2 that a fair summary of what we learned last  
3 time?

4 INVESTIGATOR GHENENE: Yes, ma'am.

5 MS. PHILLIPS: Okay. So you  
6 believe only one of these people saw the event  
7 inside?

8 INVESTIGATOR GHENENE: I'm not  
9 sure if more people saw it, but I do know that  
10 Mr. Mbeleg stated that he did see it.

11 MS. PHILLIPS: Okay. All right.  
12 My understanding from reading the report and  
13 correct me if I'm wrong, there were supposed  
14 to be some security cameras.

15 INVESTIGATOR GHENENE: Yes, ma'am.

16 MS. PHILLIPS: How many were there  
17 supposed to be?

18 INVESTIGATOR GHENENE: I believe  
19 the number is seven, according to their  
20 security plan.

21 MS. PHILLIPS: And did you notice  
22 that the cameras were there the night -- the

1 day that you went to speak with these -- with  
2 the establishment members?

3 INVESTIGATOR GHENENE: Actually,  
4 Mr. Ahmar stated that the camera system was  
5 not working and that there was some  
6 construction going on inside the establishment  
7 and that the video system was damaged.

8 MS. PHILLIPS: Right. Were the  
9 cameras still up?

10 INVESTIGATOR GHENENE: No, I --

11 MS. PHILLIPS: Or do you remember?

12 INVESTIGATOR GHENENE: -- don't  
13 recall.

14 MS. PHILLIPS: Okay. So in other  
15 words, you requested copies or to see or  
16 copies of the video of the events in question  
17 and what was the response?

18 INVESTIGATOR GHENENE: It was  
19 unavailable.

20 MS. PHILLIPS: Unavailable.  
21 Because it was?

22 INVESTIGATOR GHENENE: Damaged.

1 MS. PHILLIPS: Damaged.

2 INVESTIGATOR GHENENE: The system  
3 was damaged.

4 MS. PHILLIPS: And how long had it  
5 been damaged? Do you recall or did they tell  
6 you?

7 INVESTIGATOR GHENENE: I don't  
8 remember if he told me. I don't remember if  
9 he told me.

10 MS. PHILLIPS: Okay. You went to  
11 see -- you went to visit the establishment on  
12 December 16th. Is that fair?

13 INVESTIGATOR GHENENE: Yes, ma'am.

14 MS. PHILLIPS: Did you go again?

15 INVESTIGATOR GHENENE: Yes, ma'am.

16 MS. PHILLIPS: When did you go  
17 again?

18 INVESTIGATOR GHENENE: I believe I  
19 went again January 20, 2012.

20 MS. PHILLIPS: And on January 20th  
21 what did you do?

22 INVESTIGATOR GHENENE: I conducted

1 a regulatory inspection and took pictures of  
2 the area where the incident occurred. The  
3 primary incident occurred or I should say the  
4 first incident, the first assault occurred.

5 MS. PHILLIPS: Okay. So just to  
6 be clear so I understand, because I'm already  
7 confused, this would be where you took a  
8 picture and I believe it is Exhibit 2 to  
9 your --

10 INVESTIGATOR GHENENE: Yes, ma'am.

11 MS. PHILLIPS: -- report?

12 INVESTIGATOR GHENENE: Yes, ma'am.

13 MS. PHILLIPS: Where the incidents  
14 occurred that occurred -- the assaulted  
15 incidents that occurred inside?

16 INVESTIGATOR GHENENE: Yes, ma'am.

17 MS. PHILLIPS: Did you take a  
18 picture outside?

19 INVESTIGATOR GHENENE: I don't  
20 believe so, no, ma'am.

21 MS. PHILLIPS: When you returned  
22 on January 20, 2012, did you notice whether

1 the security cameras were in place and  
2 functional?

3 INVESTIGATOR GHENENE: I don't  
4 remember. I don't recall.

5 MS. PHILLIPS: All right. Now,  
6 what type of establishment is Spot?

7 INVESTIGATOR GHENENE: I believe  
8 it is a tavern.

9 MS. PHILLIPS: A tavern. And  
10 under the -- and they have a security plan.  
11 Is that correct?

12 INVESTIGATOR GHENENE: Yes, ma'am.

13 MS. PHILLIPS: And you reviewed  
14 that security plan?

15 INVESTIGATOR GHENENE: Yes, ma'am.

16 MS. PHILLIPS: Both in the office  
17 and did you review it with the personnel that  
18 you went to see on either of those two days?

19 INVESTIGATOR GHENENE: Yes, ma'am.

20 MS. PHILLIPS: Both days or just  
21 one day?

22 INVESTIGATOR GHENENE: I believe

1           it was just my first visit.

2                       MS. PHILLIPS: That would be  
3           December 16th?

4                       INVESTIGATOR GHENENE: Yes, ma'am.  
5           Now --

6                       INVESTIGATOR GHENENE: I'm sorry.  
7           Yeah, that's December 16th. Yes, ma'am.

8                       MS. PHILLIPS: Okay. If I get  
9           anything wrong, be sure to tell me.

10                      INVESTIGATOR GHENENE: Yes, ma'am.

11                      MS. PHILLIPS: All right. Now,  
12           under the statutory scheme that we have in  
13           place for alcohol establishments, are taverns  
14           required to have security plans?

15                      INVESTIGATOR GHENENE: No, ma'am.

16                      MS. PHILLIPS: Who are required to  
17           have security plans under the statute?

18                      INVESTIGATOR GHENENE: I believe  
19           it's just night -- prime -- only nightclubs.

20                      MS. PHILLIPS: Nightclubs. All  
21           right. Now, would it be fair for me to say  
22           that if a tavern has a security plan, it most

1           likely came into effect because --

2                       MR. MPRAS:  Objection.

3                       CHAIRPERSON MILLER:  Well, let --  
4           she can finish her question first.

5                       MS. PHILLIPS:  Right.  Do you know  
6           why Spot has a security plan?

7                       INVESTIGATOR GHENENE:  I believe--

8                       MR. MPRAS:  I object to that.

9                       CHAIRPERSON MILLER:  You object to  
10          that question?

11                      MR. MPRAS:  It's asking to draw a  
12          conclusion and -- which is of a matter that he  
13          has no direct knowledge of.

14                      CHAIRPERSON MILLER:  Well, he can  
15          answer whether he has knowledge or not.  You  
16          can go.  You can answer that.

17                      INVESTIGATOR GHENENE:  Okay.

18                      MR. MPRAS:  And also the relevance  
19          to the facts in this case.  It's irrelevant.  
20          Whether -- why they were required to have a --  
21          why they -- if they are required or not to  
22          have a security plan.

1 CHAIRPERSON MILLER: Do you want  
2 to respond?

3 MS. PHILLIPS: Oh, sure.

4 CHAIRPERSON MILLER: Okay. Go  
5 ahead.

6 MS. PHILLIPS: Well, you know, we  
7 have had two Motions to Dismiss in this case.  
8 And the first Motion to Dismiss was based on  
9 rumors. And that new case rumors -- well, it  
10 was new at the time. And that rumors  
11 discusses the fact that, you know, if they  
12 don't have previous events of the same or  
13 similar circumstances, then you can't charge  
14 them or hold them liable or whatever it is.

15 That's a very gross and broad  
16 summary.

17 CHAIRPERSON MILLER: Um-hum.

18 MS. PHILLIPS: So to say now after  
19 the District has defeated that particular  
20 Motion to Dismiss that why this establishment  
21 has a security plan is not relevant is sort of  
22 amazing, because that was one of the purposes

1 of the first Motion to Dismiss.

2 So I think that we should go into  
3 this and we should go into it in depth. And  
4 I think that one of the things that ABRA  
5 investigators do, as Mr. Ghenene has testified  
6 or alluded to briefly, is that they go back  
7 through the file and they do review security  
8 plans when they look for security plan  
9 violations and they do look at the  
10 investigative history when they are trying to  
11 help establishments -- or point or discuss the  
12 current violation, they try to discuss past  
13 violations, so they can move them forward in  
14 the direction of safety for the patrons.

15 And, therefore, all of these  
16 questions that I am about to ask, the one I  
17 just asked and all the next line of  
18 questioning will be directly on point.

19 CHAIRPERSON MILLER: Okay. You  
20 are asking about the Investigator's personal  
21 knowledge, correct?

22 MS. PHILLIPS: I am asking about

1 the Investigator's personal knowledge from his  
2 investigation of this event and his  
3 investigation of the ABRA file, which concerns  
4 this establishment from whence he will get  
5 security plans and from any other source that  
6 is available in this particular case, which I  
7 have attached fact-finding transcripts --

8 CHAIRPERSON MILLER: Okay. I'm  
9 going to --

10 MS. PHILLIPS: -- as part of the  
11 motion to -- opposition to the Motion to  
12 Dismiss. So all of that I believe is ripe for  
13 questioning by this Investigator, because he  
14 can look at that, whether he was there or not.

15 CHAIRPERSON MILLER: Okay. I'm  
16 going to overrule it. It is relevant. We  
17 will see how the questions go, but based on  
18 what you have said and what I have heard so  
19 far, you can continue.

20 MS. PHILLIPS: Okay. Do you know  
21 why from your investigation of this  
22 establishment?

1 Well, strike that. Let me ask a  
2 preparatory question.

3 Does ABRA keep investigative files  
4 on establishments?

5 INVESTIGATOR GHENENE: Yes, ma'am.

6 MS. PHILLIPS: And are those  
7 available for Investigators to review if it is  
8 necessary for them to understand and move  
9 forward in any investigation that they are  
10 conducting at the time?

11 INVESTIGATOR GHENENE: Yes, ma'am.

12 MS. PHILLIPS: And did you review  
13 that file that concerns Spot --

14 INVESTIGATOR GHENENE: Yes, ma'am.

15 MS. PHILLIPS: -- and all these  
16 other groups of establishments?

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 MS. PHILLIPS: Is it fair for me  
19 to say in summary that at this location on  
20 1214 18th Street, N.W., there is an  
21 establishment that is a building that has more  
22 than one named establishment in it?

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: And I don't know  
3 how many there are now, but at the time of  
4 this incident, do you know which  
5 establishments that are in this long, long  
6 name they have that were open for business or  
7 not?

8 INVESTIGATOR GHENENE: To be  
9 honest with you, I don't. I know at least two  
10 out of the four were in operation.

11 MS. PHILLIPS: And is it fair to  
12 say that no matter how many mini bars or  
13 whatever they are within this building, they  
14 are all at the same address and all under the  
15 same license number?

16 INVESTIGATOR GHENENE: I don't  
17 know that they are all at the same address,  
18 but they are all underneath the same license  
19 number, yes.

20 MS. PHILLIPS: Okay. Well, that's  
21 fair. So from your review of the ABRA -- did  
22 you review the ABRA file concerning this

1 establishment?

2 INVESTIGATOR GHENENE: Yes, ma'am.

3 MS. PHILLIPS: From your review of  
4 the ABRA file, that is kept in the normal  
5 course of business on this establishment and  
6 every other establishment that is licensed in  
7 the District, were you able to determine why  
8 this establishment had a security plan when  
9 under the statute taverns are not required to  
10 have a security plan?

11 INVESTIGATOR GHENENE: Yes, ma'am.  
12 I believe that the Board ordered them to have  
13 a security plan as a result of an assault, I  
14 believe.

15 MS. PHILLIPS: And during the  
16 course of your investigation of this file on  
17 this particular establishment, did you note  
18 how many times the Board had requested that  
19 this establishment update their security plan?

20 INVESTIGATOR GHENENE: I believe  
21 minimally three times.

22 MS. PHILLIPS: Three times. And

1 so we are at a stage where the Board has had  
2 concerns about the safety of patrons, so they  
3 require --

4 MR. MPRAS: Objection. Leading.

5 CHAIRPERSON MILLER: That is  
6 leading.

7 MS. PHILLIPS: Okay. Do you know  
8 why the security plans were updated? And what  
9 aspects of the security plans were updated.

10 INVESTIGATOR GHENENE:  
11 Specifically, I believe there were questions  
12 about the camera system. I don't remember  
13 exactly. Outside of the camera system, I  
14 don't really remember, no, ma'am.

15 MS. PHILLIPS: Okay. So when you  
16 reviewed the security plan that was in  
17 existence at the time that this incident  
18 occurred, did you note that there were any  
19 violations of the security plan?

20 INVESTIGATOR GHENENE: Yes, ma'am.

21 MS. PHILLIPS: And what were they?

22 INVESTIGATOR GHENENE: The first

1 violation that I observed was they have an  
2 item in the security plan that states "When  
3 breaking up incidents, separate the groups  
4 immediately, work together to make sure that  
5 both parties are removed and remain separated  
6 upon leaving. We are responsible for securing  
7 the area in front of the club and for all  
8 customers who leave the club within that area,  
9 not just inside the club."

10 And I believe that was Provision  
11 No. 9 and Provision D and I don't know -- I  
12 don't have which section the D falls  
13 underneath, but it speaks -- it says "The club  
14 is also equipped with seven security cameras  
15 that are able to record for 30 days."

16 MS. PHILLIPS: Okay.

17 INVESTIGATOR GHENENE: And those  
18 are the two violations in my report.

19 MS. PHILLIPS: Well, I direct your  
20 attention to the security film which I believe  
21 you attached as Exhibit 5.

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 MS. PHILLIPS: One, two, three, is  
2 that page 3?

3 INVESTIGATOR GHENENE: Yes, ma'am.

4 MS. PHILLIPS: 12(d) is that --

5 INVESTIGATOR GHENENE: Oh, yes.

6 MS. PHILLIPS: -- what you were  
7 referring to?

8 INVESTIGATOR GHENENE: Yes, ma'am.

9 MS. PHILLIPS: And that says  
10 exactly as you cited, seven security cameras,  
11 30 day recording schedule.

12 INVESTIGATOR GHENENE: Yes, ma'am.

13 MS. PHILLIPS: Now, we should look  
14 at the investigative history. The cases that  
15 were related to security plan changes, do you  
16 see what kind of cases they were?

17 INVESTIGATOR GHENENE: Yes, ma'am.  
18 I believe they were all assault cases.

19 MS. PHILLIPS: And do you recall  
20 from reading the -- any of the information  
21 that was contained within the file or the  
22 transcripts regarding the Fact-Finding

1           Hearings for those assault cases, whether or  
2           not there were security issues other than  
3           cameras that were discussed in those Fact-  
4           Findings?

5                         INVESTIGATOR GHENENE:   Yes, ma'am.  
6           I believe in one of the cases, there was a  
7           security member that, I think, assaulted a  
8           patron.  And I don't remember exactly, but I  
9           remember -- I believe there was a conviction  
10          in that case against the security member.

11                        MS. PHILLIPS:   Okay.  Now, when  
12          you discussed what happened with the incident  
13          of assault inside the establishment, were you  
14          able to determine from discussing the matter  
15          with the employees that you spoke to of the  
16          establishment what they did with regard to  
17          complying with their security plan, one, and  
18          protecting patrons, two?

19                        INVESTIGATOR GHENENE:   Can you ask  
20          that again?

21                        MS. PHILLIPS:   I can.  When you  
22          spoke with the employees of the establishment,

1 and there were three as I recall, did they  
2 tell you how they complied with security  
3 provisions to protect patrons?

4 INVESTIGATOR GHENENE: I don't  
5 know if that was -- I don't know if they  
6 directly addressed that. I think that our  
7 conversation was just based on what they did  
8 to diffuse the situation.

9 MS. PHILLIPS: And what they did  
10 to diffuse the situation, what did they say  
11 they did?

12 INVESTIGATOR GHENENE: Mr. Mbeleg  
13 stated that, I believe he stated that, he did  
14 not witness what started the fight that was  
15 inside the establishment, but once he saw it  
16 happening, he and another security member, I  
17 believe it was Mr. Matali, responded to the  
18 area and separated the combatants and escorted  
19 at least 10 people up the stairs outside.

20 And the reason that they did that  
21 is they knew that the police department or  
22 there were police officers outside.

1 MS. PHILLIPS: So did they call  
2 the police about the assault that took place  
3 inside?

4 INVESTIGATOR GHENENE: I don't  
5 believe so.

6 MS. PHILLIPS: Did they speak to  
7 the police or did they tell you they spoke to  
8 the police about the incident inside?

9 INVESTIGATOR GHENENE: When you  
10 said -- I don't understand the question.

11 MS. PHILLIPS: All right. I'll  
12 try again. So they didn't call the police.  
13 They didn't make a phone call to the police,  
14 that's your recollection --

15 INVESTIGATOR GHENENE: Yeah, I  
16 don't believe so.

17 MS. PHILLIPS: -- of the incident?

18 INVESTIGATOR GHENENE: No, ma'am.

19 MS. PHILLIPS: All right. So did  
20 anyone from the establishment go out and speak  
21 to the police officers, which they said they  
22 knew were outside, and tell them what they saw

1 or the facts of the incident that occurred  
2 inside?

3 INVESTIGATOR GHENENE: I don't  
4 believe they did so before the people were  
5 escorted out. And I'm not sure if they did so  
6 after the people were escorted out.

7 MS. PHILLIPS: Do you know if they  
8 -- do you know from any discussions with  
9 either the witnesses or the victims or the  
10 establishment personnel how long before --  
11 after the incident occurred that they  
12 responded?

13 INVESTIGATOR GHENENE: MPD?

14 MS. PHILLIPS: No, the employees  
15 inside.

16 INVESTIGATOR GHENENE: Oh. I  
17 believe it was pretty rapidly from both the  
18 victims and staff. I believe that both said  
19 that it happened pretty rapidly. And the  
20 place isn't all that big. Spot isn't all that  
21 big, so it should -- it wouldn't take that  
22 long to respond from pretty much anywhere

1           inside.

2                           MS. PHILLIPS: Do you know how  
3 many people were present on the date of the  
4 incident in question?

5                           INVESTIGATOR GHENENE: No, ma'am.

6                           MS. PHILLIPS: Were you able to  
7 find out from any of the establishment  
8 personnel how many people were there?

9                           INVESTIGATOR GHENENE: I didn't  
10 ask that question.

11                           MS. PHILLIPS: Okay. All right.  
12 Do you know how -- what time period -- did the  
13 personnel from the establishment tell you when  
14 -- how long between they escorted the 10  
15 people that they escorted the victims out or  
16 did they not know?

17                           INVESTIGATOR GHENENE: From what I  
18 remember, they could not tell who was who and  
19 everyone was escorted out at the same time,  
20 according to the security member and according  
21 to the ABC manager.

22                           MS. PHILLIPS: And was there an

1 incident report written about this event? Do  
2 you know?

3 INVESTIGATOR GHENENE: By the  
4 establishment?

5 MS. PHILLIPS: By the  
6 establishment.

7 INVESTIGATOR GHENENE: If there  
8 was one written, it wasn't give to me.

9 MS. PHILLIPS: Do you know if the  
10 security plan required that they write a  
11 report of the incident in question?

12 INVESTIGATOR GHENENE: I don't  
13 believe so.

14 MS. PHILLIPS: Okay. There is  
15 another exhibit in here somewhere isn't there?  
16 Oh, Exhibit 4. What is that?

17 INVESTIGATOR GHENENE: Exhibit 4.  
18 One second. A regulatory inspection.

19 MS. PHILLIPS: And that was what  
20 you conducted on January?

21 INVESTIGATOR GHENENE: 20th.

22 MS. PHILLIPS: 20th.

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: Anywhere on the  
3 regulatory inspection does it talk about  
4 cameras?

5 INVESTIGATOR GHENENE: No, ma'am.

6 MS. PHILLIPS: All right. Is that  
7 part of a normal regulatory inspection?

8 INVESTIGATOR GHENENE: Checking  
9 the cameras?

10 MS. PHILLIPS: Checking cameras.

11 INVESTIGATOR GHENENE: No, ma'am.

12 MS. PHILLIPS: Okay. Did you ever  
13 receive any documentation as part of your  
14 report of injuries or losses?

15 INVESTIGATOR GHENENE: Yeah. Yes,  
16 ma'am. I believe one of the victims sent me  
17 at least one picture of her injuries.

18 MS. PHILLIPS: Okay. Okay. But I  
19 don't see that you made a copy of that for the  
20 -- for your report.

21 INVESTIGATOR GHENENE: I might  
22 have. I believe I received them after the

1 fact.

2 MS. PHILLIPS: Okay.

3 INVESTIGATOR GHENENE: After the  
4 report was submitted.

5 MS. PHILLIPS: Okay.

6 INVESTIGATOR GHENENE: And I think  
7 I might have received, I don't know if it was,  
8 a bank record or something like that after the  
9 fact, too. I don't really remember. I think  
10 I did though.

11 MS. PHILLIPS: Okay.

12 INVESTIGATOR GHENENE: Um-hum.

13 MS. PHILLIPS: All right. This  
14 picture isn't very good, so maybe the Board  
15 has better pictures. Do you know whether the  
16 event that occurred inside occurred right near  
17 the bar area? I can't tell from my picture.

18 INVESTIGATOR GHENENE: Yes, ma'am.  
19 I took the picture exactly where the ABC  
20 manager and the security staff pointed to and  
21 stated that that was the area where it  
22 happened.

1 MS. PHILLIPS: How far away is  
2 that? Does this picture show a bar?

3 INVESTIGATOR GHENENE: I believe  
4 so, yes. I think I might have been standing  
5 with my back to the bar when I took the  
6 picture. I think. I don't -- this was a  
7 while ago. I really don't remember.

8 MS. PHILLIPS: It's so hard when  
9 you can't see the picture very well.

10 CHAIRPERSON MILLER: Can you  
11 identify for the record, Ms. Phillips, what  
12 exhibit you are looking at?

13 MS. PHILLIPS: Exhibit 2.

14 CHAIRPERSON MILLER: Okay.  
15 Exhibit 2 was the Investigator's report.  
16 Okay.

17 INVESTIGATOR GHENENE: I think in  
18 color it looks different.

19 CHAIRPERSON MILLER: Um-hum.

20 MS. PHILLIPS: Yeah, they always  
21 do, don't they?

22 Do you know how far away from the

1 bar the incident inside occurred, the assault  
2 incident occurred?

3 INVESTIGATOR GHENENE: It wasn't  
4 too -- I don't believe it was too far. The  
5 place is really not that big.

6 MS. PHILLIPS: Okay.

7 INVESTIGATOR GHENENE: So  
8 everything is right there. It's not like it's  
9 different multiple levels or anything. It's  
10 whatever it is.

11 MS. PHILLIPS: When you went to  
12 the establishment on December 16th did you ask  
13 if there were any other witnesses to the  
14 events in question inside the establishment?

15 INVESTIGATOR GHENENE: No, ma'am.

16 MS. PHILLIPS: Okay. And none  
17 were made available to you when you went  
18 there, other than the three people you spoke  
19 to?

20 INVESTIGATOR GHENENE: Yes.

21 MS. PHILLIPS: Is that fair? Did  
22 either -- did any of the establishment

1 personnel that you spoke with indicate why  
2 they did not escort the victims out to the  
3 police outside?

4 MR. MPRAS: Objection.

5 CHAIRPERSON MILLER: Say that  
6 again. Could you repeat the question and then  
7 I want to hear the basis for the objection.  
8 Ms. Phillips, what's the question?

9 MS. PHILLIPS: Give me a minute.

10 CHAIRPERSON MILLER: Take all the  
11 time you need.

12 MS. PHILLIPS: Thank you. Could  
13 you -- did any of the three personnel that you  
14 spoke to from the establishment tell you why  
15 they did not escort the three victims out  
16 directly to the police officers outside?

17 CHAIRPERSON MILLER: Okay. And  
18 the basis for the objection is?

19 MR. MPRAS: It's a leading  
20 question, assuming something that's not --  
21 that hasn't been proven.

22 MS. PHILLIPS: What?

1                   CHAIRPERSON MILLER: I believe I  
2                   heard Mr. Ghenene testify that they didn't  
3                   escort them out.

4                   MS. PHILLIPS: Not only that, the  
5                   three victims themselves testified that they  
6                   weren't escorted outside, that they were  
7                   escorted to the door and the door was closed  
8                   behind them.

9                   CHAIRPERSON MILLER: Okay.  
10                  Overruled. You can answer the question.

11                  INVESTIGATOR GHENENE: Again, I  
12                  believe that security -- well, during my  
13                  interview, the security stated that they made  
14                  no distinction between who was who. And  
15                  because they were confident the police were  
16                  outside, everyone was escorted out together.

17                  MS. PHILLIPS: All right. Is  
18                  there anything in your investigative report  
19                  that I haven't asked you about?

20                  INVESTIGATOR GHENENE: I'm sure,  
21                  but nothing that I can -- nothing that I -- I  
22                  think you have covered most of it.

1 MS. PHILLIPS: Okay. All right.

2 I have no further questions. Thank you.

3 CHAIRPERSON MILLER: Thank you.

4 Cross?

5 CROSS-EXAMINATION

6 MR. MPRAS: Mr. Ghenene, prior to  
7 the appearance of the victims in this matter,  
8 did you ever meet any of them in person?

9 INVESTIGATOR GHENENE: No.

10 MR. MPRAS: Okay. Now, you said  
11 you spoke to two of them telephonically?

12 INVESTIGATOR GHENENE: Yes, sir.

13 MR. MPRAS: Did you in any way ask  
14 them to verify their identity over the phone?

15 INVESTIGATOR GHENENE: No, sir.

16 MR. MPRAS: Now, according to your  
17 report on the -- I'm sorry. I'm referring to  
18 your report and its attachments. There was an  
19 individual that was arrested in this matter by  
20 MPD. Is that correct?

21 INVESTIGATOR GHENENE: Give me one  
22 second, please. I'm not sure, sir.

1                   MR. MPRAS: Well, did you ever  
2 follow-up to see if anybody was arrested  
3 and/or interview that person to -- did you  
4 ever follow-up with MPD to see if anybody was  
5 arrested in this matter?

6                   INVESTIGATOR GHENENE: I couldn't  
7 get in contact with anybody from MPD.

8                   MR. MPRAS: Okay. Mr. Ghenene,  
9 when did you begin your investigation in these  
10 cases? When did you take your first action?

11                   INVESTIGATOR GHENENE: I believe  
12 it was December 16th, but I can't give you the  
13 exact date. It was a while ago.

14                   MR. MPRAS: So it was more or less  
15 at least two weeks after the alleged incident,  
16 correct?

17                   INVESTIGATOR GHENENE: Yeah, it  
18 could have been.

19                   MR. MPRAS: Is there any  
20 particular reason that you didn't respond  
21 sooner while the case was still fresh  
22 otherwise?

1 MS. PHILLIPS: Objection to the  
2 characterization of still fresh otherwise.

3 CHAIRPERSON MILLER: Okay.

4 MR. MPRAS: Is there any reason  
5 why you didn't respond sooner when it would  
6 have been clearer in everyone's recollection?  
7 When not too much time had gone by.

8 MS. PHILLIPS: Still objection to  
9 the form of the question. He is making  
10 judgment calls.

11 CHAIRPERSON MILLER: Okay. Do you  
12 want --

13 MR. MPRAS: Simply put, is there  
14 any reason you didn't investigate immediately  
15 when the incident had occurred?

16 INVESTIGATOR GHENENE: I  
17 investigated it as soon as I received the 251  
18 report.

19 MR. MPRAS: Okay. And when was  
20 that?

21 INVESTIGATOR GHENENE: Again, I'm  
22 not -- I don't know for sure, but it would

1 have been around December 16th.

2 MR. MPRAS: It looks like your  
3 entire investigation is based around that 251  
4 report. Is that correct?

5 INVESTIGATOR GHENENE: It was  
6 initiated by that. Yes, sir.

7 MR. MPRAS: Okay.

8 CHAIRPERSON MILLER: I'm sorry,  
9 could you repeat that? Based around what?

10 MR. MPRAS: The 251 report.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you.

13 MR. MPRAS: Now, Investigator  
14 Ghenene, you testified that the Board ordered  
15 a security plan for this venue. Is that  
16 correct?

17 INVESTIGATOR GHENENE: Yes, sir.

18 MR. MPRAS: Okay. Can you state  
19 exactly why the Board ordered to have a  
20 security plan?

21 INVESTIGATOR GHENENE: No, sir.

22 MR. MPRAS: Okay. Now, when you

1 spoke with the staff, you said you primarily  
2 conversed with them on how the situation was  
3 diffused?

4 INVESTIGATOR GHENENE: No, sir, I  
5 didn't say that.

6 MR. MPRAS: Okay. What comprised  
7 the bulk of your conversation with Spot?

8 INVESTIGATOR GHENENE: We spoke  
9 about several things, about the -- how the  
10 incident began, how the incident was diffused,  
11 what happened outside and the camera system.

12 MR. MPRAS: Okay.

13 INVESTIGATOR GHENENE: The  
14 presence of one.

15 MR. MPRAS: In your experience as  
16 an Investigator, would you say the incident,  
17 once realized by the staff, was diffused in a  
18 prompt and efficient manner?

19 INVESTIGATOR GHENENE: Yes. The  
20 initial incident was diffused, yes.

21 MR. MPRAS: Now, you said your --  
22 either -- you said you think the staff did not

1 call the police. Is that correct?

2 INVESTIGATOR GHENENE: Yes, sir.

3 MR. MPRAS: Did you ask them if  
4 they called the police?

5 INVESTIGATOR GHENENE: Yes, sir.

6 MR. MPRAS: You asked them?

7 INVESTIGATOR GHENENE: Yes, sir.

8 MR. MPRAS: So you don't remember  
9 their response then?

10 INVESTIGATOR GHENENE: What I  
11 don't remember is -- what I don't -- without  
12 looking at my report, let me look at my  
13 report. What I remember was asking the  
14 question and the answer was we knew the police  
15 were outside, so we took them -- we put  
16 everybody outside.

17 MR. MPRAS: Okay. Did they take  
18 them to the police?

19 INVESTIGATOR GHENENE: I don't  
20 know.

21 MR. MPRAS: You don't know because  
22 you didn't ask the question?

1 INVESTIGATOR GHENENE: No, I don't  
2 know. I know that they escorted them outside.

3 MR. MPRAS: Um-hum.

4 INVESTIGATOR GHENENE: I don't  
5 know if they took them to the police, because  
6 I couldn't see the footage, but according to  
7 the victims, they were not escorted to the  
8 police.

9 MR. MPRAS: Um-hum. Okay. Now,  
10 you also stated that everyone was escorted out  
11 together. Is that correct?

12 INVESTIGATOR GHENENE: I didn't --  
13 I stated that because security stated that to  
14 me.

15 MR. MPRAS: Okay.

16 INVESTIGATOR GHENENE: Yes, sir.

17 MR. MPRAS: But did the victims  
18 not state to you that they were detained  
19 inside the club for some period of time while  
20 the other party was escorted out?

21 INVESTIGATOR GHENENE: Yes, sir.

22 MEMBER SILVERSTEIN: What was the

1 question again, sir?

2 MR. MPRAS: The question was did  
3 the victims not state to you that they  
4 remained inside the club for an undefined  
5 period of time while the other parties were --  
6 while the aggressing party was escorted out.

7 MEMBER SILVERSTEIN: And the  
8 response was?

9 MR. MPRAS: The response to my  
10 last question was? I asked you if -- did the  
11 victims in this case state to you that they  
12 remained inside the club for an undefined  
13 period of time while the other party was  
14 escorted out?

15 INVESTIGATOR GHENENE: Yes, sir.

16 MR. MPRAS: Now, Investigator  
17 Ghenene, you were present for the testimony of  
18 the three victims, correct?

19 INVESTIGATOR GHENENE: Yes, sir.

20 MR. MPRAS: And you said you  
21 skimmed the transcript?

22 INVESTIGATOR GHENENE: Yes, sir.

1 MR. MPRAS: Did you find any  
2 inconsistencies on their testimony?

3 INVESTIGATOR GHENENE:  
4 Inconsistent to what?

5 MR. MPRAS: Did you find any  
6 inconsistencies in their statements?

7 INVESTIGATOR GHENENE:  
8 Inconsistent in what regard?

9 MR. MPRAS: Well, anything having  
10 to do with what time or if they -- their  
11 interactions with the aggressor party or  
12 anything to that effect? Anything that stands  
13 out?

14 INVESTIGATOR GHENENE: I don't  
15 really remember.

16 MR. MPRAS: Okay. Now, Mr.  
17 Ghenene, how many times have you, yourself,  
18 personally investigated this establishment?

19 INVESTIGATOR GHENENE: Spot  
20 specifically?

21 MR. MPRAS: Yes. The venue by  
22 whatever name --

1 INVESTIGATOR GHENENE: Well, there  
2 is --

3 MR. MPRAS: -- is listed.

4 INVESTIGATOR GHENENE: -- a couple  
5 of different, I guess. I don't even know how  
6 to explain it, besides there is two different  
7 establishments within one license.

8 MR. MPRAS: Um-hum. The licensee.  
9 How many times have you investigated the  
10 licensee?

11 INVESTIGATOR GHENENE: I'm not --

12 MR. MPRAS: Could it possibly be  
13 the first time that you conducted that  
14 investigation there?

15 INVESTIGATOR GHENENE: This would  
16 have been the first time I -- yes.

17 MR. MPRAS: Okay.

18 INVESTIGATOR GHENENE: Um-hum.

19 MR. MPRAS: So you wouldn't have  
20 any direct knowledge of any prior  
21 investigation then?

22 INVESTIGATOR GHENENE: Direct

1 knowledge outside of reviewing the file?

2 MR. MPRAS: Yes.

3 INVESTIGATOR GHENENE: No.

4 MR. MPRAS: Have you reinspected  
5 the establishment since your last regulatory  
6 inspection?

7 INVESTIGATOR GHENENE: I'm not--

8 MR. MPRAS: The one in regards to  
9 your report here.

10 INVESTIGATOR GHENENE: Yes, I'm  
11 not sure. I'm not sure.

12 MR. MPRAS: But had you  
13 reinspected and you found a violation, you  
14 would have reported it?

15 INVESTIGATOR GHENENE: Yes.

16 MR. MPRAS: Now, how many times  
17 did you email the police officers? Was it --  
18 officers I say, because you said you sent it  
19 to two different Brian Browns.

20 INVESTIGATOR GHENENE: Yes, sir.

21 MR. MPRAS: How many times did you  
22 send an email?

1 INVESTIGATOR GHENENE: Probably  
2 just once.

3 MR. MPRAS: Just once. Okay. And  
4 but you stated you do not remember if you  
5 called or not. Is that correct?

6 INVESTIGATOR GHENENE: No. I do  
7 remember calling, but I don't remember how  
8 many times I called, but I know that I called.

9 MR. MPRAS: You know you called.  
10 Did you -- when you called, did you call them  
11 directly? Did you leave a message, a  
12 voicemail?

13 INVESTIGATOR GHENENE: No. I  
14 believe I called, and again this was two years  
15 ago, and I spoke with whomever answered at the  
16 2nd District.

17 MR. MPRAS: Possibly a station  
18 clerk?

19 INVESTIGATOR GHENENE: I don't  
20 know their titles, yes. And asked to speak  
21 with Officer Brown.

22 MR. MPRAS: Okay.

1 INVESTIGATOR GHENENE: And was  
2 told -- I don't remember what I was told, but  
3 I would imagine it was that he was  
4 unavailable.

5 MR. MPRAS: You didn't --

6 INVESTIGATOR GHENENE: And that's  
7 what prompted the email.

8 MR. MPRAS: That's what prompted  
9 the email. Okay. I have no further  
10 questions, at this time. Thank you.

11 INVESTIGATOR GHENENE: Sure,  
12 thanks.

13 CHAIRPERSON MILLER: Okay. Are  
14 there Board questions?

15 MEMBER ALBERTI: I have just a  
16 couple.

17 CHAIRPERSON MILLER: Okay. Mr.  
18 Alberti?

19 MEMBER ALBERTI: Good morning,  
20 Investigator Ghenene. Thank you for your  
21 report.

22 INVESTIGATOR GHENENE: Good

1 morning.

2 MEMBER ALBERTI: Just a real quick  
3 question. So you testified that, correct me  
4 if I'm wrong, but, the security guard told you  
5 -- let's just back up.

6 Did you ask the security guard  
7 about the security plan at all?

8 INVESTIGATOR GHENENE: It is  
9 routine when we -- well, when I investigate  
10 establishments and I have the security plan  
11 with me, as well as any voluntary agreement,  
12 if it exists, and the 251. So my questions  
13 would have been derived from the security plan  
14 requirements.

15 MEMBER ALBERTI: To the best of  
16 your recollection, was it your impression that  
17 the security guard was or wasn't -- well, to  
18 the best of your recollection, was it your  
19 impression that the security guard was aware  
20 of the security plan and its existence?

21 INVESTIGATOR GHENENE: I'm not  
22 sure if he did or did not know, but I

1 interviewed the security guard in front of the  
2 ABC manager. We were all sitting in the same  
3 room.

4 MEMBER ALBERTI: Oh, okay. That's  
5 fine. So the ABC manager is Mr. Ahmar?

6 INVESTIGATOR GHENENE: Yes, sir.

7 MEMBER ALBERTI: Okay. And is he  
8 the person who told you about how people were  
9 escorted out or was that the security guard?

10 INVESTIGATOR GHENENE: The  
11 security guard stated that in front of the ABC  
12 manager.

13 MEMBER ALBERTI: Okay. And so do  
14 you know if the ABC manager was aware of the  
15 security plan?

16 INVESTIGATOR GHENENE: I would  
17 think so, yes, sir.

18 MEMBER ALBERTI: Now, you said  
19 that the security guard -- was it the security  
20 guard or the ABC manager who told you that the  
21 people were just -- the group was just all  
22 escorted out?

1                    INVESTIGATOR GHENENE: Security  
2                    guard, sir.

3                    MEMBER ALBERTI: Okay. And you  
4                    testified he said that they made no  
5                    distinction?

6                    INVESTIGATOR GHENENE: Yes, sir.

7                    MEMBER ALBERTI: Okay. So we  
8                    heard testimony from one of the witnesses that  
9                    she remained inside, and I'm paraphrasing  
10                   here, but she pleaded with them that she had  
11                   lost some items and was fearful for her  
12                   safety. Did the security guard speak about  
13                   that at all?

14                   INVESTIGATOR GHENENE: No, sir.

15                   MEMBER ALBERTI: Did they provide  
16                   any details as to whether they knew how many  
17                   groups were involved, one, two, three?

18                   INVESTIGATOR GHENENE: No, sir.

19                   MEMBER ALBERTI: They just said?

20                   INVESTIGATOR GHENENE: There was a  
21                   large fight and they knew police were outside,  
22                   so everyone was escorted up the stairs and out

1 to the police.

2 MEMBER ALBERTI: And do you  
3 remember how large he told you that group was?

4 INVESTIGATOR GHENENE: I think in  
5 the report Mr. Mbeleg told me there was at  
6 least 10 people.

7 MEMBER ALBERTI: At least 10  
8 people.

9 INVESTIGATOR GHENENE: Yes, sir.

10 MEMBER ALBERTI: Okay. Thank you.  
11 No further questions.

12 CHAIRPERSON MILLER: Others? I  
13 just have a few. Okay. So I wanted to just  
14 get the chronology a little better. So  
15 November 24th was when the incident occurred  
16 for 2011, correct?

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 CHAIRPERSON MILLER: And you said  
19 that you didn't start your investigation until  
20 you were sent or ABRA was sent the police  
21 report.

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 CHAIRPERSON MILLER: Is that  
2 correct? And so is it accurate that that was  
3 -- you got it around December 2nd? That's the  
4 date I'm seeing in the report.

5 INVESTIGATOR GHENENE: It could  
6 have been. Yes, it would have probably been  
7 around that time. Yes, ma'am.

8 CHAIRPERSON MILLER: Okay. So I  
9 guess my question is it's kind of a general  
10 question. Sometimes we see in these Show  
11 Cause cases that ABRA is called right away and  
12 sometimes not. And so is there any rhyme or  
13 reason as to, or that you know of, why ABRA  
14 wasn't called right away versus ABRA was asked  
15 to investigate based on a police report?

16 INVESTIGATOR GHENENE: I believe  
17 that given the night of the incident and how  
18 busy the police were that night, and probably  
19 just the sheer amount of incidents throughout  
20 the city, that sometimes these reports take a  
21 little bit more time to get sent over. I'm  
22 not sure if we were notified immediately at

1 the time of the incident. It could have been  
2 that we were.

3 MR. MPRAS: Madam Chair, I would  
4 like to object to the answer in part. The  
5 witness has not -- we don't know how he had  
6 knowledge the police were busy that night. He  
7 made the statement that they were busy, but  
8 how does he know?

9 CHAIRPERSON MILLER: Okay. So how  
10 do you know?

11 INVESTIGATOR GHENENE: Ma'am?

12 CHAIRPERSON MILLER: You can say  
13 how you know they were busy.

14 INVESTIGATOR GHENENE: Oh, through  
15 my experience.

16 CHAIRPERSON MILLER: Do you know?  
17 Um-hum.

18 INVESTIGATOR GHENENE: The night  
19 before Thanksgiving --

20 CHAIRPERSON MILLER: Right.

21 INVESTIGATOR GHENENE: -- is a  
22 very popular night for people to hang out and

1 go to nightclubs and bars and stuff. So what  
2 I'm suggesting is that could be one of the  
3 reasons that we did not receive this.

4 CHAIRPERSON MILLER: I guess my  
5 question is you don't -- is it sometimes  
6 people call you right away and sometimes they  
7 don't?

8 INVESTIGATOR GHENENE: That's  
9 right.

10 CHAIRPERSON MILLER: So it's just  
11 a question of like the police or the  
12 establishment, one or the other, making a  
13 decision that they want to call ABRA.

14 INVESTIGATOR GHENENE: Well, it  
15 would be the police.

16 CHAIRPERSON MILLER: Okay.

17 INVESTIGATOR GHENENE: And it  
18 serves their -- I guess there is no rhyme or  
19 reason.

20 CHAIRPERSON MILLER: Okay. Okay.  
21 Then my other question is was it reimbursable  
22 detail that was out there that night or just

1 regular police? Did they -- do you know that  
2 from your investigation?

3 INVESTIGATOR GHENENE: I am aware  
4 that the establishment does not have  
5 reimbursable detail.

6 CHAIRPERSON MILLER: Okay.

7 INVESTIGATOR GHENENE: However,  
8 there could have been a detail specific to  
9 that area that evening. I'm not sure, because  
10 I didn't get to speak with the officer.

11 CHAIRPERSON MILLER: And did any  
12 of the security officers say how far away the  
13 police were?

14 INVESTIGATOR GHENENE: No, ma'am.

15 CHAIRPERSON MILLER: Just that  
16 they were out there?

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 CHAIRPERSON MILLER: And I guess  
19 my other question is, you probably would have  
20 written in your report, but, that did anyone  
21 ask how an assault would occur with the police  
22 right there, if they were there? Did you

1 confirm that the police were out there?

2 INVESTIGATOR GHENENE: I did not  
3 confirm through the officer --

4 CHAIRPERSON MILLER: Right.

5 INVESTIGATOR GHENENE: -- or  
6 officers.

7 CHAIRPERSON MILLER: You couldn't  
8 reach the officer.

9 INVESTIGATOR GHENENE: But both  
10 the establishment and the victims state that  
11 there were police outside. Now, at what  
12 point, I'm not sure. I don't know if they  
13 were there immediately once they were escorted  
14 outside or if they arrived later as a result  
15 of a larger incident.

16 CHAIRPERSON MILLER: Right. Okay.

17 INVESTIGATOR GHENENE: Both the  
18 establishment and the victims agreed that  
19 there was a fight outside the club or outside  
20 the establishment. So, you know, I don't know  
21 for sure. Again, if the cameras were  
22 available, I would know for sure.

1 CHAIRPERSON MILLER: Right. And I  
2 guess my last question, did any witness that  
3 you interviewed say that the police witnessed  
4 the assault outside?

5 INVESTIGATOR GHENENE: I don't  
6 remember that.

7 CHAIRPERSON MILLER: Okay.

8 INVESTIGATOR GHENENE: No, ma'am.

9 CHAIRPERSON MILLER: All right.  
10 Any other Board questions? Any questions on  
11 Board questions?

12 MS. PHILLIPS: I have questions on  
13 your questions, Board questions and Mr. Mpras'  
14 questions. May I proceed? Thank you.

15 CHAIRPERSON MILLER: Okay.

16 REDIRECT EXAMINATION

17 MS. PHILLIPS: I think I got a  
18 little confused, but I believe the Board and  
19 Mr. Mpras clarified all of this. I refer to  
20 page 2 of your report. It looks like that you  
21 began your investigation not on December 16th,  
22 but on December 2nd?

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: Okay. I think that  
3 may be used in what we discussed originally.  
4 And it looks like on page 2 of your report,  
5 you tried from December 2nd through January  
6 26th to reach Ms. Solomon. Is that fair?

7 INVESTIGATOR GHENENE: Yes, ma'am,  
8 at various times. It wasn't -- I don't want  
9 to lead you to believe that it was every day,  
10 but at various times.

11 MS. PHILLIPS: All right. But you  
12 -- it took you from December 2nd when you  
13 began your investigation to January 26th that  
14 -- before you reached Ms. Solomon?

15 INVESTIGATOR GHENENE: Yes, ma'am.

16 MS. PHILLIPS: Okay. And let's  
17 see, the date of this incident was the 24th.  
18 How many days does November have?

19 INVESTIGATOR GHENENE: What is it  
20 30?

21 MS. PHILLIPS: 30. And so you  
22 began your investigation eight days after the

1 incident in question? Is that --

2 INVESTIGATOR GHENENE: Yes.

3 MS. PHILLIPS: -- can I add  
4 correctly?

5 INVESTIGATOR GHENENE: That sounds  
6 about right, ma'am.

7 MS. PHILLIPS: All right. May the  
8 record reflect if I can't add --

9 INVESTIGATOR GHENENE: It was  
10 around there.

11 CHAIRPERSON MILLER: Okay.

12 MS. PHILLIPS: All right.

13 CHAIRPERSON MILLER: That's okay.

14 MS. PHILLIPS: I just wanted to  
15 clarify that point from when you were having  
16 discussions with Mr. Mpras.

17 And I refer to you page 3 of your  
18 report, because we were talking -- Mr. Mpras  
19 asked you about whether there was ultimately  
20 an arrest and he asked did you ever learn  
21 that. And about halfway through your  
22 discussion on page 3 of Ms. Solomon's

1 telephone interview, there is a line that says  
2 "Ms. Solomon stated that MPD officers  
3 questioned the woman and ultimately made an  
4 arrest."

5 Do you see that in your --

6 INVESTIGATOR GHENENE: Yes, ma'am.

7 MS. PHILLIPS: -- report? So you  
8 did know that there --

9 INVESTIGATOR GHENENE: I did know.

10 MS. PHILLIPS: -- was an arrest,  
11 because Ms. Solomon told you --

12 INVESTIGATOR GHENENE: Well --

13 MS. PHILLIPS: -- but you did not  
14 follow-up with the police, because you  
15 couldn't reach Officer Brown. Is that a fair  
16 summary?

17 INVESTIGATOR GHENENE: Yes. And  
18 only adding that I did not learn that through  
19 the police report. I learned that through Ms.  
20 Solomon's telephone conversation.

21 MS. PHILLIPS: Right. Because as  
22 I recall, the 251 does not discuss arrests.

1 INVESTIGATOR GHENENE: Yes, ma'am.

2 MS. PHILLIPS: That might be the  
3 252. I never can remember the numbers on  
4 police reports. But this police report that  
5 you made, part of Exhibit 1, does not discuss  
6 any arrest. It just discussed victims. Is  
7 that fair?

8 INVESTIGATOR GHENENE: Yes, ma'am.

9 MS. PHILLIPS: And in the  
10 narrative, I don't see that there is said  
11 anything about arrests. Is that fair?

12 INVESTIGATOR GHENENE: Yes, ma'am.

13 MS. PHILLIPS: All right. And you  
14 were talking about your attempts -- these were  
15 questions from Mr. Mpras about your attempts  
16 to reach Officer Brown. And I'll refer you to  
17 the last full paragraph on page 3 of your  
18 investigative report. You sent an email on  
19 the 2nd and that is, if we look at Exhibit  
20 Page 3, that does say December 2, 2011 at  
21 11:58 p.m. Is that fair?

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 MS. PHILLIPS: All right. And so  
2 your report also says you sent an email on the  
3 2nd. And then the second line of your  
4 paragraph discussing your interactions and  
5 attempts to reach Officer Brown. It says  
6 "From Friday, December 2nd, through Wednesday,  
7 January 26th," you periodically telephoned  
8 Officer Brown, I assume in the manner you told  
9 Mr. Mpras.

10 INVESTIGATOR GHENENE: Yes, ma'am.  
11 And again, I don't want to lead you to believe  
12 that that was a daily occurrence.  
13 Periodically means just that.

14 MS. PHILLIPS: Right. And but as  
15 of Monday, you say "Monday, February 6th," you  
16 had been unable to contact Officer Brown.

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 MS. PHILLIPS: Is that fair? So  
19 from December 2nd on and off through February  
20 6th, by email and by telephone, you were  
21 unable to reach Officer Brown.

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 MS. PHILLIPS: Is that a fair  
2 summary of what you told Mr. Mpras what your  
3 report says?

4 INVESTIGATOR GHENENE: Yes.

5 MS. PHILLIPS: And what you told  
6 the Board?

7 INVESTIGATOR GHENENE: Yes, ma'am.

8 MS. PHILLIPS: Okay. Now, in  
9 response to, I believe, Mr. Alberti's  
10 questions, you said it was your routine to  
11 discuss, when you go out, events with  
12 establishment owners, ABC managers, the  
13 security people when you go out to investigate  
14 and you talk to people involved in the  
15 incident in question from the establishment,  
16 that you go over, I believe you said, the  
17 security plan, the MPD report and any  
18 information you gathered in addition to those  
19 two documents, you discuss all of that with  
20 the employees of the establishment as part of  
21 your investigation.

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 MS. PHILLIPS: Is that fair?

2 INVESTIGATOR GHENENE: Yes, ma'am.

3 MS. PHILLIPS: And you did so in  
4 this case. Is that fair?

5 INVESTIGATOR GHENENE: Yes, ma'am.

6 MS. PHILLIPS: So as far as you  
7 know, when you went out to talk to them on the  
8 16th, did you have some copy of the MPD  
9 report?

10 INVESTIGATOR GHENENE: On the?

11 MS. PHILLIPS: 16th?

12 INVESTIGATOR GHENENE: One second,  
13 ma'am.

14 MS. PHILLIPS: Is that when you  
15 went out?

16 INVESTIGATOR GHENENE: Yes, ma'am.

17 MS. PHILLIPS: Okay. Now, are  
18 there different types of police reports that  
19 ABRA gets?

20 INVESTIGATOR GHENENE: Yes, ma'am.

21 MS. PHILLIPS: And what types of  
22 police reports does ABRA get?

1                    INVESTIGATOR GHENENE:  Sometimes  
2                    we get the private documents, private reports  
3                    and sometimes we get the public reports.

4                    MS. PHILLIPS:  Do you recall as of  
5                    December 16, 2011 whether you had the private  
6                    MPD report or the public MPD report?

7                    INVESTIGATOR GHENENE:  I believe I  
8                    had the private report.

9                    MS. PHILLIPS:  Now, let me ask you  
10                   this question.  As a matter of routine  
11                   practice of ABRA Investigators, if you have  
12                   the private report, is that releasable to the  
13                   public?

14                   INVESTIGATOR GHENENE:  No, ma'am.

15                   MS. PHILLIPS:  So if you had the  
16                   private report with you when you were --  
17                   discussed the MPD report with the various  
18                   people that you met with on December 16th from  
19                   the establishment, you wouldn't be able to  
20                   give them a copy of that report.

21                   INVESTIGATOR GHENENE:  No, ma'am.

22                   MS. PHILLIPS:  Is that fair?

1 INVESTIGATOR GHENENE: No, ma'am.

2 MS. PHILLIPS: Okay. And do you  
3 recall discussing some of the contents or the  
4 information of the MPD report with the  
5 establishment personnel that you talked to on  
6 December 16th?

7 INVESTIGATOR GHENENE: Yes, ma'am.

8 MS. PHILLIPS: But you -- did you  
9 give them a copy of that report or not?

10 INVESTIGATOR GHENENE: No, ma'am.

11 MS. PHILLIPS: Okay. And that  
12 would be the MPD report?

13 INVESTIGATOR GHENENE: Yes, ma'am.

14 MS. PHILLIPS: And at the time you  
15 went on December 16th, you had not completed  
16 your investigation report. Is that fair?

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 MS. PHILLIPS: During the course  
19 of your investigations when security camera  
20 footage is available, do you use that footage  
21 for any particular investigative purpose?

22 INVESTIGATOR GHENENE: Yes, ma'am.

1 MS. PHILLIPS: And what are some  
2 examples? And make them sort of relevant to  
3 this case.

4 INVESTIGATOR GHENENE: Sure.

5 MS. PHILLIPS: If the footage was  
6 there, what would you look for in that  
7 footage?

8 INVESTIGATOR GHENENE: I would  
9 have looked for several things. I would have  
10 wanted to see what began the incident. I  
11 would have looked to see where security was  
12 stationed. I would look to verify response  
13 time or to document response time. I would  
14 have looked to document how victims were  
15 treated if they had -- if they needed any kind  
16 of medical treatment.

17 I would have looked to see how  
18 people were handled, both the aggressors and  
19 the victims. I would look to see how they  
20 were physically escorted out. I would look to  
21 see, in this situation, if the victims had any  
22 communication with anybody from the

1 establishment to kind of verify their story,  
2 as to whether or not they requested police  
3 assistance.

4 I would have looked to see if the  
5 police were outside the establishment. I  
6 would have looked to document whether or not  
7 the victims were immediately attacked as they  
8 testified that they were. So there are  
9 several things I would have verified and  
10 documented.

11 MS. PHILLIPS: Okay. Well, let me  
12 ask you a question. Do you know where the  
13 security cameras are supposed to be placed  
14 within the establishment, at the time of this  
15 incident?

16 INVESTIGATOR GHENENE: No, ma'am.

17 MS. PHILLIPS: Okay. Is it fair,  
18 and I would like you to look just to make sure  
19 I'm not making this up, that it doesn't say in  
20 the security plan, as it existed on the date  
21 of this incident, that is attached as Exhibit  
22 5 to your investigative report, it doesn't say

1 where they are?

2 INVESTIGATOR GHENENE: Give me one  
3 second.

4 MS. PHILLIPS: Take all the time  
5 you need.

6 INVESTIGATOR GHENENE: No, ma'am,  
7 it doesn't appear that it does.

8 MS. PHILLIPS: And there isn't any  
9 attachment that shows the layout of Spot and  
10 shows where security cameras are located?

11 INVESTIGATOR GHENENE: There could  
12 be, but it was not attached to the security  
13 plan.

14 MS. PHILLIPS: Not to this one  
15 that we are talking about today?

16 INVESTIGATOR GHENENE: No, ma'am.

17 MS. PHILLIPS: Do you know whether  
18 or not at the time of this incident in  
19 question one of those security cameras was  
20 located outside?

21 INVESTIGATOR GHENENE: I'm not  
22 aware of that.

1 MS. PHILLIPS: Okay. And you told  
2 Mr. Mpras that you believe that the  
3 establishment gave a prompt response to the  
4 incident inside. Upon what did you base that  
5 opinion?

6 INVESTIGATOR GHENENE: I based  
7 that off what the security staff and the ABC  
8 manager stated as well as what the victims  
9 stated.

10 MS. PHILLIPS: But you were not  
11 able to verify any of those statements by  
12 footage? Is that right?

13 INVESTIGATOR GHENENE: No, ma'am.

14 MS. PHILLIPS: All right. Thank  
15 you, Madam Chair.

16 CHAIRPERSON MILLER: Okay. Mr.  
17 Mpras?

18 MR. MPRAS: Thank you.

19 RECROSS-EXAMINATION

20 MR. MPRAS: Okay. Investigator  
21 Ghenene, you stated that you don't know nor  
22 does the security plan show where the cameras

1           would be placed. Is that correct?

2                         INVESTIGATOR GHENENE: Yes.

3                         MR. MPRAS: Would it be possible  
4           that had they been recording on the night in  
5           question that they -- you would not have been  
6           able to see the information that was relevant  
7           to your investigation, depending on the camera  
8           placement?

9                         INVESTIGATOR GHENENE: It would  
10          have been tough just simply because of the way  
11          -- how big the place is. If there are seven  
12          cameras and even if none of them were outside,  
13          it would -- I would think that it would be  
14          impossible if all seven were working, that  
15          nothing would be picked up.

16                        MR. MPRAS: No, I understand.

17                        INVESTIGATOR GHENENE: All right.

18                        MR. MPRAS: But the -- but it's  
19          not necessarily -- it would have been more  
20          helpful to your investigation, but it not  
21          necessarily would have been conclusive?

22                        INVESTIGATOR GHENENE: Yes, I --

1           yeah, I guess so.

2                       MR. MPRAS: Now, you said  
3           contradictory to your testimony, we have  
4           corrected it that you started the  
5           investigation on December 2nd. Is that  
6           correct?

7                       INVESTIGATOR GHENENE: Yeah, I  
8           believe so.

9                       MR. MPRAS: Okay. And according  
10          to Ms. Phillips' math, that's eight days when  
11          you began attempting to call the victims in  
12          the case?

13                      INVESTIGATOR GHENENE: Yes, sir.

14                      MR. MPRAS: Okay. And can you  
15          tell me why it took 14 additional days for you  
16          to go to the venue and interview the staff  
17          there?

18                      INVESTIGATOR GHENENE: Well,  
19          again, this was two years ago, so I'm not sure  
20          what my thought process was, but I can  
21          reasonably believe that I wanted to gather  
22          more information before --

1 MR. MPRAS: Okay.

2 INVESTIGATOR GHENENE: -- I went  
3 to the establishment.

4 MR. MPRAS: Okay. And what  
5 information did you gather before going to the  
6 establishment?

7 INVESTIGATOR GHENENE: I believe  
8 that I spoke with the victims and was able to  
9 get a better -- well, to get a little bit more  
10 of an understanding of what was represented in  
11 the 251.

12 MR. MPRAS: According to your own  
13 report, you didn't speak to the victims until  
14 after visiting the venue.

15 INVESTIGATOR GHENENE: Okay.  
16 Well, then I -- I guess I didn't. I think I  
17 was -- that's what it was. I was attempting  
18 to contact them along with the police  
19 officers, so that I could have some more  
20 usable information and ask better questions  
21 when I interviewed the people at the  
22 establishment. But I was unable to --

1 MR. MPRAS: So you weren't able to  
2 acquire that information. Is that correct?

3 INVESTIGATOR GHENENE: Yeah,  
4 unable to acquire --

5 MR. MPRAS: At that time.

6 INVESTIGATOR GHENENE: -- any kind  
7 of information.

8 MR. MPRAS: Okay. And according  
9 to your report as well and contradictory to  
10 your earlier testimony, Ms. Solomon did state  
11 that somebody was eventually arrested, based  
12 on her, you know, complaints and protest to --

13 INVESTIGATOR GHENENE: That wasn't  
14 contrary to my testimony. My testimony was  
15 that no one was -- I had no knowledge of  
16 someone being arrested as a result of the 251.

17 MR. MPRAS: Well, sir, you wrote  
18 this in your report, so obviously you had  
19 knowledge that someone was arrested. This is  
20 your report.

21 INVESTIGATOR GHENENE: But you  
22 asked me relevant to the 251, not to my

1 report.

2 MR. MPRAS: Not relevant. If you  
3 are -- if somebody would care to recall --

4 MS. PHILLIPS: Objection.  
5 Argumentative. The record will speak for  
6 itself.

7 MR. MPRAS: The record will speak  
8 for itself. My question was --

9 CHAIRPERSON MILLER: Okay.

10 MR. MPRAS: My question was,  
11 according to the report and its attachments,  
12 your report. So now being that this person  
13 was arrested and you did have knowledge of it  
14 from Ms. Solomon, did you make any attempts to  
15 track this person down? The person that was  
16 arrested and obtain testimony from this person  
17 as to what happened?

18 INVESTIGATOR GHENENE: I'm not  
19 sure how I could. She doesn't know their  
20 name.

21 MR. MPRAS: The person was  
22 arrested. You couldn't get the information

1 from the Metropolitan Police Department?

2 INVESTIGATOR GHENENE: That's not  
3 customary.

4 MR. MPRAS: It's not customary.  
5 Okay. So you didn't take that extra step  
6 then?

7 INVESTIGATOR GHENENE: No.

8 MR. MPRAS: Okay. Now, how --  
9 now, you said you began investigations  
10 depending on when you receive reports. Is  
11 that correct?

12 INVESTIGATOR GHENENE: No.

13 MR. MPRAS: No? How -- would you,  
14 please, tell me again how you begin an ABRA  
15 investigation?

16 INVESTIGATOR GHENENE: There is --

17 MR. MPRAS: Or how you began the  
18 investigation in this matter.

19 INVESTIGATOR GHENENE: This  
20 investigation was initiated based on receipt  
21 of a PD-251.

22 MR. MPRAS: Okay. How was it

1 received?

2 INVESTIGATOR GHENENE: I'm not  
3 sure, sir.

4 MR. MPRAS: Okay. Do you know  
5 when it was sent?

6 INVESTIGATOR GHENENE: No, sir.

7 MR. MPRAS: Now, the -- you make  
8 reference to you spoke to a security guard in  
9 your previous testimony in regards to Mr.  
10 Alberti's questions. Was the security guard  
11 Mr. Mbeleg?

12 INVESTIGATOR GHENENE: I spoke  
13 with two security guards.

14 MR. MPRAS: Um-hum.

15 INVESTIGATOR GHENENE: However,  
16 one of the security guards was answering the  
17 majority of the questions.

18 MR. MPRAS: And who was that?

19 INVESTIGATOR GHENENE: Mr. Mbeleg,  
20 I believe.

21 MR. MPRAS: Okay. Thank you.  
22 Now, can you tell me, approximately, how many

1 times you called MPD? You said you called  
2 between --

3 INVESTIGATOR GHENENE: I have  
4 absolutely no idea.

5 MR. MPRAS: Okay. No further  
6 questions. Thank you.

7 CHAIRPERSON MILLER: Okay. Thank  
8 you very much.

9 (Whereupon, witness was excused.)

10 CHAIRPERSON MILLER: Do you rest?

11 MS. PHILLIPS: The District rests.

12 CHAIRPERSON MILLER: Okay.

13 MR. MPRAS: Ma'am, being that we  
14 have Officer Brown here and we have had him  
15 here for a while, if you don't mind, I'll call  
16 him first.

17 CHAIRPERSON MILLER: That's fine  
18 with me. Okay. How many witnesses do you  
19 have?

20 MR. MPRAS: Sorry?

21 CHAIRPERSON MILLER: How many  
22 witnesses are you going to have?

1 MR. MPRAS: Three.

2 CHAIRPERSON MILLER: Okay. Yes.

3 Whereupon,

4 OFFICER BRIAN ALEXANDER BROWN  
5 was called as a witness by Counsel for the  
6 Licensee, and having been first duly sworn,  
7 assumed the witness stand and was examined and  
8 testified as follows:

9 CHAIRPERSON MILLER: Thank you.

10 DIRECT EXAMINATION

11 MR. MPRAS: Sir, would you,  
12 please, state your full name for the record?

13 OFFICER BROWN: Brian Alexander  
14 Brown.

15 MR. MPRAS: Brian?

16 OFFICER BROWN: Alexander.

17 MR. MPRAS: Now, Officer Brown,  
18 could you, please, state with whom you are  
19 employed?

20 OFFICER BROWN: Metropolitan  
21 Police Department.

22 MR. MPRAS: And what is your

1 position with Metropolitan Police Department?

2 OFFICER BROWN: Police officer.

3 MR. MPRAS: Okay. How many years  
4 have you been employed as a police officer?

5 OFFICER BROWN: Five years.

6 MR. MPRAS: Okay. And could you  
7 tell me what was your assignment the eve of  
8 November 24, 2011?

9 OFFICER BROWN: I was assigned to  
10 patrol in PSA 208.

11 MR. MPRAS: Okay. And could you  
12 tell us the geographic boundaries of PSA 208?

13 OFFICER BROWN: At that time, it  
14 was 14th through 23rd Street east to west and  
15 below Florida Avenue to K Street, I believe,  
16 and Pennsylvania Avenue.

17 MR. MPRAS: Okay. And the venue  
18 in question, Spot, is located within that PSA?

19 OFFICER BROWN: Yes, sir.

20 MR. MPRAS: All right. Now, could  
21 you tell me where you were at, approximately,  
22 3:00 a.m. on that day? Approximately, where

1           you were.

2                           OFFICER BROWN: To my  
3           recollection, in the PSA.

4                           MR. MPRAS: Okay.

5                           OFFICER BROWN: I can tell you  
6           that.

7                           MR. MPRAS: Okay. Were you near  
8           or in the vicinity of Spot?

9                           OFFICER BROWN: Generally,  
10          depending on the day, we generally hang around  
11          areas where there is a lot of people during  
12          that time. I work the midnight tour of duty,  
13          so I come on at --

14                          MR. MPRAS: For the record, could  
15          you, please, tell everybody what the midnight  
16          tour of duty hours are?

17                          OFFICER BROWN: 10:30 to -- 10:00  
18          to 5:00. 10:00 to 6:00 or 11:00 to 7:00.

19                          MR. MPRAS: Okay. And your hours  
20          were --

21                          OFFICER BROWN: So I was working--

22                          MR. MPRAS: And your hours that

1 evening were?

2 OFFICER BROWN: 10:00 to 6:00.

3 MR. MPRAS: So you just stated  
4 that you usually hang around where things are  
5 busy.

6 OFFICER BROWN: Um-hum.

7 MR. MPRAS: What's the busy area  
8 of your PSA?

9 OFFICER BROWN: Connecticut  
10 Avenue.

11 MR. MPRAS: What was the --  
12 Connecticut Avenue.

13 OFFICER BROWN: Yes.

14 MR. MPRAS: And this venue is  
15 located on Connecticut Avenue?

16 OFFICER BROWN: 18th Street.

17 MR. MPRAS: 18th Street. And what  
18 is --

19 OFFICER BROWN: It's at the  
20 intersection of Connecticut Avenue and 18th  
21 Street.

22 MR. MPRAS: All right.

1 OFFICER BROWN: Northwest.

2 MR. MPRAS: Okay. Can I ask you,  
3 did you witness any altercation outside of the  
4 venue, M.I.A. or I'm sorry, Spot?

5 OFFICER BROWN: I don't recall.

6 MR. MPRAS: You don't recall.  
7 Okay. Did you respond to Spot for some type  
8 of incident that night?

9 OFFICER BROWN: Yes.

10 MR. MPRAS: Okay. And did you  
11 witness some type of incident and respond or  
12 were you called there to respond?

13 OFFICER BROWN: I'm not sure. I  
14 know that we do hang in that area quite  
15 frequently on club nights. There are a lot of  
16 incidents that happen before or after that  
17 date. It's quite possible that we were there.

18 MR. MPRAS: Is it fair to say that  
19 you are in close proximity to the nightclubs  
20 in that corridor?

21 OFFICER BROWN: Oh, yeah.

22 MR. MPRAS: At all times? Okay.

1 Well, when you responded, what action did you  
2 take?

3 OFFICER BROWN: Um --

4 MR. MPRAS: What did you witness  
5 when you responded? Let's just go there. Was  
6 there any type of fighting going on outside?

7 OFFICER BROWN: Not -- when I  
8 responded, I'm not sure if -- exactly what was  
9 going on at the time. I do remember speaking  
10 to a female about an incident of being  
11 assaulted.

12 MR. MPRAS: Okay.

13 OFFICER BROWN: I do remember  
14 that.

15 MR. MPRAS: And is that the  
16 female, one of the females, whose name is in  
17 your report?

18 OFFICER BROWN: Yes.

19 MR. MPRAS: Do you remember -- you  
20 don't remember which one though, right?

21 OFFICER BROWN: No.

22 MR. MPRAS: Okay. While you were

1           there, there was -- you didn't -- did you  
2           witness any fighting at all outside?

3                   OFFICER BROWN: Not that I recall.

4                   MR. MPRAS: Okay. Now, had -- if  
5           you witnessed a fight or altercation, how  
6           would you have responded to that?

7                   OFFICER BROWN: I would have  
8           intervened and stopped the altercation.

9                   MR. MPRAS: Okay.

10                  MEMBER ALBERTI: I'm sorry, sir?

11                  OFFICER BROWN: I would have  
12           intervened.

13                  MR. MPRAS: Would you have  
14           intervened immediately or --

15                  OFFICER BROWN: Yes.

16                  MR. MPRAS: Okay. So you wouldn't  
17           let it go on say 5 to 10 minutes and then  
18           intervene?

19                  OFFICER BROWN: No, never.

20                  MR. MPRAS: Okay. Were you asked  
21           by any one of the victims in this matter to  
22           make an arrest?

1                   OFFICER BROWN:  Asked by the  
2                   victim?

3                   MR. MPRAS:  Any one of the  
4                   victims.  Did any victim ask you to make --  
5                   any victim that is identified in your report,  
6                   complainants in your report.

7                   OFFICER BROWN:  Oh.

8                   MS. PHILLIPS:  Objection.  
9                   Foundation.

10                  CHAIRPERSON MILLER:  Overruled.

11                  MR. MPRAS:  Did any of the  
12                  complainants in your report ask you to arrest  
13                  any specific individual that they claimed  
14                  assaulted them?

15                  OFFICER BROWN:  Not that I recall.  
16                  We investigate and then we make the necessary  
17                  arrests.

18                  MR. MPRAS:  Okay.  So may I  
19                  approach?  I'm going to show you your -- this  
20                  is Exhibit 1 that has been entered, it's the  
21                  ABRA Investigative report.

22                  CHAIRPERSON MILLER:  Okay.

1 MR. MPRAS: Is this -- have you  
2 seen this report?

3 OFFICER BROWN: Yes.

4 MR. MPRAS: Now, the start time of  
5 the event in your report lists it as 3:30 a.m.  
6 Is that correct?

7 OFFICER BROWN: Yes.

8 MR. MPRAS: And could you, please,  
9 tell us what the start time means?

10 OFFICER BROWN: The start time  
11 generally is the time that the incident  
12 occurred.

13 MR. MPRAS: Okay. Thank you.  
14 Now, did you have any contact with the venue  
15 staff that evening?

16 OFFICER BROWN: Yes.

17 MR. MPRAS: Okay. And were they  
18 responsive and helpful to whatever needs or  
19 questions you may have?

20 OFFICER BROWN: Yes.

21 MR. MPRAS: Okay. Did they  
22 identify any combatants to you?

1 OFFICER BROWN: I don't recall.

2 MR. MPRAS: You don't recall.

3 OFFICER BROWN: I don't recall.

4 Not that I recall.

5 MR. MPRAS: Okay. Thank you.

6 Now, can you tell me how many, approximately,  
7 MPD officers, if any, were at the venue  
8 location with you?

9 OFFICER BROWN: It was no less  
10 than three.

11 MR. MPRAS: No less than three.  
12 Did any of them have any contact with the  
13 venue staff besides yourself?

14 OFFICER BROWN: I don't know that.

15 MR. MPRAS: You don't know. Okay.  
16 Now, as a D.C. Police Officer, could you tell  
17 us if the venue staff has any authority  
18 outside the venue on public space?

19 OFFICER BROWN: No, they do not.

20 MR. MPRAS: Okay.

21 CHAIRPERSON MILLER: I'm sorry,  
22 could you repeat your answer?

1 OFFICER BROWN: No, they do not.

2 CHAIRPERSON MILLER: Thank you.

3 Okay.

4 MR. MPRAS: So if the -- in your  
5 experience as a police officer, the best  
6 response for when an altercation breaks out  
7 outside is to contact the police and have them  
8 handle the matter. Is that correct?

9 OFFICER BROWN: Could you repeat?

10 MR. MPRAS: I'm sorry. Should an  
11 altercation occur outside of a venue, the best  
12 course of action is to turn it over to the  
13 police, contact the police, inform them of it  
14 and have them handle it?

15 OFFICER BROWN: Correct.

16 MR. MPRAS: Okay. Now, Officer  
17 Brown, you said you have been in this PSA for  
18 five years. Is that correct?

19 OFFICER BROWN: Correct.

20 MR. MPRAS: Okay. And you have  
21 interacted with this venue, is it fair to say,  
22 a number of times.

1 OFFICER BROWN: Yes.

2 MR. MPRAS: Okay. In your  
3 experience, did you find this venue  
4 problematic or a willful violator of the ABC  
5 Regulations?

6 OFFICER BROWN: No.

7 MS. PHILLIPS: I object to the  
8 question.

9 CHAIRPERSON MILLER: Could you  
10 repeat the question?

11 MR. MPRAS: In his experience--

12 CHAIRPERSON MILLER: Yes, in his  
13 experience.

14 MR. MPRAS: -- does he find this  
15 establishment to be problematic or, you know,  
16 willfully violating the ABC Regulations.

17 MS. PHILLIPS: I don't know what--  
18 I object to --

19 MR. MPRAS: Which regulation --

20 CHAIRPERSON MILLER: It's a  
21 compound question, so --

22 MS. PHILLIPS: Well, it's

1 compound, but --

2 CHAIRPERSON MILLER: Yes.

3 MS. PHILLIPS: -- I think he can  
4 handle a compound question. But willful, I  
5 believe that that is probably beyond his --  
6 the foundation may be beyond his knowledge.  
7 But he can say that. I mean, willful, I don't  
8 think --

9 CHAIRPERSON MILLER: He can say  
10 that.

11 MS. PHILLIPS: I haven't parsed  
12 correctly.

13 CHAIRPERSON MILLER: You can  
14 answer.

15 MR. MPRAS: I'll rephrase.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: So Mr. Mpras said  
18 he will rephrase it.

19 CHAIRPERSON MILLER: Oh, okay.  
20 All right.

21 MR. MPRAS: I'm not going to ask  
22 you to compare nightclubs, but have you found

1           this venue to be any more problematic than any  
2           of the others in the area?

3                       OFFICER BROWN:  No.

4                       MR. MPRAS:  Okay.  And in your  
5           experience during your routine patrols, have  
6           you had any excessive problems from this  
7           venue?

8                       OFFICER BROWN:  No.

9                       MR. MPRAS:  Have you had any  
10          problems more so than from any other venues?

11                      OFFICER BROWN:  No.

12                      MR. MPRAS:  No further questions,  
13          at this time.

14                      CHAIRPERSON MILLER:  Okay.  Cross?

15                      MS. PHILLIPS:  Yes, please.

16                      CHAIRPERSON MILLER:  Okay.

17                      MS. PHILLIPS:  May I approach the  
18          witness to give him his copy of the report?

19                      CHAIRPERSON MILLER:  Yes.

20                      MS. PHILLIPS:  Thank you.

21                               CROSS-EXAMINATION

22                      MS. PHILLIPS:  I believe you have

1           already identified this as your report,  
2           Officer Brown. Is that fair?

3                       OFFICER BROWN: Yes, ma'am.

4                       MS. PHILLIPS: You know, since I  
5           can barely remember what happened last week,  
6           I'm not going to expect you to testify from  
7           memory on a report that you wrote in -- around  
8           Thanksgiving time, let's say, of 2011.

9                       OFFICER BROWN: Yeah, okay.

10                      MS. PHILLIPS: So these are all  
11           these computer-generated reports, correct?

12                      OFFICER BROWN: Yes, ma'am.

13                      MS. PHILLIPS: So this doesn't  
14           give your middle initial. Is that fair?

15                      OFFICER BROWN: That's correct.

16                      MS. PHILLIPS: Yeah.

17                      OFFICER BROWN: At the bottom?

18                      MS. PHILLIPS: Right.

19                      OFFICER BROWN: Yeah, right.

20                      MS. PHILLIPS: It just says --

21                      OFFICER BROWN: The last -- yes,  
22           that's correct.

1 MS. PHILLIPS: Okay. Now, I know  
2 there aren't a lot. I only thought there were  
3 two Officer Browns in the global MPD. Do you  
4 know any other Officer Browns than --

5 OFFICER BROWN: There is another  
6 at the 7th District.

7 MS. PHILLIPS: Okay. Is that  
8 Brian F or Brian H or do you know?

9 OFFICER BROWN: I think it's Brian  
10 H.

11 MS. PHILLIPS: Brian H?

12 OFFICER BROWN: I'm not sure.

13 MS. PHILLIPS: Okay. So I'll have  
14 to look again on the global, but are you  
15 listed on the global MPD?

16 OFFICER BROWN: Yes, ma'am.

17 MS. PHILLIPS: Yes? Are you  
18 listed as just Brian Brown, Brian A. Brown,  
19 Brian F. Brown?

20 OFFICER BROWN: Brian F.

21 MS. PHILLIPS: Brian F.?

22 OFFICER BROWN: Yes, ma'am.

1 MS. PHILLIPS: So you are Brian F.  
2 Do you recall getting this email from the ABRA  
3 Investigator on December 2, 2011?

4 OFFICER BROWN: I don't recall.

5 MS. PHILLIPS: Okay.

6 OFFICER BROWN: That's not to say  
7 he didn't send it.

8 MS. PHILLIPS: Right, right. All  
9 right. Would it be fair to assume that you  
10 get a number of emails on any given day?

11 OFFICER BROWN: Yes, ma'am.

12 MS. PHILLIPS: Okay. Do you -- at  
13 the time of this incident in 2011, did you get  
14 your emails on a hand-held in your possession  
15 or do you get them at work on a computer at  
16 work?

17 OFFICER BROWN: At work generally.

18 MS. PHILLIPS: Okay.

19 OFFICER BROWN: Yes.

20 MS. PHILLIPS: So now do you have  
21 one of those little devices where you get your  
22 work emails like on the run?

1                   OFFICER BROWN: I do not.

2                   MS. PHILLIPS: Okay. I see that  
3 your report was -- the incident was on  
4 November 24th. Do you recall that that was  
5 the Wednesday before Thanksgiving?

6                   OFFICER BROWN: Yes, ma'am.

7                   MS. PHILLIPS: Okay. Do you  
8 recall anything today as you sit here and  
9 testify about this incident other than your  
10 discussions with Mr. Mpras and your review of  
11 your report? Do you have any independent  
12 recollection of this matter?

13                   OFFICER BROWN: Not generally. I  
14 just remember the one female talked --  
15 speaking with her, that's what I remember.

16                   MS. PHILLIPS: Right.

17                   OFFICER BROWN: But I don't  
18 remember general stuff. Nothing like really  
19 specific.

20                   MS. PHILLIPS: Well, would it be  
21 fair to say that in the course of a week that  
22 you investigate at least a handful or if not

1 more assaults at various and sundry locations  
2 in your PSA?

3 OFFICER BROWN: On the weekends,  
4 on a Friday night.

5 MS. PHILLIPS: On a Friday night?

6 OFFICER BROWN: Yeah.

7 MS. PHILLIPS: Right. So probably  
8 on a Friday night it would be a handful. So  
9 on any given week, it might be 10, 25, 100?

10 OFFICER BROWN: I wouldn't say  
11 100.

12 MS. PHILLIPS: Good. That's good.

13 OFFICER BROWN: I would say we're  
14 just busy on the weekend.

15 MS. PHILLIPS: All right.

16 OFFICER BROWN: I would say that.

17 MS. PHILLIPS: And in --

18 OFFICER BROWN: And on holidays.

19 MS. PHILLIPS: This is a holiday  
20 weekend.

21 OFFICER BROWN: Um-hum.

22 MS. PHILLIPS: Do they tend to be

1 busier from your five years experience or less  
2 busy?

3 OFFICER BROWN: It depends on the  
4 holiday.

5 MS. PHILLIPS: Well, this is  
6 Thanksgiving.

7 OFFICER BROWN: It depends.

8 MS. PHILLIPS: Okay.

9 OFFICER BROWN: It depends.

10 MS. PHILLIPS: All right. Looking  
11 at your report, I see that you -- did you  
12 arrive on the scene at 3:30 or was that when  
13 you learned that the incident occurred?

14 OFFICER BROWN: The times vary.  
15 Generally, it's around the time that the  
16 incident occurred.

17 MS. PHILLIPS: So in Box No. 2 it  
18 says event start date and time.

19 OFFICER BROWN: Right.

20 MS. PHILLIPS: So from your  
21 investigation, this incident began at 3:30.  
22 Is that fair?

1                   OFFICER BROWN: That's when the  
2                   investigation -- definitely when it began.

3                   MS. PHILLIPS: Right.

4                   OFFICER BROWN: But that may have  
5                   been when, if I started receiving information  
6                   that I was aware that an incident happened.

7                   MS. PHILLIPS: You know, sometimes  
8                   these reports identify whether or not you  
9                   received a radio-run.

10                  OFFICER BROWN: Um-hum.

11                  MS. PHILLIPS: When you look at  
12                  this report, and you'll have to look at it,  
13                  because I can't remember what is all on it,  
14                  but I didn't -- does it say on here that you  
15                  received a radio-run?

16                  OFFICER BROWN: Well, Box 11 --  
17                  oh, I'm sorry. No, I don't see on here.

18                  MS. PHILLIPS: All right. Let's  
19                  see it says --

20                  OFFICER BROWN: Let me look. Let  
21                  me look.

22                  MS. PHILLIPS: -- like Box 11 says

1 "Radio-run and event location same."

2 OFFICER BROWN: Right.

3 MS. PHILLIPS: What does that  
4 mean?

5 OFFICER BROWN: But that means  
6 that was the -- the report received. The  
7 location of the report at the same place of  
8 the -- where the incident happened. Some  
9 times it can be different.

10 MS. PHILLIPS: So in other words,  
11 if Box 11 has a Y in it, which this box does--

12 OFFICER BROWN: Uh-huh.

13 MS. PHILLIPS: -- I'm not making  
14 it up, it does. Box 11 has a Y in it.

15 OFFICER BROWN: Right, right.

16 MS. PHILLIPS: And that means yes,  
17 right?

18 OFFICER BROWN: Right.

19 MS. PHILLIPS: So in other words,  
20 you received a radio-run and when you got  
21 there, the information you received --

22 MR. MPRAS: Objection.

1 MS. PHILLIPS: -- on --

2 MR. MPRAS: Objection. He never  
3 stated he received a radio-run.

4 MS. PHILLIPS: Well, I'm asking  
5 him about his report.

6 CHAIRPERSON MILLER: Yes,  
7 overruled.

8 MS. PHILLIPS: And it's cross.  
9 All right. So 11, if it says yes, that means  
10 you received a radio-run and that the  
11 information you received in the radio-run, the  
12 event was the same as what you received in the  
13 radio-run. Is that what that means?

14 OFFICER BROWN: No. What that --  
15 it's kind of misleading. It basically means  
16 you can receive a report or you can receive a  
17 call by observing yourself or you can receive  
18 it through the dispatch. So observing it and  
19 receiving it, however you are made aware of  
20 the incident, is sort of the same thing.

21 And it can be as someone could  
22 walk up to me and say I was just mugged on the

1 corner at L and 21st Street, but the event  
2 could have happened two blocks away. So if  
3 they told me what the event -- if they told me  
4 that they were robbed on that same corner,  
5 then it would be a yes also.

6 But if they were not, they were  
7 robbed two blocks down the street, then it  
8 would be -- I would put no there.

9 MS. PHILLIPS: Okay.

10 OFFICER BROWN: But it wasn't --  
11 the report may be when it was reported to me  
12 by being verbally or on-scene.

13 MS. PHILLIPS: Right.

14 OFFICER BROWN: Do you understand  
15 what I'm saying?

16 MS. PHILLIPS: Well, I understand  
17 exactly what you're saying.

18 OFFICER BROWN: Okay.

19 MS. PHILLIPS: I don't understand  
20 why the report is so unclear. I mean the  
21 report --

22 OFFICER BROWN: Well, I guess it's

1           how you see it.

2                       MS. PHILLIPS:  But you know,  
3           that's neither here nor there, right?  You  
4           didn't write the format, right?

5                       OFFICER BROWN:  Exactly.

6                       MS. PHILLIPS:  And in your  
7           narrative, you did not alert anyone for  
8           posterity how you received the information.  
9           Is that fair?

10                      OFFICER BROWN:  Excuse me?  I'm  
11           sorry.

12                      MS. PHILLIPS:  Your narrative  
13           doesn't say how you got notice of this event.  
14           Is that fair?

15                      OFFICER BROWN:  No.  No. 10 says  
16           on-scene.  Generally, if -- generally No. 10  
17           will indicate how I received the report.  So  
18           in general, if I saw it or someone came up to  
19           me, then I was already on-scene before --  
20           according to the report, it's how I received  
21           the report.

22                      MS. PHILLIPS:  So in other words,

1           you didn't know about this incident until you  
2           arrived at the destination of this  
3           establishment. Is that fair?

4                   OFFICER BROWN: Or I observed it  
5           or I -- or someone came up to me and said this  
6           -- something just happened. This is  
7           happening.

8                   MS. PHILLIPS: Okay.

9                   OFFICER BROWN: That means I was  
10          in the area. That means I didn't receive it  
11          from the dispatcher. I received it from some  
12          other entity.

13                   MS. PHILLIPS: Okay. So and you  
14          said that you didn't see any fighting when you  
15          drove up. Is that fair?

16                   OFFICER BROWN: That's fair.

17                   MS. PHILLIPS: Okay.

18                   OFFICER BROWN: The ABRA call.

19                   MS. PHILLIPS: Okay. And you know  
20          you got some information from at least one of  
21          the victims and you are not sure which one it  
22          was. Is that fair?

1                   OFFICER BROWN: Right. As  
2                   indicated by the -- as indicated on the  
3                   report. Who was who, I don't know.

4                   MS. PHILLIPS: Right.

5                   OFFICER BROWN: Correct.

6                   MS. PHILLIPS: So on the narrative  
7                   it says "C-1 Report."

8                   OFFICER BROWN: Um-hum.

9                   MS. PHILLIPS: That she was.

10                  OFFICER BROWN: Um-hum.

11                  MS. PHILLIPS: And C-1 is that Ms.  
12                  Solomon?

13                  OFFICER BROWN: C-1 is who I would  
14                  put -- well, it should be the first  
15                  complainant. The C-1, C-2, C-3 all correlate  
16                  to who is Complainant 1, 2 and 3.

17                  MS. PHILLIPS: Okay. Tell me who  
18                  C-1 is, according to your report, because I'm  
19                  confused.

20                  OFFICER BROWN: C-1 would be, yes,  
21                  Ms. Solomon.

22                  MS. PHILLIPS: Ms. Solomon?

1 OFFICER BROWN: Yes.

2 MS. PHILLIPS: So it was probably  
3 Ms. Solomon that you interviewed about the  
4 events in question because she would have been  
5 C-1?

6 OFFICER BROWN: Correct.

7 MS. PHILLIPS: And it says that  
8 she was punched in the face by S-1.

9 OFFICER BROWN: Yes.

10 MS. PHILLIPS: Is S-1 the person  
11 that was arrested?

12 OFFICER BROWN: That is -- I would  
13 imagine.

14 MS. PHILLIPS: Okay. Do you know  
15 the name of the person arrested?

16 OFFICER BROWN: According to the  
17 report, it should be -- I don't see that  
18 information here.

19 MS. PHILLIPS: Okay. Would there  
20 be another report subsequently that you would  
21 fill out if somebody was arrested?

22 OFFICER BROWN: Oh, yeah, an

1           arrest report.

2                   MS. PHILLIPS: All right. Did you  
3           -- do you recall arresting someone?

4                   OFFICER BROWN: Quite possibly.

5                   MS. PHILLIPS: Does it say in your  
6           narrative that you arrested someone?

7                   OFFICER BROWN: Let's see, it does  
8           not say here.

9                   MS. PHILLIPS: It doesn't say?

10                  OFFICER BROWN: Right.

11                  MS. PHILLIPS: Okay. And I  
12           noticed in your report that C-2 reports. Does  
13           that mean you spoke with C-2 also, then S-1  
14           and S-2 and S-3 --

15                  OFFICER BROWN: Yeah.

16                  MS. PHILLIPS: -- then approached  
17           her outside?

18                  OFFICER BROWN: Yes. I spoke to  
19           all the complainants listed here.

20                  MS. PHILLIPS: Yes. So C-2 is Ms.  
21           Kiflezghi? Is that correct?

22                  OFFICER BROWN: Yes, ma'am.

1 MS. PHILLIPS: Okay. And then C-3  
2 also reported to you and you recorded that in  
3 your narrative, too. So that would be Ms.  
4 Medhani?

5 OFFICER BROWN: Yes, ma'am.

6 MS. PHILLIPS: So you really did  
7 speak to everybody?

8 OFFICER BROWN: Yes, ma'am.

9 MS. PHILLIPS: All right.

10 OFFICER BROWN: But either I did  
11 or assisting officers may have spoke to other  
12 complainants to get all the witnesses and  
13 really we kind of get together and we  
14 investigate it collectively and then we --  
15 more than one person does the report.

16 MS. PHILLIPS: Yes. So it's fair  
17 to say that, you know, there might have been  
18 at least three police officers --

19 OFFICER BROWN: Correct.

20 MS. PHILLIPS: -- on the scene?

21 OFFICER BROWN: Correct.

22 MS. PHILLIPS: Who was in Cruiser

1 2070?

2 OFFICER BROWN: I'm not sure who  
3 that was at that time. The sergeant changed  
4 assignments. I believe it ma have been like  
5 Sergeant Jones, at that time, 27.

6 MS. PHILLIPS: Okay. On your  
7 report there is a Vernon Gudger, who appears  
8 to be a sergeant. Was that who was in 27?

9 OFFICER BROWN: Where do you see  
10 that, ma'am?

11 MS. PHILLIPS: I see it in --

12 OFFICER BROWN: Oh, at the bottom.

13 MS. PHILLIPS: Yeah.

14 OFFICER BROWN: That's just who  
15 approved the reports.

16 MS. PHILLIPS: Okay. So --

17 OFFICER BROWN: He looked it over  
18 and after I submitted it and he -- in the  
19 station and then he would approve it.

20 MS. PHILLIPS: So --

21 OFFICER BROWN: You know, any  
22 number -- anybody working that night could

1 have approved it.

2 MS. PHILLIPS: Okay.

3 OFFICER BROWN: Whoever is in the  
4 station.

5 MS. PHILLIPS: I see. So we know  
6 cruisers are usually single occupants. Is  
7 that correct or are they the double occupants?

8 OFFICER BROWN: Meaning being  
9 strapped around together?

10 MS. PHILLIPS: No. Cruisers have  
11 one police officer in them and then --

12 OFFICER BROWN: Well, it's a  
13 cruiser usually referred to sergeants as  
14 cruisers for -- any official as a cruiser and  
15 they have given their call sign. It's a way  
16 to say their name.

17 MS. PHILLIPS: Okay. What vehicle  
18 were you in?

19 OFFICER BROWN: My car? I would  
20 have been probably 120 -- my assignment  
21 probably was a 208. It could have been 2081,  
22 2082, 2083.

1 MS. PHILLIPS: Is that a cruiser?

2 OFFICER BROWN: It could have been  
3 a cruiser.

4 MS. PHILLIPS: Okay.

5 OFFICER BROWN: The police cars in  
6 general are called cruisers.

7 MS. PHILLIPS: Okay.

8 OFFICER BROWN: But we refer to  
9 sergeants if they are working as Cruiser 270,  
10 but me I would be in scout car, whatever  
11 number scout car that would be.

12 MS. PHILLIPS: So usually in  
13 reports you see scout something or other and  
14 then you see cruiser something or other and  
15 that's how you distinguish them?

16 OFFICER BROWN: Right. A scout  
17 car -- an officer will be in a scout car and  
18 a sergeant or above will be in a cruiser.

19 MS. PHILLIPS: Okay. And you were  
20 traveling solo in your vehicle. Is that  
21 correct?

22 OFFICER BROWN: I'm not sure. I'm

1 not sure if I was -- had a partner that night  
2 or I was by myself.

3 MS. PHILLIPS: Okay. But it  
4 didn't say anywhere in your report?

5 OFFICER BROWN: No.

6 MS. PHILLIPS: I can't find that  
7 information in your report.

8 OFFICER BROWN: No, that wouldn't  
9 be listed in my -- it would be in the arrest  
10 paperwork, but not in -- if there was an  
11 arrest -- generally, how I write my reports,  
12 I list who I was with, my call sign, where I  
13 was initially and then the subsequent  
14 information.

15 But in the 251, that's not, as we  
16 were trained, necessary to write all that.

17 MS. PHILLIPS: Okay. What is the  
18 arrest report number?

19 OFFICER BROWN: 163.

20 MS. PHILLIPS: 163. Do you recall  
21 whether you routinely, as part of your pattern  
22 and practice, send 163s to ABRA?

1                   OFFICER BROWN: No. We are told  
2 or instructed to fax the 251.

3                   MS. PHILLIPS: And that's this  
4 exhibit?

5                   OFFICER BROWN: Yes, ma'am.

6                   MS. PHILLIPS: One?

7                   OFFICER BROWN: Yes.

8                   MS. PHILLIPS: Which is your  
9 report?

10                  OFFICER BROWN: Yes, ma'am.

11                  MS. PHILLIPS: Okay. So on a  
12 routine basis, you only fax to them the 251?

13                  OFFICER BROWN: Correct.

14                  MS. PHILLIPS: To ABRA?

15                  OFFICER BROWN: Correct.

16                  MS. PHILLIPS: Now, do you recall  
17 whether you went to Court on any kind of  
18 criminal matter based on at least one probable  
19 arrest?

20                  OFFICER BROWN: I was not called  
21 to court --

22                  MS. PHILLIPS: Okay.

1                   OFFICER BROWN:  -- on this  
2                   incident.

3                   MS. PHILLIPS:  Okay.  And you  
4                   don't know -- you did not arrest anybody as  
5                   far as you recollect.  Is that true?

6                   OFFICER BROWN:  As far as I  
7                   recollect.  And it's not in the report, the  
8                   251.

9                   MS. PHILLIPS:  Okay.  And it would  
10                  never be in the 251.  Is that correct?

11                  OFFICER BROWN:  It would not.  It  
12                  would be -- it would mention of it -- in  
13                  general, a mention of an arrest would be in  
14                  the 251.

15                  MS. PHILLIPS:  But there isn't --  
16                  is there mention of an arrest here?

17                  OFFICER BROWN:  Not that I see.

18                  MS. PHILLIPS:  I didn't see it,  
19                  but, you know.  But you do have --

20                  OFFICER BROWN:  That's not saying  
21                  it was -- it didn't happen.  But I know it's  
22                  not here.

1 MS. PHILLIPS: Okay. I see that  
2 on -- is that page 2 of your report? Yes,  
3 page 2 of 3.

4 OFFICER BROWN: Um-hum.

5 MS. PHILLIPS: In the middle there  
6 are suspects. Is that correct? And there are  
7 three?

8 OFFICER BROWN: Yes, yes,  
9 definitely.

10 MS. PHILLIPS: But they are only  
11 identified by, you know, race, sex --

12 OFFICER BROWN: Right.

13 MS. PHILLIPS: -- ethnicity.

14 OFFICER BROWN: Right.

15 MS. PHILLIPS: Age range, that  
16 sort of thing.

17 OFFICER BROWN: Right.

18 MS. PHILLIPS: Only one is  
19 identified by age range, I guess, right?

20 OFFICER BROWN: Correct. And I  
21 guess as another indication of maybe an arrest  
22 not taking place, because I would have had all

1           that information. I would have had name, date  
2           of birth. I would have had an address.

3                        So at the time, this was what was  
4           taken. In general, I had to go by this. It  
5           looks like there was not one.

6                        MS. PHILLIPS: Was not an arrest?

7                        OFFICER BROWN: Correct.

8                        MS. PHILLIPS: Okay. But if one  
9           of the witnesses said that MPD officers  
10          arrested somebody as a result of the incident  
11          outside, do you have any way of disputing  
12          that?

13                       OFFICER BROWN: Based on this  
14          report -- way of disputing it?

15                       MS. PHILLIPS: Yeah.

16                       OFFICER BROWN: Um, I can look in  
17          the system and see if there was an arrest  
18          based on that location or ask someone in the  
19          station. I could -- me, my personal  
20          knowledge, no, based on my report. If that's  
21          what you're asking.

22                       MS. PHILLIPS: All right. Did you

1 -- did Mr. Mpras ask you here by a subpoena or  
2 did you come because he called you or how did  
3 you get here?

4 OFFICER BROWN: I was notified at  
5 the station to -- by my official at my  
6 District that I was --

7 CHAIRPERSON MILLER: Could you  
8 speak up?

9 OFFICER BROWN: I was notified by  
10 the District that I was required to come for  
11 this date for this hearing. I don't know how  
12 that -- the inter-workings of all that.

13 MS. PHILLIPS: Right. So did you  
14 bring a form that one of us has to sign that  
15 says you are here?

16 OFFICER BROWN: No.

17 MS. PHILLIPS: Okay. And you  
18 don't know the names of the other officers who  
19 were on the scene, but you think there are at  
20 least two others?

21 OFFICER BROWN: I'm pretty sure.  
22 I wasn't by myself, because of the number of

1 complainants and what was going on. And we  
2 generally all come, you know, to help each  
3 other out. But I can't -- I'm not sure who  
4 exactly it was.

5 MS. PHILLIPS: Did you bring your  
6 notebook about this incident?

7 OFFICER BROWN: No, ma'am.

8 MS. PHILLIPS: Were you asked to  
9 bring your notebook?

10 OFFICER BROWN: No, ma'am.

11 MS. PHILLIPS: Did you look --  
12 when you were notified that you had to be  
13 here, were you notified that you were to be  
14 here as a result of this incident?

15 OFFICER BROWN: Yes, ma'am.

16 MS. PHILLIPS: Did you look in the  
17 computer to see if you had authored any  
18 reports and review them before you came here?

19 OFFICER BROWN: I did look up this  
20 251.

21 MS. PHILLIPS: 251. But you  
22 didn't look up a 163 or a 252?

1                   OFFICER BROWN: No. I didn't see  
2 where any -- I didn't see where anybody was  
3 arrested according to this.

4                   MS. PHILLIPS: Okay. According to  
5 the 251?

6                   OFFICER BROWN: Yes, from what I  
7 see here.

8                   MS. PHILLIPS: Is that what I'm  
9 hearing?

10                  OFFICER BROWN: Right. I just  
11 looked at this 251.

12                  MS. PHILLIPS: Okay.

13                  OFFICER BROWN: Briefly.

14                  MS. PHILLIPS: Briefly?

15                  OFFICER BROWN: Yeah.

16                  MS. PHILLIPS: That's fair.

17                  OFFICER BROWN: Okay.

18                  MS. PHILLIPS: Now, you said you  
19 had been in this PSA for five years?

20                  OFFICER BROWN: Yes, ma'am.

21                  MS. PHILLIPS: And you have been  
22 on the force prior to that or have you only

1           been on the force five years?

2                       OFFICER BROWN:   Only five.

3                       MS. PHILLIPS:   Only five.   So what  
4           does that mean that you started with MPD?

5                       OFFICER BROWN:   I started in 2008.

6                       MS. PHILLIPS:   2008?

7                       OFFICER BROWN:   Yes, ma'am.

8                       MS. PHILLIPS:   All right.

9                       OFFICER BROWN:   September.

10                      MS. PHILLIPS:   Right.   You might  
11           have heard I don't do math.

12                      OFFICER BROWN:   Right.

13                      MS. PHILLIPS:   That's why I'm  
14           asking.

15                      OFFICER BROWN:   Right.

16                      MS. PHILLIPS:   All right.   So you  
17           know, I'm looking at stuff that you probably  
18           don't know, but based on your conversation and  
19           questions that you answered from Mr. Mpras, I  
20           would like to ask you these questions.

21                      OFFICER BROWN:   All right.

22                      MS. PHILLIPS:   In October of 2009,

1           were you called to this establishment to  
2           investigate a simple assault?

3                       OFFICER BROWN:   October 2009?   I  
4           don't recall.

5                       MS. PHILLIPS:   Okay.   But you  
6           would have been in this PSA in 2009.   Is that  
7           fair?

8                       OFFICER BROWN:   Yes.

9                       MS. PHILLIPS:   Okay.   And in  
10          October of 2010, were you called to this  
11          establishment to investigate another simple  
12          assault?

13                      OFFICER BROWN:   I don't have  
14          direct know -- recollection of it.   I can't  
15          say no or yes.

16                      MS. PHILLIPS:   Okay.

17                      OFFICER BROWN:   It's quite  
18          possible.

19                      MS. PHILLIPS:   And again in --

20                      MR. MPRAS:   I object.   I mean, it  
21          is clear that the defendant doesn't have  
22          knowledge of every incident that happened at

1 this venue, which she's going down the  
2 investigative history.

3 CHAIRPERSON MILLER: Are you going  
4 down a long list?

5 MR. MPRAS: Yes.

6 MS. PHILLIPS: It's not a long  
7 list. And based on his testimony that he --  
8 you know, about the establishment, I just need  
9 to ask these questions to make -- effect the  
10 record. So this is what I think is okay  
11 cross.

12 MR. MPRAS: These are unrelated  
13 events that have nothing to do with this  
14 report and this testimony.

15 MS. PHILLIPS: No.

16 MEMBER ALBERTI: May we have a  
17 moment.

18 MS. PHILLIPS: First -- you may  
19 have.

20 CHAIRPERSON MILLER: Okay. You  
21 can proceed, but --

22 MS. PHILLIPS: It should be fast.

1 CHAIRPERSON MILLER: Okay. Go  
2 ahead.

3 MS. PHILLIPS: Date, yes, no,  
4 date, yes, no.

5 CHAIRPERSON MILLER: Yes, okay,  
6 fine.

7 MS. PHILLIPS: December 2010, were  
8 you called to this establishment, according to  
9 your recollection, for a felony assault?

10 OFFICER BROWN: I don't have -- I  
11 can't say no. I can't say yes. It's quite  
12 possible.

13 MS. PHILLIPS: Do you recall  
14 whether in February of 2011 you were called to  
15 the scene with regard to sale to intoxicated  
16 minors?

17 OFFICER BROWN: I don't remember  
18 that.

19 MS. PHILLIPS: That might have  
20 resulted in assaulted behaviors of one of the  
21 minors who got drunk?

22 MR. MPRAS: Objection.

1 CHAIRPERSON MILLER: What that --

2 OFFICER BROWN: I don't remember  
3 the incident.

4 MS. PHILLIPS: Okay.

5 CHAIRPERSON MILLER: Wait. I  
6 couldn't hear his answer. First of all, I  
7 couldn't hear his answer.

8 OFFICER BROWN: I'm sorry, I don't  
9 remember the incident.

10 CHAIRPERSON MILLER: Okay.

11 MS. PHILLIPS: And in April 2011,  
12 were you called to the establishment, as far  
13 as you recollect, for a simple assault?

14 OFFICER BROWN: I don't remember.

15 MS. PHILLIPS: One more. In March  
16 of 2011, were you called to the establishment  
17 for a disorderly patron?

18 OFFICER BROWN: I do not remember.

19 MS. PHILLIPS: You don't recall?

20 OFFICER BROWN: I do not recall.

21 MS. PHILLIPS: Okay.

22 CHAIRPERSON MILLER: Okay.

1 MS. PHILLIPS: And do you recall  
2 if there is an establishment next door to  
3 Spot, an alcohol beverage establishment next  
4 door or in close proximity?

5 OFFICER BROWN: Yes.

6 MS. PHILLIPS: And what is that?

7 OFFICER BROWN: There is The  
8 Public, I guess, to the right there in the  
9 middle and --

10 CHAIRPERSON MILLER: Wait. Could  
11 you speak louder?

12 OFFICER BROWN: There is Public  
13 Bar.

14 CHAIRPERSON MILLER: Public?

15 MS. PHILLIPS: That's the name of  
16 the bar, Public?

17 OFFICER BROWN: There is, I think,  
18 four right there.

19 MS. PHILLIPS: Four?

20 OFFICER BROWN: Or three.

21 MS. PHILLIPS: So what do you  
22 think they are? Public?

1                   OFFICER BROWN:  Um, there is  
2                   Eighteenth Street Lounge.

3                   MS. PHILLIPS:  Eighteenth Street  
4                   Lounge.

5                   OFFICER BROWN:  There is Public  
6                   Bar.  And then there is the M.I.A.

7                   MS. PHILLIPS:  Okay.  So --

8                   OFFICER BROWN:  That I remember.

9                   MS. PHILLIPS:  -- anything else?  
10                  I'm sorry.

11                  OFFICER BROWN:  No, that's it.

12                  MS. PHILLIPS:  Okay.  All right.  
13                  I have trouble hearing.

14                  OFFICER BROWN:  I'm sorry.  I'll  
15                  speak up.

16                  MS. PHILLIPS:  All right.  So do  
17                  you recall being called to the 18th Street bar  
18                  at any time between 2009 and prior to the  
19                  incident in -- that occurred on this date, the  
20                  Wednesday before Thanksgiving?

21                  OFFICER BROWN:  Eighteenth Street  
22                  Lounge?

1 MS. PHILLIPS: Yes. Any time, do  
2 you recall any -- being called to that  
3 establishment?

4 OFFICER BROWN: Yeah.

5 MS. PHILLIPS: How many times?

6 OFFICER BROWN: Like I can take an  
7 educated guess.

8 MS. PHILLIPS: It has to be really  
9 educated, because I don't want speculation,  
10 Officer. And you know the difference.

11 OFFICER BROWN: Well, I mean, I  
12 don't know how to answer it.

13 MS. PHILLIPS: Okay.

14 OFFICER BROWN: I mean, isn't  
15 speculation an educated guess?

16 CHAIRPERSON MILLER: Wait.

17 MS. PHILLIPS: Well, I need to  
18 know -- I don't want you to speculate.

19 OFFICER BROWN: All right.

20 MS. PHILLIPS: But if you have a  
21 sort of a recollection that you are pretty  
22 darn sure of, that's what I'm asking for.

1                   OFFICER BROWN: Well, I mean, I  
2                   couldn't tell you. Maybe working down there,  
3                   I -- honestly, I don't know.

4                   MS. PHILLIPS: All right.

5                   OFFICER BROWN: I don't know.

6                   MS. PHILLIPS: What about Public?

7                   OFFICER BROWN: Honestly, I'm  
8                   trying to answer honestly.

9                   MS. PHILLIPS: Good, that's what I  
10                  would like. Public Bar, do you recall being  
11                  called anywhere between October 2009 to prior  
12                  to the incident in question on the Wednesday  
13                  before Thanksgiving? Do you recall being  
14                  called to that establishment?

15                  OFFICER BROWN: I remember one  
16                  incident there.

17                  MS. PHILLIPS: One incident?

18                  OFFICER BROWN: That I had -- I  
19                  remember the incident because it was strange.  
20                  But other than that, not many.

21                  MS. PHILLIPS: Do you recall when  
22                  that strange incident was that you got called

1 to on the Public Bar? I don't want to know  
2 what the incident was. I want to know do you  
3 recall when?

4 OFFICER BROWN: I don't recall  
5 when.

6 MS. PHILLIPS: So you don't know  
7 when?

8 OFFICER BROWN: I think it was  
9 years -- it was at least three years ago.

10 MS. PHILLIPS: At least?

11 OFFICER BROWN: Three years ago.

12 MS. PHILLIPS: Three years ago.  
13 Okay.

14 OFFICER BROWN: Probably.

15 MS. PHILLIPS: All right. During  
16 your experience -- well, let me ask you this.  
17 Are you trained with regard to ABRA Rules and  
18 Regulations and their security expectations as  
19 part of your MPD training?

20 OFFICER BROWN: No, ma'am.

21 MS. PHILLIPS: Is part of your  
22 training for MPD that you just send certain

1 types of incidents that you investigate to  
2 ABRA?

3 OFFICER BROWN: Um, we -- any --  
4 what is told to us and you'll get a different  
5 answer from the different sergeants, it's any  
6 incident that happens at an ABC establishment.  
7 So --

8 MEMBER SILVERSTEIN: I'm sorry?

9 OFFICER BROWN: Any incident that  
10 happens there. So any, I guess, offense will  
11 need to be reported to the ABRA.

12 MS. PHILLIPS: So if you come in  
13 and investigate an alcohol establishment as an  
14 MPD Officer during the course and scope of  
15 your duty, you send a 251 to ABRA?

16 OFFICER BROWN: Exactly.

17 MS. PHILLIPS: You know, and it  
18 says here in your -- the narrative of your  
19 report that Investigator J. Matthews was  
20 notified. Did you do that or did one of the  
21 other officers do that?

22 OFFICER BROWN: I did that.

1 MS. PHILLIPS: You did that?

2 OFFICER BROWN: Most likely I did  
3 that.

4 MS. PHILLIPS: Most like you did  
5 that. And did you speak with manager on duty,  
6 Ben El Ahmar M-E-H-D-I?

7 OFFICER BROWN: I believe so.

8 MS. PHILLIPS: Right. It just  
9 says in your report. I just wondered if you  
10 spoke to him?

11 OFFICER BROWN: Yeah, I believe.  
12 I believe so. Another officer may have gotten  
13 that information, because we are -- based on  
14 the -- we are instructed to get the manager on  
15 duty and get the license number and it has to  
16 be part of the report.

17 MS. PHILLIPS: Right. But in your  
18 report you just list the name and it looks  
19 like a telephone number.

20 OFFICER BROWN: Um-hum.

21 MS. PHILLIPS: And the ABRA  
22 license, the club ABRA license, but you don't

1           indicate that you talked to him about what  
2           happened.

3                       OFFICER BROWN:   Right.

4                       MS. PHILLIPS:   So did you not talk  
5           to him about what happened, because it isn't  
6           in your report?

7                       OFFICER BROWN:   No.   Generally, we  
8           would interview all of the parties involved,  
9           but as far as the ABRA goes, when we do an  
10          incident report that has to be submitted to  
11          them, that information has to be in the 251.  
12          So whether he -- that person witnessed it or  
13          not, I still would have to get that manager on  
14          duty.  And they are, I guess, required to have  
15          someone on duty with the licensing and all  
16          that stuff.

17                      MS. PHILLIPS:   All right.

18                      OFFICER BROWN:   So that's why,  
19          that's specifically why, it's in the report.

20                      MS. PHILLIPS:   So let me ask you  
21          this.  Is part of your training on writing an  
22          investigative report, aren't you trained to

1 write important facts? Not every fact, but  
2 important facts that you can glean from your  
3 investigation in your report? Is that fair?

4 OFFICER BROWN: That's fair.

5 MS. PHILLIPS: Right.

6 OFFICER BROWN: I mean, you list  
7 the elements of the incident, of the crime.  
8 Meaning, whatever -- if there was an assault,  
9 I would list the general elements of what  
10 happened that constituted an offense and that  
11 is what goes in the 251.

12 MS. PHILLIPS: So in other words,  
13 since this was an assault case, the verb  
14 punched does it for you, right?

15 OFFICER BROWN: Oh, yes, exactly.

16 MS. PHILLIPS: Because that's an  
17 assault.

18 OFFICER BROWN: Right.

19 MS. PHILLIPS: That's by --  
20 definition of assault.

21 OFFICER BROWN: Right.

22 MS. PHILLIPS: So what the manager

1 told you is not in any way reported in the  
2 251, the ABC manager from the establishment?

3 OFFICER BROWN: No, it --

4 MS. PHILLIPS: It's not recorded  
5 at all?

6 OFFICER BROWN: -- according to  
7 that, no. If he witnessed something, then I  
8 will put it in there.

9 MS. PHILLIPS: So from --

10 OFFICER BROWN: He would be W-1 in  
11 the report or W-2 or whatever list.

12 MS. PHILLIPS: But he is not?

13 OFFICER BROWN: Correct.

14 MS. PHILLIPS: Okay. So based on  
15 your recollection of the incident, that means  
16 he didn't witness the incident. Is that  
17 correct?

18 OFFICER BROWN: From my  
19 recollection.

20 MS. PHILLIPS: Right. Well, let  
21 me ask you this.

22 OFFICER BROWN: He didn't add

1 anything to this.

2 MS. PHILLIPS: Were you informed  
3 that there was an assault inside the club and  
4 outside the club?

5 OFFICER BROWN: I will have to  
6 refer to the report. According to the report,  
7 it says there was an incident inside and the  
8 complainant was approached by the suspect  
9 again outside.

10 MS. PHILLIPS: Okay. Did you--

11 OFFICER BROWN: When she exited  
12 the club.

13 MS. PHILLIPS: -- record any  
14 injuries on -- of the victims?

15 OFFICER BROWN: Yes.

16 MS. PHILLIPS: So all three of  
17 them were injured, as far as you knew?

18 OFFICER BROWN: Um, yes, ma'am.

19 MS. PHILLIPS: All right. If I  
20 show you Exhibit A, that's pictures of the  
21 victims in question, you would recognize  
22 either of those two young women?

1 OFFICER BROWN: No.

2 MS. PHILLIPS: All right. And you  
3 know, it's not like I expect you to. I'm just  
4 wanting to know if you do.

5 OFFICER BROWN: Okay.

6 MS. PHILLIPS: And I show you  
7 Exhibit B. Do you recognize this young woman?

8 OFFICER BROWN: No, ma'am.

9 MS. PHILLIPS: All right. I'm  
10 going for Exhibit C. Do you recognize this?

11 OFFICER BROWN: She is a little  
12 familiar.

13 MS. PHILLIPS: A little familiar?

14 OFFICER BROWN: Yeah.

15 MS. PHILLIPS: Okay. She has a  
16 huge black eye. Is that fair?

17 OFFICER BROWN: Yeah, it's fair.

18 MS. PHILLIPS: In this picture,  
19 right?

20 OFFICER BROWN: Yes.

21 MS. PHILLIPS: Did you record that  
22 somebody had a black eye in your police

1 report?

2 OFFICER BROWN: Well, as you know,  
3 injuries can look worse the day after, but --

4 MS. PHILLIPS: And the day after  
5 that, too?

6 OFFICER BROWN: Right. So but  
7 here it looks like --

8 MS. PHILLIPS: Oh, actually you  
9 did.

10 OFFICER BROWN: No. 2 has bruising  
11 and swelling of the right eye and she --  
12 that's Complainant No. 2.

13 MS. PHILLIPS: Okay.

14 OFFICER BROWN: And Complainant  
15 No. 3 is swelling to forehead. And  
16 Complainant No. 1 has swelling to right side  
17 of forehead.

18 MS. PHILLIPS: Does your report  
19 make any recollection of missing property of  
20 any of these victims?

21 OFFICER BROWN: No, ma'am.

22 MS. PHILLIPS: Okay. I don't

1 think I have any questions. Thank you very  
2 much, Officer.

3 CHAIRPERSON MILLER: Okay. All  
4 right. Board questions? Yes, Mr. Alberti?

5 MEMBER ALBERTI: Yes, I'll try to  
6 make this quick.

7 CHAIRPERSON MILLER: Yes.

8 MEMBER ALBERTI: Good afternoon,  
9 Officer Brown.

10 OFFICER BROWN: Good afternoon.

11 MEMBER ALBERTI: Thank you for  
12 your service. In the early part of your  
13 testimony, I had the impression from your  
14 testimony that you -- on the date of this  
15 incident, November 24th, all right, that, I  
16 guess that was the following morning, well,  
17 whatever it was.

18 On the date of the incident that  
19 you don't remember where you were just prior  
20 to the -- immediately prior to this, becoming  
21 aware of this incident.

22 OFFICER BROWN: Not exactly. Not

1 exactly, because it was so long ago. I can  
2 assume that I was in that immediate area,  
3 because that's where a lot -- that's where we  
4 will be.

5 MEMBER ALBERTI: Okay. Fair  
6 enough. But it's fair to say you don't  
7 remember exactly where you were. Is that  
8 correct?

9 OFFICER BROWN: Right. I can't  
10 say exactly where I was.

11 MEMBER ALBERTI: All right. Now,  
12 you -- when you responded to Mr. Mpras'  
13 question, which was, basically, I'm  
14 paraphrasing, he said are you in the vicinity  
15 at all times? You responded yes. Are you  
16 ever called away from the vicinity of this  
17 establishment during your course of duty?

18 OFFICER BROWN: Yes, sir.

19 MEMBER ALBERTI: Okay.

20 OFFICER BROWN: Yes.

21 MEMBER ALBERTI: And why would  
22 that be?

1                   OFFICER BROWN: To a -- for a  
2                   call. We patrol the whole PSA as -- those  
3                   parameters. I stated earlier, so any call  
4                   from -- any in that area, if we are dispatched  
5                   to it, we have to respond.

6                   MEMBER ALBERTI: Do you remember  
7                   on that evening whether you were called away  
8                   or not at any time during the evening from  
9                   that vicinity?

10                  OFFICER BROWN: I don't recall. I  
11                  don't recall.

12                  MEMBER ALBERTI: Okay. Great.  
13                  Now, when Mr. Mpras used the term "in the  
14                  vicinity" of this establishment, what did you  
15                  -- how do you -- what do you take that to  
16                  mean? How did you understand that? What are  
17                  would that -- would come to mind for you?

18                  OFFICER BROWN: As routine, we  
19                  were generally parked right in the -- either  
20                  on the sidewalk that is in front of this  
21                  location or, which is 18th Street, on  
22                  Connecticut Avenue sort of between, because

1           there is clubs on either side. So sort of in  
2           between the clubs that are on the east side  
3           and the west side. So generally, in that  
4           vicinity per se. So you can see --

5                       MEMBER ALBERTI: So can you give  
6           me a boundary of streets?

7                       OFFICER BROWN: Well, I guess it  
8           would be there is Jefferson Street on the  
9           corner. 18th Street is coming north.

10                      MEMBER ALBERTI: Um-hum.

11                      OFFICER BROWN: And Connecticut  
12           Avenue, of course, is going straight.

13                      MEMBER ALBERTI: Um-hum.

14                      OFFICER BROWN: So Connecticut  
15           Avenue is here. Connecticut Avenue intersects  
16           18th Street or crosses over 18th Street as 18th  
17           Street is going diagonally. So Spot is here  
18           on 18th Street. Connecticut Avenue is here.  
19           There is a small little park that is right in  
20           the middle with like bushes and then so we  
21           would either be on Connecticut Avenue or on  
22           18th Street.

1 MEMBER ALBERTI: Okay.

2 OFFICER BROWN: It's not, you  
3 know, a very -- the distance between the two  
4 sides of the street are from maybe, you know,  
5 there in the hallway to where you are sitting.  
6 It's not a big --

7 MEMBER ALBERTI: Okay. So if you  
8 are parked on Connecticut Avenue, can you see  
9 this establishment?

10 OFFICER BROWN: Oh, yeah.

11 MEMBER ALBERTI: Okay. You  
12 testified earlier. Okay. I'm trying to get  
13 the idea here. You testified earlier that you  
14 did not witness any fighting. Is that  
15 correct?

16 OFFICER BROWN: That I recall.

17 MEMBER ALBERTI: Okay. That you  
18 recall. All right.

19 OFFICER BROWN: That I recall.

20 MEMBER ALBERTI: So you don't know  
21 whether you became aware of this before or  
22 after the incident? I mean, after the --

1 OFFICER BROWN: I didn't --

2 MEMBER ALBERTI: -- assault

3 occurred.

4 OFFICER BROWN: I'm pretty sure  
5 that I didn't see all -- those injuries that  
6 they have, I didn't see all that take place.

7 MEMBER ALBERTI: Okay. You didn't  
8 see all that take place.

9 OFFICER BROWN: I'm pretty sure of  
10 that.

11 MEMBER ALBERTI: Okay. Is it fair  
12 to say that if you were parked on 18th Street  
13 or Connecticut Avenue, you would have been  
14 aware of this immediately and would have seen  
15 the beginning of the altercation?

16 OFFICER BROWN: Not if it was  
17 inside.

18 MEMBER ALBERTI: Not if it was  
19 what?

20 OFFICER BROWN: Not if it  
21 initiated inside the location, no, sir.

22 MEMBER ALBERTI: Well, I'm talking

1           about -- solely I'm referencing the assault  
2           outside.

3                       OFFICER BROWN:   Right.

4                       MEMBER ALBERTI:   The testimony --  
5           we have testimony from the witnesses that  
6           there was an assault outside that took place.

7                       OFFICER BROWN:   Okay.

8                       MEMBER ALBERTI:   Is it fair to say  
9           that if you were parked on Connecticut Avenue  
10          or 18th Street, that you would have seen the  
11          assault from the beginning?

12                      OFFICER BROWN:   It depends if it  
13          is busy, there is a lot of things going on  
14          both sides.  So I -- there is many times when  
15          we were there when there is something going on  
16          that has your attention and there is a number  
17          of venues there.  It's loud.  So you might not  
18          catch the first punch.  You might catch it  
19          after it has been broken up, but you hear  
20          people say hey, hey, look what is going on and  
21          then you turn around and then the parties are  
22          separated and then you go and you assist and

1 see what is going on.

2 You may not catch it in action.

3 It may have just occurred or sometimes it  
4 happens right in front of you and they don't  
5 care that you are standing there. It doesn't  
6 -- you know, there are all types.

7 MEMBER ALBERTI: But is it fair to  
8 say that you don't remember how that went down  
9 that evening?

10 OFFICER BROWN: Exactly. On my  
11 report, it says I was on-scene. I'm thinking  
12 maybe she walked up to me after the incident.  
13 I'm not sure. But I know I didn't see -- I  
14 don't remember seeing a big brawl or anything  
15 like that. I don't remember seeing that.

16 MEMBER ALBERTI: So are you alone  
17 in the patrol car or is there someone with  
18 you?

19 OFFICER BROWN: That particular  
20 night, I am not sure if I was assigned -- if  
21 I had a partner or not. It depends on the  
22 numbers, who is at -- who is in that night and

1           then many times if it's a lot of us, they put  
2           us together. If there is not many of us, then  
3           they will put -- you know, we will ride alone.

4                       MEMBER ALBERTI: Do you ever  
5           interact with the clubs to let them know you  
6           are there, how many officers are on duty --

7                       OFFICER BROWN: I don't --

8                       MEMBER ALBERTI: -- at the  
9           beginning of your shift?

10                      OFFICER BROWN: I personally may  
11           go by and like to a business check, but I  
12           won't say we got five tonight or we have this  
13           many people down here tonight. I have never  
14           done that.

15                      MEMBER ALBERTI: Okay.

16                      OFFICER BROWN: I just haven't.

17                      MEMBER ALBERTI: So it's fair to  
18           say they don't know where you are at any time  
19           during your shift? A particular licensee,  
20           this licensee would have no idea where you  
21           were during your shift?

22                      OFFICER BROWN: Not at all times.

1 I mean, it depends on -- they have -- I can't  
2 say what they would know or not know. I know  
3 when we are in that block because we know that  
4 it is busy, then they have a general knowledge  
5 sometimes that we could be there if they got  
6 somebody -- like they have a doorman, they  
7 see, you know, by observation that we are in  
8 the area.

9 MEMBER ALBERTI: Okay.

10 OFFICER BROWN: But I -- that -- I  
11 have never come to anybody and say I'm going  
12 to be out here all night long, no.

13 MEMBER ALBERTI: Okay. Very good.  
14 I just want to clear something up and this is  
15 my last question.

16 You were the first to respond. Is  
17 that correct?

18 OFFICER BROWN: Um --

19 MEMBER ALBERTI: Or was there  
20 another officer, sir?

21 OFFICER BROWN: -- in general, I'm  
22 going to assume that I was, because I got the

1 report. So I did the report, so generally  
2 whoever gets there first is going to take it,  
3 unless it was assigned to me. So I mean, I  
4 can't -- I'm not sure. I might have been  
5 there with another officer. It might have  
6 been the three of us would have been hanging  
7 out and then we just -- I was the one who  
8 decided to take it, because they had the last  
9 report. I don't know, you know.

10 MEMBER ALBERTI: All right. Thank  
11 you. Thank you, Officer Brown.

12 CHAIRPERSON MILLER: Others? I  
13 think I just have one question, basically.

14 When there is an incident at an  
15 ABC establishment that you go to, do you  
16 sometimes call ABRA at the time of the  
17 incident?

18 OFFICER BROWN: Yes, we --

19 CHAIRPERSON MILLER: Or do you  
20 just --

21 OFFICER BROWN: -- call --  
22 generally, I call and the number, I guess,

1           it's the hotline number and -- to notify them  
2           of the incident. And then they will tell me  
3           to fax it or they will respond, depending on  
4           how busy they are if they can get there or if  
5           it's an incident where -- I don't know what  
6           their -- how they gauge the importance of  
7           these things, so I don't know what they  
8           respond to or wouldn't to.

9                        I assume or assume they will  
10          respond, but I don't know if they are on  
11          something else. I call. They say they are  
12          either going to come or they -- every time we  
13          fax the report before -- the tour of duty has  
14          to be faxed that night before we leave.

15                       CHAIRPERSON MILLER: The 251?

16                       OFFICER BROWN: Yes, ma'am.

17                       CHAIRPERSON MILLER: Was faxed  
18          that night?

19                       OFFICER BROWN: Yes, ma'am.

20                       CHAIRPERSON MILLER: Okay.

21                       OFFICER BROWN: I'm pretty sure of  
22          that. How they are disseminated to the other

1           Investigators, I don't know who receives them,  
2           but we are instructed to fax the 251 before  
3           the end of our tour of duty.

4                   CHAIRPERSON MILLER:   Okay.   And do  
5           you sometimes call or no?

6                   OFFICER BROWN:   We -- I -- we  
7           call.   We get the person notified, so we have  
8           to put the name in.   I hope I did that.   And  
9           then we -- in addition to faxing the report to  
10          ABRA.

11                   CHAIRPERSON MILLER:   So is that --  
12          so that's not on your -- that's not on the  
13          251.   But do you sometimes -- there is no  
14          indication that ABRA was contacted that night.

15                   OFFICER BROWN:   Well, the 251, the  
16          last line.

17                   CHAIRPERSON MILLER:   So I'm just  
18          wondering -- what?

19                   OFFICER BROWN:   On my report the  
20          last line says "Investigator J. Matthews  
21          notified."   That means I talked to him on the  
22          phone and advised him of the event or incident

1 and then I don't know. I can't recollect the  
2 conversation if I gave him a synopsis.  
3 Generally, I give him a synopsis of what  
4 happened and then he says okay.

5 Either they came or -- but in all  
6 instances the report is faxed.

7 CHAIRPERSON MILLER: Okay.

8 OFFICER BROWN: Because we have to  
9 get a name. That's how we know -- that's how  
10 our supervisor knows or our sergeant knows  
11 that we did what we were supposed to do,  
12 because we have a name of who we talked to.

13 CHAIRPERSON MILLER: Okay. Thank  
14 you. All right. Are there any questions on  
15 Board questions or redirect?

16 MR. MPRAS: Yes, ma'am.

17 CHAIRPERSON MILLER: Okay.

18 REDIRECT EXAMINATION

19 MR. MPRAS: Officer Brown, what is  
20 the reason you have -- what is the main reason  
21 you have numbers on your badge?

22 OFFICER BROWN: Identification.

1 MR. MPRAS: Okay. So if there is  
2 confusion as to any name, what is the best way  
3 to identify you?

4 OFFICER BROWN: Identification-  
5 wise?

6 MR. MPRAS: I'm sorry. If there  
7 is confusion as to your name with multiple  
8 Officer Browns, per se --

9 OFFICER BROWN: Uh-huh.

10 MR. MPRAS: -- what would be the  
11 best way to identify you?

12 OFFICER BROWN: (No audible  
13 answer.)

14 MR. MPRAS: Say if they had your  
15 badge number, would that be the best way to  
16 identify you?

17 OFFICER BROWN: If they had it.

18 MR. MPRAS: Okay. Now, is your  
19 badge number listed on your report?

20 OFFICER BROWN: It's listed at the  
21 bottom there, yes.

22 MR. MPRAS: Okay. And had the

1 ABRA Investigator requested you by badge  
2 number, would that have been -- would that  
3 have cleared up which Officer Brown as opposed  
4 to Officer H. Brown and Officer F. Brown?

5 OFFICER BROWN: I suppose if they  
6 know who they talked to.

7 MR. MPRAS: Now, all right.

8 OFFICER BROWN: But no one else  
9 has my badge number.

10 MR. MPRAS: I'm sorry?

11 OFFICER BROWN: No one else has my  
12 badge number, if that's what you're asking.

13 MR. MPRAS: But if they were -- if  
14 somebody were to call Metropolitan Police  
15 Department and try and find you with that  
16 badge number, would the Metropolitan Police  
17 Department be able to find you through that  
18 badge number?

19 OFFICER BROWN: They would be able  
20 to identify me, yeah.

21 MR. MPRAS: Okay. And did you  
22 ever receive -- were you contacted in any way

1 from anyone from MPD indicating that the  
2 Investigator Ghenene wanted to speak with you?

3 OFFICER BROWN: Not that I recall.

4 MR. MPRAS: Okay. Now, on your  
5 report, you said the start time was 03:30?

6 OFFICER BROWN: That's what's on  
7 the report, yes.

8 MR. MPRAS: Okay. You could have  
9 -- that basically means that's when you  
10 commenced taking the report. Is that correct?  
11 Is that what you said earlier?

12 OFFICER BROWN: That's --

13 MR. MPRAS: Or did you tell us  
14 what that means?

15 OFFICER BROWN: Yeah. When I  
16 became aware of the incident and possibly  
17 started investigating. And then when I  
18 started the report to actually type it up,  
19 there is --

20 MR. MPRAS: So that doesn't  
21 necessarily mean that's when you were present  
22 at that location?

1                   OFFICER BROWN: I don't  
2 understand.

3                   MR. MPRAS: You could have been  
4 present earlier, prior to 3:30?

5                   OFFICER BROWN: Oh, yeah.

6                   MR. MPRAS: Okay. All right.  
7 Now, you stated that according to your records  
8 you didn't take an arrest that night. Is that  
9 correct?

10                  OFFICER BROWN: According to this.

11                  MR. MPRAS: Okay. Is it possible  
12 that another officer took the arrest?

13                  OFFICER BROWN: That's possible.

14                  MR. MPRAS: Okay. You said that  
15 you took the 251 because it could have been  
16 your turn, someone else took the previous one  
17 who was there with you, so you took that one?

18                  OFFICER BROWN: Correct.

19                  MR. MPRAS: Is it possible that  
20 maybe somebody took the arrest, based on that  
21 same system? You were all present and you  
22 took the last arrest, so this person next to

1           you took this arrest?

2                       OFFICER BROWN:  It's possible.

3                       MR. MPRAS:  Okay.  Now, you said  
4           that you have been to the neighboring venues,  
5           specifically the Eighteenth Street Lounge on--  
6           you didn't know how many times, but you have  
7           been there on a few occasions.  Is that  
8           correct?

9                       OFFICER BROWN:  Sure.

10                      MR. MPRAS:  Okay.  Is it also  
11           possible that other officers have responded to  
12           that location?

13                      OFFICER BROWN:  I'm sure.

14                      MR. MPRAS:  Okay.  Is it possible  
15           that besides yourself that other officers  
16           responded to Public Bar?

17                      OFFICER BROWN:  I have heard  
18           radio-runs come out for the -- that  
19           establishment before, yes.

20                      MR. MPRAS:  Okay.

21                      MS. PHILLIPS:  What did you say?  
22           I'm sorry.

1                   OFFICER BROWN: I have heard  
2                   radio-runs come out for those establishments.  
3                   I can't say how many, but --

4                   MS. PHILLIPS: Thank you.

5                   MR. MPRAS: And once again, the  
6                   radio-run would mean somebody is responding to  
7                   a call for service?

8                   OFFICER BROWN: A call for  
9                   service, yes.

10                  MR. MPRAS: Okay. And the only  
11                  training -- just to reiterate. The only  
12                  training you have regarding ABC establishments  
13                  is whenever a report is taken or there's an  
14                  incident that is to be faxed to ABRA that same  
15                  night?

16                  OFFICER BROWN: Correct.

17                  MR. MPRAS: Okay. Regardless of  
18                  the incident?

19                  OFFICER BROWN: Um --

20                  MR. MPRAS: Once a report has  
21                  been --

22                  OFFICER BROWN: Correct, correct.

1 MR. MPRAS: Okay.

2 OFFICER BROWN: Generally.

3 MR. MPRAS: Now, and the reports  
4 primarily center the 251 reports. Is that  
5 right? What you would send over with the 251?

6 OFFICER BROWN: Exactly. It would  
7 just be the 251.

8 MR. MPRAS: Okay. And you don't  
9 send the 252?

10 OFFICER BROWN: 251.

11 MR. MPRAS: Is that --

12 OFFICER BROWN: A 252 is --

13 MR. MPRAS: I know what it is.  
14 But do you send the 252?

15 OFFICER BROWN: Not generally.  
16 This is a 251.

17 MR. MPRAS: Okay. And tell me why  
18 you don't send the 252.

19 OFFICER BROWN: It's not public  
20 information.

21 MR. MPRAS: Okay. Did you or has  
22 anybody to your knowledge sent a 252 to

1 Investigator Ghenene?

2 OFFICER BROWN: Not that I know  
3 of.

4 MR. MPRAS: Well --

5 OFFICER BROWN: I did not.

6 MR. MPRAS: Okay. But you --

7 OFFICER BROWN: I don't know who.

8 MR. MPRAS: -- sent the 251,  
9 correct?

10 OFFICER BROWN: I believe so.

11 MR. MPRAS: Even though  
12 Investigator Ghenene said that he had the 252,  
13 the private report, you didn't send it,  
14 correct?

15 OFFICER BROWN: Not -- I didn't  
16 send the 252.

17 MR. MPRAS: Okay.

18 OFFICER BROWN: To my knowledge, I  
19 didn't send the 252.

20 MR. MPRAS: Understood. Thank you  
21 very much. No further questions.

22 CHAIRPERSON MILLER: Anything else

1 from you?

2 MS. PHILLIPS: And you don't  
3 routinely send the PD 163 to ABRA. Is that  
4 correct?

5 OFFICER BROWN: That's correct,  
6 because --

7 MS. PHILLIPS: As to the arrest.

8 OFFICER BROWN: That's correct.  
9 And that paperwork is done, you know,  
10 temporarily. It all becomes a packet, but no,  
11 no, ma'am, that's the answer. The quick  
12 answer is no.

13 MS. PHILLIPS: The quick answer is  
14 no. And that it's not --

15 OFFICER BROWN: Not generally.

16 MS. PHILLIPS: -- routinely --

17 OFFICER BROWN: Exactly.

18 MS. PHILLIPS: -- done.

19 OFFICER BROWN: Exactly.

20 MS. PHILLIPS: It's not routinely  
21 done. Is that correct?

22 OFFICER BROWN: Correct.

1 MS. PHILLIPS: I have no further  
2 questions. Thank you.

3 CHAIRPERSON MILLER: Okay. Thank  
4 you very much. Appreciate you coming here.  
5 Thank you.

6 (Whereupon, witness was excused.)

7 CHAIRPERSON MILLER: Okay. So  
8 it's now almost 12:50 and I think the Board  
9 wants to take somewhat of a break. I wanted  
10 to check with you all to see how much  
11 estimated time you think is left to this?

12 MR. MPRAS: I have two witnesses.

13 CHAIRPERSON MILLER: Right.

14 MR. MPRAS: It all depends. My  
15 questions are basic. It depends on the cross.

16 CHAIRPERSON MILLER: Okay. I  
17 think I'm going to propose a half an hour.  
18 You all may want lunch, too, so we can get a  
19 little bite and then be fresh. Okay. All  
20 right. So we will come back in half an hour.  
21 It will be about 1:20.

22 MR. MPRAS: Okay.

1 (Whereupon, at 12:48 p.m. a recess  
2 until 1:34 p.m.)

3 CHAIRPERSON MILLER: Okay. We  
4 have our quorum and Mr. Silverstein will be  
5 out shortly.

6 MR. MPRAS: Okay. Then my next  
7 witness I would like to call is Mr. Mbeleg.

8 CHAIRPERSON MILLER: Okay.  
9 Mbeleg?

10 MR. MPRAS: Mbeleg, M-B-E-L-E-G.

11 CHAIRPERSON MILLER: Mbeleg. Oh,  
12 M-B-E-L-E-G. Good afternoon.

13 Whereupon,

14 JEREMY MBELEG  
15 was called as a witness by Counsel for the  
16 Licensee, and having been first duly sworn,  
17 assumed the witness stand and was examined and  
18 testified as follows:

19 CHAIRPERSON MILLER: Okay. Thank  
20 you.

21 DIRECT EXAMINATION

22 MR. MPRAS: Okay. Would you

1 please state your full name for the record?

2 MR. MBELEG: Jeremy Mbeleg, IV.

3 MR. MPRAS: Okay. And are you  
4 employed at Spot?

5 MR. MBELEG: Yes.

6 MR. MPRAS: Okay. In what  
7 capacity are you employed?

8 MR. MBELEG: Security manager.

9 MR. MPRAS: Okay. And how long  
10 have you been employed there?

11 MR. MBELEG: About three years.

12 MR. MPRAS: Okay. Now, were you  
13 working on the evening of November 23, 2011?

14 MR. MBELEG: Yes.

15 MR. MPRAS: Okay. Do you remember  
16 an altercation taking place that evening?

17 MR. MBELEG: Yes, I do.

18 MR. MPRAS: Okay. Do you remember  
19 where the altercation took place that evening?

20 MR. MBELEG: They were in the  
21 middle of the bar.

22 MR. MPRAS: Okay. And can you

1 tell us, approximately, what time the  
2 altercation took place?

3 MR. MBELEG: Approximately, 2:30,  
4 2:45.

5 MR. MPRAS: Okay. Now, do you now  
6 who was the first person to notice the  
7 altercation inside the establishment?

8 MR. MBELEG: Me. I was.

9 MR. MPRAS: You were. Okay. And  
10 who was the first to respond?

11 MR. MBELEG: My first response was  
12 I drop --

13 MR. MPRAS: No. Who was the first  
14 person to respond?

15 MR. MBELEG: Me.

16 MR. MPRAS: Okay. Okay. Now,  
17 what was your initial response? What did you  
18 first do?

19 MR. MBELEG: First of all, I drop  
20 my radio and I notified to my other colleagues  
21 that we have an altercation.

22 CHAIRPERSON MILLER: I'm sorry,

1           could you repeat what you just said? I didn't  
2           hear it.

3                   MR. MBELEG: Oh, so I notify my  
4           colleagues.

5                   CHAIRPERSON MILLER: Your  
6           colleagues?

7                   MR. MBELEG: Yeah, that --

8                   CHAIRPERSON MILLER: Okay.

9                   MR. MBELEG: -- we have an  
10          altercation.

11                   CHAIRPERSON MILLER: An after  
12          what?

13                   MR. MPRAS: I believe he said  
14          altercation, ma'am.

15                   CHAIRPERSON MILLER: Okay. Thank  
16          you.

17                   MR. MBELEG: Yes.

18                   CHAIRPERSON MILLER: I don't want  
19          to miss what you are saying.

20                   MR. MBELEG: That's fine.

21                   CHAIRPERSON MILLER: Okay.

22                   MR. MPRAS: Okay. What did you do

1 after that?

2 MR. MBELEG: After that, I jump in  
3 the altercation and I separated two parties.

4 MR. MPRAS: Okay. After the  
5 parties were separated and the altercation was  
6 stopped, what did you do next?

7 MR. MBELEG: Escorted the party  
8 deemed to be more aggressive.

9 MR. MPRAS: I'm sorry?

10 MR. MBELEG: I removed the party--

11 MR. MPRAS: Uh-huh.

12 MR. MBELEG: -- deemed to be  
13 aggressive, more aggressive.

14 MR. MPRAS: Okay. So you -- the  
15 more aggressive party, you moved them where?

16 MR. MBELEG: To the front door.

17 MR. MPRAS: Okay.

18 MEMBER ALBERTI: You moved to  
19 where?

20 MR. MBELEG: I moved from the club  
21 to the front door.

22 CHAIRPERSON MILLER: Front door.

1                   MEMBER ALBERTI: You pushed them  
2 out, got rid of them. Is that what you're  
3 saying?

4                   MR. MBELEG: My --

5                   MEMBER ALBERTI: No, what did you  
6 say? The testimony --

7                   MR. MPRAS: He said front door.

8                   MEMBER ALBERTI: Door?

9                   MR. MBELEG: The front door, yes.

10                  MEMBER ALBERTI: Okay.

11                  MR. MBELEG: Front door.

12                  MR. MPRAS: Okay. What did you do  
13 after escorting them to the front door?

14                  MR. MBELEG: I notified to MPD who  
15 was stationed outside the club.

16                  MR. MPRAS: Okay. You are saying  
17 that there -- at that time, when you went out  
18 was there MPD outside the club?

19                  MR. MBELEG: Yes, sir.

20                  MR. MPRAS: There was. Okay.  
21 Okay. After you notified MPD, what did you  
22 then do?

1 MR. MBELEG: When I took over?

2 MR. MPRAS: Yes, what did you do  
3 after that?

4 MR. MBELEG: I went back to the  
5 club.

6 MR. MPRAS: Okay.

7 MR. MBELEG: And proceed to, you  
8 know, our closing, because it was, you know,  
9 the end of the party. It was, you know, to  
10 the end.

11 MR. MPRAS: Okay.

12 MR. MBELEG: And then I went to  
13 the other party left inside the club.

14 MR. MPRAS: Um-hum.

15 MR. MBELEG: And make sure that  
16 everybody was safe.

17 MR. MPRAS: Okay. How long did  
18 the other party remain inside the club after  
19 the first party was escorted out?

20 MR. MBELEG: Approximately, 20  
21 minutes.

22 MR. MPRAS: Okay. Who was the

1 last group of people to leave the club?

2 MR. MBELEG: The other party were  
3 involved in the altercation.

4 MR. MPRAS: Okay. So they were  
5 the very last patrons to leave? Is that  
6 correct?

7 MR. MBELEG: Yes.

8 MR. MPRAS: Okay. Now, after the  
9 last group left the club, did -- what did you  
10 do then? How long until -- how much longer --  
11 what did you do after the second group left  
12 the club?

13 MR. MBELEG: I think I give them  
14 all like -- you know, when we closed because  
15 I have to proceed to, you know, the closing  
16 and then I give them -- after we close at  
17 3:00, I give them 10 more minutes inside the  
18 club.

19 MR. MPRAS: Okay. Now, after you  
20 give them 10 more minutes and they leave --

21 MR. MBELEG: Um-hum.

22 MR. MPRAS: -- what was your next

1           action? What did you do?

2                       MR. MBELEG: My next action was,  
3           you know, we stand by the front door, you  
4           know, and they walk to the street. Walked  
5           down the street.

6                       MR. MPRAS: Okay. So you stayed  
7           by your front door?

8                       MR. MBELEG: Right front door for  
9           about 10 minutes.

10                      MR. MPRAS: And did you witness  
11           any type of fight take place during that time  
12           period?

13                      MR. MBELEG: No, negative.

14                      MR. MPRAS: Okay. Did you -- to  
15           your knowledge or did you see the second group  
16           immediately leave the area upon exiting the  
17           club?

18                      MR. MBELEG: Yes, they left.

19                      MR. MPRAS: They left?

20                      MR. MBELEG: Yes.

21                      MR. MPRAS: Okay. Now, did  
22           anyone, at any time -- you said you checked on

1 the party. When you checked on the party, did  
2 anyone, at any time, ask for medical  
3 attention?

4 MR. MBELEG: Nobody.

5 MR. MPRAS: Okay. That's it.

6 Thank you.

7 MR. MBELEG: Okay.

8 CHAIRPERSON MILLER: Cross?

9 MS. PHILLIPS: Yes.

10 CROSS-EXAMINATION

11 MS. PHILLIPS: First off, would  
12 you spell your name, your full name, because  
13 I think I heard three names.

14 MR. MBELEG: Jeremy Mbeleg.

15 Jeremy Mbeleg.

16 MS. PHILLIPS: So spell it for the  
17 record, please.

18 MR. MBELEG: J-E-R-E-M-Y M-B-E-L-  
19 E-G.

20 MS. PHILLIPS: Okay.

21 MR. MBELEG: Thank you.

22 MS. PHILLIPS: Because I only

1 heard two names, not three.

2 MR. MBELEG: Yeah, two names.

3 MS. PHILLIPS: Okay. All right.

4 So Mr. --

5 MR. MBELEG: Jeremy. It's up to  
6 you. Jeremy.

7 MS. PHILLIPS: Mr.?

8 MR. MBELEG: Mbeleg.

9 MS. PHILLIPS: Mbeleg?

10 MR. MBELEG: Sound like Beleg.

11 MS. PHILLIPS: Mbeleg?

12 MR. MBELEG: Um-hum.

13 MS. PHILLIPS: Mr. Mbeleg. I'm  
14 going to try. All right. Mr. Mbeleg?

15 MR. MBELEG: Yes.

16 MS. PHILLIPS: Do you recall being  
17 interviewed by the ABRA Investigator?

18 MR. MBELEG: Yeah.

19 MS. PHILLIPS: And that was on  
20 December 16th or if I say the report says  
21 that, will you disagree with me?

22 MR. MBELEG: I can't recall, you

1 know, it's been a while.

2 MS. PHILLIPS: Okay. All right.  
3 But you wouldn't dispute if the report says  
4 that he interviewed you on the 16th? You  
5 wouldn't dispute that, correct, December 16th?

6 MR. MBELEG: Yes, I been  
7 interviewed by an agent.

8 MS. PHILLIPS: Do you recall who  
9 the Investigator was?

10 MR. MBELEG: ABRA Investigator.

11 MS. PHILLIPS: All right. But you  
12 don't know his name?

13 MR. MBELEG: ABC. No, no.

14 MS. PHILLIPS: All right. Did you  
15 see him in here? Did you recognize the ABRA  
16 Investigator who testified as the one who  
17 interviewed you two years ago, three years  
18 ago, however long it was? You don't remember?

19 MR. MBELEG: I don't remember.

20 MS. PHILLIPS: Okay. You -- it's  
21 my understanding that you did not witness what  
22 started this event. Is that fair?

1 MR. MBELEG: I don't remember what  
2 started it, no.

3 MS. PHILLIPS: Right. Do you  
4 understand that there were like three separate  
5 fights in front of the bar?

6 MR. MBELEG: It wasn't a fight.  
7 It was an altercation. Just you know --

8 MS. PHILLIPS: It was an  
9 altercation?

10 MR. MBELEG: The altercation  
11 wasn't a fight.

12 MS. PHILLIPS: So it wasn't a  
13 fight?

14 MR. MBELEG: No.

15 MS. PHILLIPS: So people weren't  
16 scrabbling together?

17 MR. MBELEG: Yes, like, you know,  
18 staring like, you know, everything was moving  
19 around, you know.

20 MS. PHILLIPS: It wasn't like  
21 pushing and shoving?

22 MR. MBELEG: Yeah, like pushing

1           like arguing, you know, it wasn't a fight, you  
2           know.

3                       MS. PHILLIPS: Pushing like what?

4                       MR. MBELEG: Arguing. Arguing  
5           like --

6                       MS. PHILLIPS: Oh, arguing.

7                       MR. MBELEG: Arguing, yeah.

8                       MS. PHILLIPS: I'm sorry. You  
9           know, I'll do the best I can.

10                      MR. MBELEG: That's fine.

11                      MS. PHILLIPS: Yeah, we will work  
12           together and we'll get it.

13                      MR. MBELEG: Um-hum.

14                      MS. PHILLIPS: So you think it was  
15           just arguing. There was no pushing, no  
16           shoving? No?

17                      MR. MBELEG: I can't recall, you  
18           know.

19                      MS. PHILLIPS: Right.

20                      MR. MBELEG: Because, yeah.

21                      MS. PHILLIPS: Now, do you recall  
22           that there were three separate women victims?

1 MR. MBELEG: I don't remember the  
2 numbers, but I think the couple that come up  
3 from the club, I talked to, there was maybe  
4 two or three women. I can't recall. I don't  
5 know.

6 MS. PHILLIPS: Two or three or  
7 four women?

8 MR. MBELEG: Yes, something like  
9 that.

10 MS. PHILLIPS: You don't remember?

11 MR. MBELEG: I don't.

12 MS. PHILLIPS: And let's start  
13 with you did not write an incident report at  
14 the time of the incident in question about  
15 what happened. Is that fair?

16 MR. MBELEG: Um, well, you know,  
17 we have no fight inside the club. So when--

18 MS. PHILLIPS: So as far as you're  
19 concerned, there was no fight inside the club  
20 and, therefore, you didn't need to write an  
21 incident report?

22 MR. MBELEG: Yeah, because, you

1 know, MPD took over. So I thought, you know,  
2 they have to do their job, so.

3 MS. PHILLIPS: Okay. Did you  
4 invite MPD into the club? You didn't, did  
5 you?

6 MR. MBELEG: No. When I called, I  
7 called my man at the front door and from that  
8 we have MPD out the front door.

9 MS. PHILLIPS: Now, let me see if  
10 I understand this correctly. You called your  
11 man at the front door?

12 MR. MBELEG: Yes.

13 MS. PHILLIPS: Who was that that  
14 night?

15 MR. MBELEG: We work two security  
16 inside and have one at the front door.

17 MS. PHILLIPS: So was that at the  
18 front door inside or at the front door  
19 outside?

20 MR. MBELEG: Front door outside.

21 MS. PHILLIPS: Outside?

22 MR. MBELEG: One security guard

1 and have two security inside.

2 MS. PHILLIPS: All right.

3 MR. MBELEG: So two and three are  
4 safe.

5 MS. PHILLIPS: So the outside --  
6 he is outside what standing on the -- isn't  
7 there a little portico or something right  
8 outside the door of your club?

9 MR. MBELEG: It's public area, you  
10 know a step, you know.

11 MS. PHILLIPS: A little step,  
12 right?

13 MR. MBELEG: Yeah, um-hum.

14 MS. PHILLIPS: So he is standing  
15 on that step outside the door with the door  
16 closed behind him?

17 MR. MBELEG: There was -- I think  
18 it was -- no, it wasn't closed. We don't  
19 close the club.

20 MS. PHILLIPS: So is this security  
21 person who stands at the door the guy that  
22 checks IDs before you let them in?

1 MR. MBELEG: Yes.

2 MS. PHILLIPS: Right?

3 MR. MBELEG: Yes.

4 MS. PHILLIPS: So is that right?

5 MR. MBELEG: (No audible answer.)

6 MS. PHILLIPS: So at closing, he  
7 is standing at the door why?

8 MR. MBELEG: Their job is, you  
9 know, first is to check the ID the whole  
10 night.

11 MS. PHILLIPS: So but at closing  
12 when people are leaving, does he still stand  
13 at the door? He doesn't, does he?

14 MR. MBELEG: There is a push one.  
15 You've got to be there for the whole night.

16 MS. PHILLIPS: He has to be there  
17 for the whole night?

18 MR. MBELEG: Yes, because people,  
19 you know, is in and out.

20 MS. PHILLIPS: Okay. But when you  
21 are --

22 MR. MBELEG: Because people go and

1           come back, go and come back. So he's got to  
2           be there.

3                       MS. PHILLIPS: So was he there at  
4           the time the group of more seriously  
5           aggressors --

6                       MR. MBELEG: Yes.

7                       MS. PHILLIPS: -- were moved to  
8           the door?

9                       MR. MBELEG: Yes.

10                      MS. PHILLIPS: And was he inside  
11           the door or outside the door?

12                      MR. MBELEG: Outside the door.

13                      MS. PHILLIPS: Outside the door?

14                      MR. MBELEG: Yes, ma'am.

15                      MS. PHILLIPS: So do you recall  
16           who he was?

17                      MR. MBELEG: Hamzma, right?

18                      MS. PHILLIPS: Who?

19                      MR. MBELEG: Hamzma.

20                      MS. PHILLIPS: All right. Spell  
21           it, please.

22                      MR. MBELEG: H-E --

1 MS. PHILLIPS: H-E?

2 MR. MBELEG: -- Z-N-I. Something  
3 like that, Hamzma.

4 MS. PHILLIPS: Hamzma. So that is  
5 not Mehdi Ben El Ahmar?

6 MR. MBELEG: No, no.

7 MS. PHILLIPS: And that is not  
8 Lonena Matali?

9 MR. MBELEG: No.

10 MS. PHILLIPS: So it was somebody  
11 else?

12 MR. MBELEG: Somebody else, yes.

13 MS. PHILLIPS: And you called him  
14 on your walkie-talkie?

15 MR. MBELEG: Over the radio, yes.

16 MS. PHILLIPS: And he told you  
17 what?

18 MR. MBELEG: We have a police, you  
19 know, standing outside the club.

20 MS. PHILLIPS: So --

21 MR. MBELEG: By the front door.

22 MS. PHILLIPS: -- police standing

1 outside the front door?

2 MR. MBELEG: Yes, we have police,  
3 you know, car, sitting, you know, by the 18th  
4 Street on the corner. Our club is just, you  
5 know, on 18th Street. So have police car  
6 standing by 18th Street the whole night.

7 MS. PHILLIPS: Okay. But that's  
8 just because he comes at closing or because  
9 they are there because you have an MPD detail?  
10 Because you don't have an MPD detail, right,  
11 at the time of the incident?

12 MR. MPRAS: Compound question.

13 MS. PHILLIPS: The last part is--

14 CHAIRPERSON MILLER: Just the last  
15 part.

16 MS. PHILLIPS: You do not have an  
17 MPD detail police officer on the night of the  
18 incident in question? That's correct, right?

19 MR. MBELEG: We have MPD by the  
20 front door the whole night.

21 MS. PHILLIPS: You don't hire an  
22 MPD detail to spend -- to guard your club or

1           whatever they do?

2                       MR. MBELEG: I don't.

3                       MS. PHILLIPS: You don't.

4                       MR. MBELEG: I --

5                       MS. PHILLIPS: Or you don't know?

6                       MR. MBELEG: I don't know.

7                       MS. PHILLIPS: What was your job  
8           duty on the night of the incident in question?

9                       MR. MBELEG: I'm security manager.

10                      MS. PHILLIPS: You are security  
11           manager?

12                      MR. MBELEG: Yes.

13                      MS. PHILLIPS: Okay. So you don't  
14           know whether you had an MPD detail. Do you  
15           understand what that is?

16                      MR. MBELEG: I understand.

17                      MS. PHILLIPS: Oh, good. All  
18           right. So you don't know whether you had one?

19                      MR. MBELEG: (No audible answer.)

20                      MS. PHILLIPS: Is that a no?  
21           Because the record doesn't --

22                      MR. MBELEG: I can't recall. I

1 can't recall that.

2 MS. PHILLIPS: Right. So as a  
3 head of security, if you had an MPD detail  
4 that establishment retained for the  
5 establishment itself, you would know that as  
6 a security guard and you would mention it  
7 surely to the Investigator that came by,  
8 wouldn't that be fair to say?

9 MR. MBELEG: Um, I couldn't to my  
10 judgment think we did what was -- what to do  
11 that night. That means you have our security,  
12 MPD standing by the front door that night. So  
13 I don't know. If you want to say to hire or,  
14 you know --

15 MS. PHILLIPS: Well, there are MPD  
16 Officers as Officer -- I mean, you were here  
17 when Officer Brown testified, right?

18 MR. MBELEG: Yes.

19 MS. PHILLIPS: And he said that,  
20 you know, he comes in the area at busy times  
21 to the establishments on 18th and Connecticut,  
22 maybe. But the record will speak if I didn't

1 get the right street.

2 MR. MBELEG: Yes.

3 MS. PHILLIPS: And he, you know,  
4 sits in his car and he is either on 18th or he  
5 is on Connecticut. But he is near his car,  
6 right?

7 MR. MBELEG: Um --

8 MS. PHILLIPS: Is that right?

9 MR. MBELEG: Yeah, he was there.  
10 You know, he was there.

11 MS. PHILLIPS: Right. But that's  
12 not the front door, right?

13 MR. MBELEG: He is very close to  
14 the front door, you know, just 18th Street,  
15 you know, and very close. Just very, very  
16 close.

17 MS. PHILLIPS: So the security  
18 person at the door, did he tell you that MPD  
19 was right outside the door?

20 MR. MBELEG: Yes, ma'am.

21 MS. PHILLIPS: Right outside the  
22 door?

1 MR. MBELEG: Yes.

2 MS. PHILLIPS: Not in the street,  
3 not on Connecticut.

4 MR. MBELEG: Well, you know, not  
5 on the street. Just close to the car, you  
6 know, parked.

7 MS. PHILLIPS: Close to where the  
8 car was parked?

9 MR. MBELEG: Right.

10 MS. PHILLIPS: Okay. And do you  
11 recall where the MPD cruiser -- no, it wasn't  
12 a cruiser. It was scout car. The MPD scout  
13 car was parked on that night, which is the  
14 Wednesday before Thanksgiving, in 2011?

15 MR. MBELEG: I don't recall.

16 MS. PHILLIPS: 18th Street?  
17 Connecticut?

18 MR. MBELEG: I think 18th.

19 MS. PHILLIPS: You don't recall?  
20 I mean, it's fair. All right. So --

21 MR. MBELEG: No.

22 MS. PHILLIPS: -- did you make

1 available to the Investigator the person who  
2 was at the door, the security person that was  
3 at the door? Because he is not on the list of  
4 people who spoke to the Investigator.

5 MR. MBELEG: I think he asked  
6 questions, I replied. I said do you have some  
7 questions? I don't think he ask a question  
8 about, you know, who worked my front door.

9 MS. PHILLIPS: So --

10 MR. MBELEG: So I -- that's what I  
11 believe, yeah.

12 MS. PHILLIPS: Okay. So it's your  
13 testimony that the Investigator, ABRA  
14 Investigator didn't come in and say we have a  
15 report, MPD report of an assault, what  
16 happened? You don't think he did that?

17 MR. MBELEG: You know what, when  
18 he came in the club, I think I was, you know,  
19 doing, you know -- I mean, he asked if I  
20 recall, you know, just maybe, you know, some  
21 questions about what happened, you know. So  
22 everything wasn't true like you know, we don't

1           have enough time, you know. I think I  
2           interview, you know. Well, maybe I think 10  
3           minutes, you know, an interview. 10 minutes.

4                       MS. PHILLIPS: All right.

5                       MR. MBELEG: So I don't have  
6           enough time to go through, you know.

7                       MS. PHILLIPS: So if you had  
8           more --

9                       MR. MBELEG: I had --

10                      MS. PHILLIPS: I don't want to  
11           interrupt your --

12                      MR. MBELEG: Um-hum.

13                      MS. PHILLIPS: -- answer.

14                      MR. MBELEG: Um-hum.

15                      MS. PHILLIPS: Are you finished?

16                      MR. MBELEG: Yes.

17                      MS. PHILLIPS: So if you had more  
18           to tell him about the incident in question,  
19           like you have told Mr. Mpras on his questions,  
20           you don't think he would have stayed there and  
21           listened to you? Maybe, maybe not?

22                      MR. MBELEG: I cannot you know

1 reply to the question, you know.

2 MR. MPRAS: Objection.

3 MR. MBELEG: The question I reply  
4 to your question.

5 CHAIRPERSON MILLER: Wait a  
6 second. We can't have three people talking at  
7 once. Do you have an objection? What?

8 MR. MPRAS: I'm objecting. Yeah,  
9 he can't know what is in the mind of the ABRA  
10 Investigator.

11 MS. PHILLIPS: I'm not asking what  
12 is in the ABRA Investigator's --

13 CHAIRPERSON MILLER: She was  
14 asking what he thought.

15 MS. PHILLIPS: -- mind.

16 CHAIRPERSON MILLER: True.  
17 Overruled.

18 MS. PHILLIPS: You know, when an  
19 ABRA Investigator comes in and asks you --  
20 says there has been an incident and there has  
21 been a complaint, what happens, that's an  
22 open-ended question. And any Investigator,

1 any Investigator will stay until you run out  
2 of facts.

3 MR. MBELEG: Hum.

4 MS. PHILLIPS: So you don't recall  
5 it happened. It was only 10 minutes, so that  
6 you ran out of facts after 10 minutes?

7 MR. MBELEG: And it was very  
8 short, you know --

9 MS. PHILLIPS: All right.

10 MR. MBELEG: -- amount of time.  
11 And like I said, I can't, you know, reply to  
12 the question. He didn't ask, you know.

13 MS. PHILLIPS: Ah, so he didn't  
14 ask the question, you weren't going to  
15 volunteer the information?

16 MR. MPRAS: Objection.

17 MR. MBELEG: Unfortunately  
18 unavailable and --

19 CHAIRPERSON MILLER: Sustained.

20 MR. MBELEG: And the question I  
21 will -- the type of question, I think, is  
22 fair.

1 MS. PHILLIPS: You think that's  
2 fair?

3 MR. MBELEG: Yeah.

4 MS. PHILLIPS: Well, I think  
5 that's fair in this situation. If I don't ask  
6 you the right question, then maybe you don't  
7 have to answer it. But when an ABRA  
8 Investigator or an MPD Investigator comes  
9 into your establishment and says what  
10 happened, they expect you to tell them  
11 everything.

12 MR. MBELEG: I think --

13 MS. PHILLIPS: Don't they?

14 MR. MBELEG: -- I explain, you  
15 know, what --

16 MR. MPRAS: Objection.

17 MR. MBELEG: -- we did, you know.

18 MR. MPRAS: To the line of  
19 questioning.

20 MR. MBELEG: And what happened.

21 CHAIRPERSON MILLER: Okay. There  
22 was a question.

1 MR. MPRAS: It's badgering the  
2 witness.

3 MR. MBELEG: I think.

4 CHAIRPERSON MILLER: Okay.

5 MR. MBELEG: Yes.

6 CHAIRPERSON MILLER: Okay. Go on.

7 MS. PHILLIPS: So did you rule on  
8 his --

9 CHAIRPERSON MILLER: Yeah.

10 MS. PHILLIPS: What was it? I  
11 didn't --

12 CHAIRPERSON MILLER: He said you  
13 were badgering the witness, so if you want to  
14 rephrase, you can do that.

15 MS. PHILLIPS: All right. You  
16 said that you thought there were -- that 10  
17 people were escorted outside the  
18 establishment. Were 10 people the more  
19 aggressive?

20 MR. MBELEG: I can't recall.

21 MS. PHILLIPS: You can't recall.  
22 Do you recall seeing any of the people who

1           were injured, the women that were injured on  
2           the floor?

3                       MR. MBELEG: Nobody injured.

4           That's what I think, nobody injured.

5                       MS. PHILLIPS: I'm sorry?

6                       MR. MBELEG: Nobody were injured.

7           Nobody, no one in the club.

8                       MS. PHILLIPS: Nobody was injured?

9                       MR. MBELEG: Huh-uh.

10                      MS. PHILLIPS: Were you here on  
11           the last hearing, May 15th? I don't remember  
12           that far back. But were you here when the  
13           three civilian witnesses testified?

14                      MR. MBELEG: (No audible answer.)

15                      MS. PHILLIPS: No?

16                      MR. MBELEG: I don't know. I was  
17           outside. I wasn't here.

18                      MR. MPRAS: The rule on --

19                      MS. PHILLIPS: We had the Rule on  
20           Witnesses then? Okay.

21                      MR. MBELEG: I was here. I was  
22           outside.

1 MS. PHILLIPS: Did you get the  
2 names of the three women that you didn't think  
3 were involved in a fight?

4 MR. MBELEG: No.

5 MS. PHILLIPS: No. Did you -- you  
6 didn't find out that they lost property  
7 either?

8 MR. MBELEG: I think I thought  
9 when I came back, I talked to -- I think they  
10 lost their purse, you know. And I give them,  
11 you know, their assistance, you know, and the  
12 level of -- you know, you have lights on and  
13 they can search, you know, for their  
14 belongings.

15 MS. PHILLIPS: Did they find their  
16 belongings?

17 MR. MBELEG: I don't recall. I  
18 don't know.

19 MS. PHILLIPS: Did you escort the  
20 people who were the least aggressive, as you  
21 have now defined them?

22 MR. MBELEG: Yes, I did.

1 MS. PHILLIPS: I call them three  
2 injured victims, but you call them the least  
3 aggressive, right? Did you escort them to the  
4 door?

5 MR. MBELEG: I did.

6 MS. PHILLIPS: You did. Did you  
7 escort them outside?

8 MR. MBELEG: Outside.

9 MS. PHILLIPS: Outside.

10 MR. MBELEG: Yes.

11 MS. PHILLIPS: Did you escort them  
12 all the way to the police?

13 MR. MBELEG: I notified to the  
14 police.

15 MS. PHILLIPS: How did you notify  
16 the police? Did you wave to them? Did you  
17 call them on your cell? Did you call them on  
18 your walkie-talkie?

19 MR. MBELEG: I called my main guy  
20 by the front door.

21 MS. PHILLIPS: Right.

22 MR. MBELEG: And he was already

1           aware that, you know, I'm bringing people  
2           outside.

3                       MS. PHILLIPS:   Okay.   But what I  
4           asked you was did you take the, what I call,  
5           three injured victims to the front door?  Did  
6           you take them to the front door?

7                       MR. MBELEG:   Yes, I did.

8                       MS. PHILLIPS:   You did.   And did  
9           you just turn them over to the guy at the  
10          front door?

11                      MR. MBELEG:   Are you asking a  
12          question?

13                      CHAIRPERSON MILLER:   What is the  
14          question?

15                      MR. MBELEG:   Your question?

16                      MS. PHILLIPS:   When you escorted  
17          them to the front door --

18                      MR. MBELEG:   Escort whom?

19                      MS. PHILLIPS:   The three injured  
20          victims, you --

21                      MR. MBELEG:   Injured?

22                      MS. PHILLIPS:   Yes.

1 MR. MBELEG: I --

2 MS. PHILLIPS: According to their  
3 testimony.

4 MR. MBELEG: Nobody was injured.

5 MS. PHILLIPS: When you escorted  
6 the three least aggressive, your terms as I  
7 said my terms are the three injured victims,  
8 to the front door, did you leave them at the  
9 front door with the guy who is security at the  
10 front door or did you escort them outside?

11 MR. MBELEG: Okay. When the -- I  
12 don't know if you call that the victim,  
13 because I don't know who was the victim, you  
14 know, because --

15 MS. PHILLIPS: I said the least  
16 aggressive, using your words.

17 MR. MBELEG: My least aggressive  
18 people, you know, escort them, you know,  
19 outside and the MPD, you know, took over.  
20 Then when I came back to the club, I talked to  
21 the party and I give --

22 MS. PHILLIPS: Who?

1 MR. MBELEG: To the party. I  
2 don't know if -- there was two parties. I  
3 took the more aggressive party outside.

4 MS. PHILLIPS: Right.

5 MR. MBELEG: I went back inside.

6 MS. PHILLIPS: Right.

7 MR. MBELEG: Make sure that the  
8 other party is safe. And nobody was -- just  
9 nobody were injured. No one were injured.

10 MS. PHILLIPS: All right. I guess  
11 I can start again.

12 MR. MBELEG: And then --

13 MS. PHILLIPS: Oh, keep going.  
14 Keep going.

15 MR. MBELEG: Go ahead.

16 MS. PHILLIPS: Okay. All right.  
17 So you escorted the most aggressive parties to  
18 the front door. Is that correct?

19 MR. MBELEG: Yes.

20 MS. PHILLIPS: All right. How  
21 many were the most aggressive parties? 1, 10,  
22 100?

1 MR. MBELEG: Okay. I can't  
2 recall. I can't recall.

3 MR. MPRAS: That was asked and  
4 answered. He said he --

5 MR. MBELEG: I can't recall. I  
6 can't recall, you know. I can't recall.

7 MS. PHILLIPS: And you --

8 MR. MPRAS: No, I said I object.  
9 That was asked and answered already.

10 CHAIRPERSON MILLER: I'm sorry, I  
11 didn't remember his answer though.

12 MR. MBELEG: I can't recall.

13 CHAIRPERSON MILLER: Is it --

14 MR. MPRAS: He said --

15 CHAIRPERSON MILLER: He can't  
16 recall.

17 MR. MPRAS: -- didn't remember.

18 CHAIRPERSON MILLER: Okay. Can't  
19 recall.

20 MS. PHILLIPS: All right. Good.  
21 And you said it again now. Sorry I didn't  
22 remember.

1 MR. MBELEG: Um-hum.

2 MS. PHILLIPS: And you turned them  
3 over to the security guard at the front door.  
4 Isn't that what you told me?

5 MR. MBELEG: MPD.

6 MS. PHILLIPS: You turned them  
7 over to MPD?

8 MR. MBELEG: MPD.

9 MS. PHILLIPS: Not the security  
10 guard at the --

11 MR. MBELEG: MPD.

12 MS. PHILLIPS: MPD.

13 MR. MBELEG: Yes.

14 MS. PHILLIPS: So you walked the  
15 most aggressive parties out of the front door  
16 and to wherever MPD was?

17 MR. MBELEG: Yes.

18 MS. PHILLIPS: Is that correct?

19 MR. MBELEG: Yes, ma'am.

20 MS. PHILLIPS: All right. Who was  
21 the MPD Officer that you turned them over to?

22 MR. MBELEG: I remember two,

1 three, four. I don't remember.

2 MS. PHILLIPS: Okay.

3 MR. MBELEG: We have enough.

4 MS. PHILLIPS: You have enough?

5 How do you have enough?

6 MR. MBELEG: It was I think a

7 minimum two, you know.

8 MS. PHILLIPS: So you are telling  
9 me you had an MPD detail and you had two there  
10 and you paid for two police officers?

11 MR. MBELEG: I didn't say I paid  
12 for --

13 MR. MPRAS: Objection.

14 MR. MBELEG: -- two.

15 CHAIRPERSON MILLER: Sustained.

16 MR. MBELEG: I did not pay for  
17 two.

18 MR. MPRAS: She's badgering the  
19 witness and these questions have already been  
20 asked and answered.

21 CHAIRPERSON MILLER: He didn't say  
22 it.

1 MS. PHILLIPS: You know, I believe  
2 they have been asked and answered and I  
3 believe he is not understanding what I'm  
4 asking him, because he says he knows he has  
5 two, but they are not an MPD detail.

6 CHAIRPERSON MILLER: Right.

7 MS. PHILLIPS: The police officer  
8 doesn't know how many were there. I mean, I  
9 don't understand what he is telling me and I  
10 want to make sure the record is clear. And if  
11 I have to ask him a couple of times, I guess  
12 I have to.

13 CHAIRPERSON MILLER: But isn't  
14 it --

15 MR. MPRAS: The answer is the  
16 answer. If you are not satisfied with it--

17 CHAIRPERSON MILLER: About the  
18 reimbursable detail, didn't he say either he  
19 didn't recall or he didn't have it?

20 MS. PHILLIPS: Yes, he did say  
21 that, but then he said they have two. So what  
22 does that mean?

1 CHAIRPERSON MILLER: Okay. You  
2 can ask him that.

3 MS. PHILLIPS: He said he didn't  
4 have a reimbursable detail.

5 MR. MBELEG: I mean --

6 MS. PHILLIPS: But he has two. So  
7 that to me is a contradiction in terms.

8 MR. MBELEG: I been precise. You  
9 have MPD outside. I didn't say two of them.  
10 There may be three, two. I don't recall.

11 MS. PHILLIPS: Okay. So when you  
12 escorted the most aggressive party, whose  
13 numbers you can't remember, outside and you  
14 turned them over to MPD, to an MPD Officer at  
15 least one or two? Is that a fair summary of  
16 what you just told me?

17 MR. MBELEG: I don't recall.

18 MS. PHILLIPS: Huh?

19 MR. MBELEG: I said I don't  
20 recall. You know, I don't recall. I can't  
21 give you a precise number.

22 MS. PHILLIPS: I'm not interested

1 in a precise number. What I'm interested in  
2 is exactly what you did. You took the most  
3 aggressive party and you escorted them out the  
4 door yourself?

5 MR. MBELEG: Yes.

6 MS. PHILLIPS: Bypassing the door  
7 security person and took the party, however  
8 many there were, who were most aggressive  
9 directly to at least one MPD Officer? Is that  
10 a fair summary of what you have told me?

11 MR. MBELEG: It's not. It's not  
12 exactly what, you know, I mean to say. It's  
13 not exactly. Let me repeat it.

14 MS. PHILLIPS: Okay. Repeat it.

15 MR. MBELEG: I said --

16 MS. PHILLIPS: Um-hum.

17 MR. MBELEG: -- I took the most  
18 aggressive party outside the club to MPD, you  
19 know, stationed by the front door and they  
20 took over. And then I went back inside.

21 MS. PHILLIPS: So what do you mean  
22 by --

1 MR. MBELEG: I was --

2 MS. PHILLIPS: Are you finished?

3 Is that what you said?

4 MR. MBELEG: I do, yeah.

5 MS. PHILLIPS: All right. I got

6 that. So we are going to take it apart now,

7 because I'm still not exactly understanding

8 what you said.

9 MR. MBELEG: Um-hum.

10 MS. PHILLIPS: And MPD took over?

11 MR. MBELEG: Yes.

12 MS. PHILLIPS: With the most

13 aggressive party and it was more than one most

14 aggressive party?

15 MR. MBELEG: More than one, yes.

16 MS. PHILLIPS: More than 10?

17 MR. MBELEG: I don't --

18 MR. MPRAS: Objection. He already

19 specified he doesn't know how many.

20 MR. MBELEG: I don't.

21 CHAIRPERSON MILLER: She is

22 narrowing the range, are you not?

1 MS. PHILLIPS: That's exactly  
2 right.

3 CHAIRPERSON MILLER: More than  
4 one, less than what.

5 MS. PHILLIPS: It's like football  
6 field, half a football field.

7 CHAIRPERSON MILLER: Yes,  
8 overruled.

9 MS. PHILLIPS: 10, 100, you know.  
10 So you are not sure if they are 10, but it was  
11 more than one?

12 MR. MBELEG: Yes, more than one.

13 MS. PHILLIPS: Five?

14 MR. MBELEG: I don't know.

15 MS. PHILLIPS: Okay. How did MPD  
16 take over?

17 MR. MBELEG: I don't have a  
18 picture.

19 MS. PHILLIPS: So you don't  
20 remember?

21 MR. MBELEG: I don't have a  
22 picture how it -- yeah. I think I took them

1 outside and they took over. I don't remember.  
2 I did say, you know, how were they handled,  
3 you know. I don't recall.

4 MS. PHILLIPS: Okay. And then you  
5 went back inside for the least aggressive  
6 party?

7 MR. MBELEG: Yes.

8 MS. PHILLIPS: Is that fair?

9 MR. MBELEG: Yes.

10 MS. PHILLIPS: And you let them  
11 hang out for a while and then you --

12 MR. MBELEG: Search the purse. I  
13 think they have their belongings, a purse  
14 something like that.

15 MS. PHILLIPS: Um-hum. And you  
16 don't recall whether they found it?

17 MR. MBELEG: I don't know.

18 MS. PHILLIPS: And you don't  
19 recall how many there were?

20 MR. MBELEG: More than one for  
21 sure.

22 MS. PHILLIPS: More than one.

1           Were they all women or were there women and  
2           men?

3                       MR. MBELEG: I don't know.

4                       MS. PHILLIPS: But they were the  
5           least aggressive party, so they did not get  
6           escorted out first. Is that fair?

7                       MR. MBELEG: Um.

8                       MS. PHILLIPS: Yes?

9                       MR. MBELEG: Um.

10                      MS. PHILLIPS: Okay. If that's a  
11           yes. I'm sorry. Yes?

12                      MR. MBELEG: Yes.

13                      MS. PHILLIPS: Okay. And so then  
14           you escorted them to the door? Is that  
15           correct?

16                      MR. MBELEG: (No audible answer.)

17                      MS. PHILLIPS: Well, how did they  
18           get out?

19                      MR. MBELEG: What they get out?

20                      MS. PHILLIPS: How did they get  
21           out?

22                      MR. MBELEG: Oh, when -- yeah,

1           when we clear out all the club, we have  
2           nobody, you know, except those and then, you  
3           know --

4                       MS. PHILLIPS: The least  
5           aggressive parties?

6                       MR. MBELEG: Yes, and they have to  
7           leave, you know.

8                       MS. PHILLIPS: They have to leave.

9                       MR. MBELEG: Yeah. And then --

10                      MS. PHILLIPS: How did they get  
11           out?

12                      MR. MBELEG: By the front door.

13                      MS. PHILLIPS: And how -- did  
14           anybody escort them out?

15                      MR. MBELEG: Yes, myself.

16                      MS. PHILLIPS: You did.

17                      MR. MBELEG: Yes.

18                      MS. PHILLIPS: So you took them,  
19           you escorted them out to the door?

20                      MR. MBELEG: Um-hum.

21                      MS. PHILLIPS: Is that a yes?

22                      MR. MBELEG: Yeah.

1 MS. PHILLIPS: And at the door,  
2 what happened at the door?

3 MR. MBELEG: I don't recall, but  
4 they walked down through the street, you know,  
5 because we stand by the front door, you know,  
6 for that -- I think 10 minutes some, you know.  
7 And then they walked down to the street, you  
8 know.

9 MS. PHILLIPS: When did you become  
10 aware that there was a huge imbroglio, fight,  
11 outside your establishment on the night of the  
12 incident in question?

13 MR. MBELEG: Outside the club?

14 MS. PHILLIPS: Yeah.

15 MR. MPRAS: Objection.

16 MS. PHILLIPS: Outside the club.

17 MR. MPRAS: It hasn't been  
18 established.

19 MR. MBELEG: I don't --

20 CHAIRPERSON MILLER: And does  
21 something establish that he found out?

22 MR. MPRAS: That there was a fight

1 outside.

2 MR. MBELEG: When they left, you  
3 know -- when we left, we have no fight  
4 outside. So I don't know.

5 MEMBER ALBERTI: We have testimony  
6 from the officer that there was.

7 MR. MBELEG: Well, because by 3:30  
8 we have no fight.

9 CHAIRPERSON MILLER: He is  
10 answering.

11 MR. MBELEG: Outside.

12 MS. PHILLIPS: Okay. So you  
13 didn't see any fight outside?

14 MR. MBELEG: No, I didn't.

15 MS. PHILLIPS: Okay. Did anybody  
16 from MPD come and talk to you about any  
17 incidents on the night of the incident in  
18 question?

19 MR. MBELEG: To me, no.

20 MS. PHILLIPS: Do you know if they  
21 talked to anybody in the club?

22 MR. MBELEG: I don't know.

1 MS. PHILLIPS: You don't know.  
2 Did you review what happened with any of the  
3 other personnel on the night of the incident  
4 in question?

5 MR. MBELEG: Yes, we had a meeting  
6 and no injury were reported. No injuries. We  
7 have a meeting.

8 MS. PHILLIPS: Who did you have  
9 the meeting with?

10 MR. MBELEG: With my total  
11 security and the front door man.

12 MS. PHILLIPS: Total security, did  
13 you say?

14 MR. MBELEG: Total, yeah. The  
15 front door, Hamzma, and two security inside.  
16 We have a -- we had a meeting.

17 MS. PHILLIPS: So you had a  
18 meeting with the two security inside and the  
19 security at the front door?

20 MR. MBELEG: Um-hum.

21 MS. PHILLIPS: Did I get that  
22 right?

1 MR. MBELEG: Um-hum.

2 MS. PHILLIPS: Yes?

3 MR. MBELEG: Yes.

4 MS. PHILLIPS: Yes, okay. And one  
5 of those people was Mehdi, M-E-H-D-I?

6 MR. MBELEG: Um, I can't --

7 MS. PHILLIPS: Ben El Ahmar.

8 MR. MBELEG: No. I don't  
9 remember, but I think you have Brian.

10 MS. PHILLIPS: Brian?

11 MR. MBELEG: I think. We have  
12 another guy I don't remember. But what I  
13 remember just we had, you know, a meeting  
14 with, you know, my team and, you know, we  
15 discuss about what happened. And, you know,  
16 no injuries were, you know, reported to me.  
17 No injuries.

18 MS. PHILLIPS: Do you recall  
19 telling the ABRA Investigator that MPD  
20 officers arrived simultaneously and quelled a  
21 large brawl?

22 MR. MBELEG: No.

1 MS. PHILLIPS: You don't recall  
2 that?

3 MR. MBELEG: (No audible answer.)

4 MS. PHILLIPS: Is that a no?

5 MR. MBELEG: No.

6 CHAIRPERSON MILLER: You need to  
7 say it for the record.

8 MR. MBELEG: I don't -- yes, I  
9 don't recall. No, I don't recall that.

10 MS. PHILLIPS: Okay.

11 MR. MBELEG: No.

12 MS. PHILLIPS: Did you check to  
13 see if the video cameras were working that  
14 night?

15 MR. MBELEG: No.

16 MS. PHILLIPS: Is that a no? I'm  
17 sorry.

18 MR. MBELEG: No.

19 MS. PHILLIPS: No. And was that  
20 part of your responsibility as the head of  
21 security to check video cameras?

22 MR. MBELEG: You know, I thought

1           our cameras, you know, were, you know,  
2           working, you know, so that's what I thought.

3                   MS. PHILLIPS: So it was your  
4           opinion that the cameras were working?

5                   MR. MBELEG: Yes.

6                   MS. PHILLIPS: That's what you  
7           thought?

8                   MR. MBELEG: Yes.

9                   MS. PHILLIPS: Okay.

10                  MR. MBELEG: That's what I  
11           thought.

12                  MS. PHILLIPS: Do you know how  
13           long they had not been working?

14                  MR. MBELEG: No.

15                  MS. PHILLIPS: How long did you  
16           say you had been working at the establishment?

17                  MR. MBELEG: For about three  
18           years.

19                  MS. PHILLIPS: Two years?

20                  MR. MBELEG: Three, I think. It  
21           was two years.

22                  MS. PHILLIPS: Two years before

1           2011, right? You started in 2009?

2                   MR. MBELEG: I don't recall.

3                   MS. PHILLIPS: Oh.

4                   MR. MBELEG: You know, three  
5           years.

6                   MS. PHILLIPS: Huh?

7                   MR. MBELEG: Hum?

8                   MS. PHILLIPS: Two or three years  
9           maybe?

10                   MR. MBELEG: Two. Three years.  
11           Two -- three years. I don't -- I can't give  
12           you a precise, you know.

13                   MS. PHILLIPS: You can't remember  
14           when you started?

15                   MR. MBELEG: Yeah, but going on  
16           three years.

17                   MS. PHILLIPS: And you have been  
18           there since two or three years before this  
19           incident and ever since?

20                   MR. MBELEG: Yeah, mostly.

21                   MS. PHILLIPS: Mostly? Okay.  
22           When you were interviewed by the ABRA

1 Investigator on December 16th, and I'm just  
2 saying that because that's what the report  
3 says, there were other people present during  
4 the interview. Is that fair or do you not  
5 remember anybody else being present?

6 MR. MBELEG: I think I had, you  
7 know. I don't have that picture.

8 MS. PHILLIPS: I'm sorry, I can't  
9 hear you.

10 MR. MBELEG: I think I had one  
11 other guy and I think the general manager or  
12 something like that, I think.

13 MS. PHILLIPS: Is that --

14 MR. MBELEG: I think the general  
15 manager.

16 MS. PHILLIPS: -- Medhi Ben El  
17 Ahmar?

18 MR. MBELEG: Yes, I think. Um-  
19 hum, I think.

20 MS. PHILLIPS: And who is Matali?

21 MR. MBELEG: My colleague.

22 MS. PHILLIPS: Matali?

1 MR. MBELEG: Yes, that's right.

2 MS. PHILLIPS: Lonema, L-O-N-E-M-  
3 A, Matali?

4 MR. MBELEG: Hum.

5 MS. PHILLIPS: Who is that?

6 MR. MBELEG: He is a security  
7 guard.

8 MS. PHILLIPS: Do you remember him  
9 being present on the night of the incident in  
10 question?

11 MR. MBELEG: He worked that night.

12 MS. PHILLIPS: He worked that  
13 night.

14 MR. MBELEG: Yes.

15 MS. PHILLIPS: Do you recall him  
16 being interviewed by the ABRA Investigator in  
17 your presence?

18 MR. MBELEG: I think, yes. I  
19 don't know.

20 MS. PHILLIPS: You think yes?

21 MR. MBELEG: Yeah.

22 MS. PHILLIPS: Maybe?

1 MR. MBELEG: Yes, I think yes. I  
2 don't have a picture. It's been a long time.

3 MS. PHILLIPS: Uh-huh.

4 MR. MBELEG: I think yes.

5 MS. PHILLIPS: After you had your  
6 meeting, you didn't reduce what the meeting  
7 was about to writing, that's correct, right?

8 MR. MBELEG: No.

9 MS. PHILLIPS: But you would do --  
10 if somebody was injured, you would have  
11 reduced it -- the report to writing. Is that  
12 fair?

13 MR. MBELEG: Uh-huh.

14 MS. PHILLIPS: Is that a yes?

15 MR. MBELEG: Yeah.

16 MS. PHILLIPS: We have to be  
17 careful, because even yeahs are confusing.

18 MR. MBELEG: Yes, yes.

19 MS. PHILLIPS: Okay. All right.  
20 Okay. I have no further questions. Thank  
21 you.

22 MR. MBELEG: Thank you.

1 CHAIRPERSON MILLER: Board  
2 questions? Mr. Brooks?

3 MEMBER BROOKS: Yes. Mr. Mbeleg,  
4 did you see the pictures of three young  
5 ladies?

6 MR. MBELEG: I didn't see it. I  
7 didn't.

8 MEMBER BROOKS: Okay.

9 MR. MPRAS: He wasn't in the room,  
10 Mr. Brooks.

11 MR. MBELEG: I didn't see.

12 MR. MPRAS: The Rule on Witnesses  
13 was invoked, so he wasn't in the room when  
14 they were here.

15 MEMBER BROOKS: Well, can we show  
16 the pictures to him?

17 MS. PHILLIPS: Sure. If you want  
18 him to see them, you can. May I approach?  
19 I'm handing you what has been marked as  
20 evidence as Exhibit A, B and C. You can  
21 barely see it, but they are my copies.

22 MR. MBELEG: No problem.

1 MEMBER BROOKS: Now, do you -- you  
2 have the pictures now, right?

3 MR. MBELEG: Yes, I do.

4 MEMBER BROOKS: Now, do you recall  
5 seeing those young ladies and those injuries  
6 on that night of the incident?

7 MR. MBELEG: Honestly, when they  
8 left, other than their face when they left,  
9 you know, nobody were injured.

10 MEMBER BROOKS: No one was  
11 injured?

12 MR. MBELEG: No, no.

13 MEMBER BROOKS: Okay.

14 MR. MBELEG: No, sir. I should  
15 call MPD and ask, there was nobody. No one.

16 MEMBER BROOKS: All right.

17 MR. MBELEG: Yeah.

18 MEMBER BROOKS: Now, when you  
19 escorted them to the door, did you do that?

20 MR. MBELEG: Yes, at the end.

21 MEMBER BROOKS: Okay.

22 MR. MBELEG: At the end. It went

1 by list, you know.

2 MEMBER BROOKS: Yeah, right, yeah.

3 Did you talk to them?

4 MR. MBELEG: They was looking for  
5 a purse, you know. I didn't talk like I have  
6 a whole conversation, you know, but the  
7 officer, I think he talked to them, you know,  
8 I think. You know, the MPD outside I think  
9 they talked to them, you know.

10 MEMBER BROOKS: Yes, but as you  
11 were escorting them to the door --

12 MR. MBELEG: Yes, I do.

13 MEMBER BROOKS: -- did you have  
14 any conversation with them?

15 MR. MBELEG: No conversation.  
16 They were looking for the purse. Something  
17 like that, yes.

18 MEMBER BROOKS: But they never  
19 said to you that they were hit or injured?

20 MR. MBELEG: No. Nobody were  
21 injured. Nobody. Because when we had the  
22 meeting, you know, with my staff and we talk

1           about the altercation and what happened, you  
2           know, and nobody injures no one.

3                         MEMBER BROOKS:   Okay.

4                         MR. MBELEG:   You know, nobody,  
5           nobody.

6                         MEMBER BROOKS:   Okay.   Now, you  
7           also, if I recall, you said you escorted the  
8           aggressors out?

9                         MR. MBELEG:   Yes.

10                        MEMBER BROOKS:   Did you have a  
11           conversation with them as you were escorting  
12           them out?

13                        MR. MBELEG:   No.   It was very  
14           quick, you know.   We walk very fast.  
15           Everything was, you know, in the move.

16                        MEMBER BROOKS:   Did they know why  
17           they were being escorted out?

18                        MR. MBELEG:   I don't have time to  
19           talk to them that they being removed.   No time  
20           to explain to them.

21                        MEMBER BROOKS:   Okay.   Thank you,  
22           Madam Chair.

1 CHAIRPERSON MILLER: Okay.

2 Others?

3 MEMBER SILVERSTEIN: Yes.

4 CHAIRPERSON MILLER: Mr.

5 Silverstein?

6 MEMBER SILVERSTEIN: Let's walk  
7 through the, you know, moving people out and  
8 how it --

9 MS. PHILLIPS: Mr. Silverstein,  
10 I'm sorry, I can't hear you.

11 MEMBER SILVERSTEIN: Okay, I'm  
12 sorry. Let's walk through the moving of the  
13 people out. The first group that you moved  
14 out, you don't know how many there were.

15 MR. MBELEG: Yes, sir.

16 MEMBER SILVERSTEIN: You  
17 personally took them, you said, to the front  
18 door?

19 MR. MBELEG: Yes.

20 MEMBER SILVERSTEIN: At that  
21 point, did you go outside with them?

22 MR. MBELEG: Yes.

1                   MEMBER SILVERSTEIN: Did you  
2 personally hand them to the police or say to  
3 the police these people -- what interaction  
4 did you have with the police?

5                   MR. MBELEG: The picture I got  
6 from this incident was the police know -- my  
7 main guy inform the police and then, you know,  
8 they are just like, you know, everything was--  
9 they took over right away, that's what  
10 happened.

11                   MEMBER SILVERSTEIN: Will you,  
12 please, answer my question? What interaction  
13 did you have with the police? That's all I'm  
14 asking. I'm not asking -- you know, did you  
15 say to a police officer there has been a  
16 problem and these people I have asked them to  
17 leave, will you watch them? Did you say take  
18 these people and arrest them? Did you say  
19 beat these people over the head? Did you say  
20 it's a beautiful night? What interaction did  
21 you have with the police, with them, if any?

22                   MR. MBELEG: Just what I can

1 recall is just I talked to the police of, you  
2 know, their involvement and the altercation  
3 inside.

4 MEMBER SILVERSTEIN: I'm sorry?  
5 Say that again. I didn't hear it. I didn't  
6 understand what you said.

7 MR. MBELEG: What I can say from  
8 this is that I inform the police officer that  
9 that group were involved in the altercation  
10 inside the club.

11 MEMBER SILVERSTEIN: Okay. That's  
12 it?

13 MR. MBELEG: Yeah.

14 MEMBER SILVERSTEIN: That's all I  
15 wanted. You informed the police there had  
16 been an altercation --

17 MR. MBELEG: Um-hum.

18 MEMBER SILVERSTEIN: -- with these  
19 people. The second group, these were the  
20 three women or was there any -- you are  
21 comfortable with that?

22 MR. MBELEG: I don't know if --

1                   MEMBER SILVERSTEIN: I know this  
2 was two years ago.

3                   MR. MBELEG: Yeah. It's I don't  
4 know if the way was two, three or four.

5                   MEMBER SILVERSTEIN: What did they  
6 tell you? Did they tell you that they had  
7 been -- that someone took their purse, that  
8 someone had hit them? I know this was long  
9 ago, but what do you recall their conversation  
10 to you?

11                  MR. MBELEG: From what I recall, I  
12 think just you know the question to have the  
13 purse, you know, they said they lost their  
14 purse, that's the only concern, you know, they  
15 impress that night.

16                  MEMBER SILVERSTEIN: And with  
17 them, you walked them to the front door?

18                  MR. MBELEG: When we clear, then  
19 we walk them, you know, to the front.

20                  MEMBER SILVERSTEIN: You did?

21                  MR. MBELEG: We did.

22                  MEMBER SILVERSTEIN: We? You and

1 others?

2 MR. MBELEG: Yeah.

3 MEMBER SILVERSTEIN: Okay. And  
4 did you then walk them outside? Were there  
5 police there or --

6 MR. MBELEG: Yes, sir. We have  
7 MPD there and when we walked them, we stand by  
8 the front door and we saw them walk up the  
9 street, you know. Walk down to the street.

10 MEMBER SILVERSTEIN: Okay. And  
11 you --

12 MR. MBELEG: Guard as standing by  
13 the front door, yes.

14 MEMBER SILVERSTEIN: -- met the  
15 police. These people, because they had been  
16 technically in your place after closing, I  
17 mean, the fact is they were there for their  
18 protection --

19 MR. MBELEG: Um-hum.

20 MEMBER SILVERSTEIN: -- but you  
21 told the police that these people were in your  
22 club and had been in an altercation?

1 MR. MBELEG: Yes.

2 MEMBER SILVERSTEIN: Or did you  
3 say nothing or what was that?

4 MR. MBELEG: Like I said, you  
5 know, everything was so fast.

6 MEMBER SILVERSTEIN: Yes.

7 MR. MBELEG: It was, you know,  
8 fast. You know, I don't recall the  
9 conversation with the police, but what I can  
10 remember is that, you know, the police, you  
11 know, took over. They was -- you know, I  
12 think they have more police came and they have  
13 -- you know, they took over. They was there,  
14 you know.

15 MEMBER SILVERSTEIN: You're saying  
16 it was a confused situation because at closing  
17 time, things get confusing? Things happen.  
18 A lot of stuff happens.

19 MR. MBELEG: Um, the thing I know  
20 I notice that we stand by the front door for  
21 10 minutes and everything was quiet. When we  
22 left, everything was quiet when we left.

1 Quiet.

2 MEMBER SILVERSTEIN: Thank you,  
3 Mr. Mbeleg.

4 MR. MBELEG: Thank you so much.

5 CHAIRPERSON MILLER: Mr. Alberti?

6 MEMBER ALBERTI: Yes. Good  
7 afternoon, Mr., is it, Mbeleg?

8 MR. MBELEG: Mbeleg. The M is  
9 silent. Mbeleg.

10 MEMBER ALBERTI: Thank you. Okay.  
11 I'm going to go over some old ground here. So  
12 what time do you usually have last call?

13 MR. MBELEG: Last call is 2:30 to  
14 2:45 is last call.

15 MEMBER ALBERTI: 2:30, 2:45.

16 MR. MBELEG: It depends now, you  
17 know, because sometimes during the weeknights  
18 it's 2:00. But during weekends it's 3:00.

19 MEMBER ALBERTI: Right. Okay. So  
20 closing time on this night would have been  
21 3:00. Is that correct? The night of this  
22 incident, closing time would have been 3:00.

1 Is that correct?

2 MR. MBELEG: Yeah, that was close  
3 time. That was close time, yes.

4 MEMBER ALBERTI: All right. How  
5 do you decide whether it is 2:30 or 2:45  
6 closing time? I mean, last call, how do you  
7 decide whether it is going to be 2:30 or 2:45?

8 MR. MBELEG: Basically, it's 2:45,  
9 basically.

10 MEMBER ALBERTI: Basically, 2:45.

11 MR. MBELEG: Yes.

12 MEMBER ALBERTI: Okay. So when  
13 you became aware of, in your terminology you  
14 said, this argument, all right, was it before  
15 or after last call?

16 MR. MBELEG: It was just -- it was  
17 around that time, last call time when this  
18 happened. I don't --

19 MEMBER ALBERTI: So less than 15  
20 minutes before closing time?

21 MR. MBELEG: Less than, I think,  
22 20 minutes when it happened. Something like

1           that.

2                           MEMBER ALBERTI: You tell me.

3                           MR. MBELEG: It's between.

4                           MEMBER ALBERTI: How close to  
5 closing time did this happen? You tell me.

6                           MR. MBELEG: What?

7                           MEMBER ALBERTI: How close to  
8 closing time, approximately, how close to  
9 closing time did you become aware of the  
10 argument?

11                           MR. MBELEG: 2:30, 2:45 between.  
12 Approximately, 2:30, 2:45.

13                           MEMBER ALBERTI: Okay. Wait. Did  
14 you become aware of it between 2:30 and 2:45  
15 or did you become aware of it between 2:45 and  
16 3:00?

17                           MR. MBELEG: I can't recall what  
18 time. You know, I can't give you the exact  
19 time. When that happened, I can't give you.  
20 Like maybe it was to the end, that's what I  
21 remember. It was, you know, the end.

22                           MEMBER ALBERTI: But you testified

1 earlier that the second party remained behind  
2 about 20 minutes, correct?

3 MR. MBELEG: Yes.

4 MEMBER ALBERTI: How can you be so  
5 sure of that if you don't remember how close--

6 MR. MBELEG: Because --

7 MEMBER ALBERTI: Wait, wait, wait.  
8 You appear to have a clear recollection of how  
9 long they stayed, but you don't seem to have  
10 any recollection of the duration between when  
11 you noticed the argument and when you closed.  
12 How come?

13 MR. MBELEG: Well, I figure out  
14 this time because, you know, after that, you  
15 know, we turn on, you know, lights. That's--

16 MEMBER ALBERTI: When did you turn  
17 off the lights?

18 MR. MBELEG: It was that time, you  
19 know, 2:45, something like that.

20 MEMBER ALBERTI: You turned off  
21 the lights at 2:45, while people were still  
22 inside?

1 MR. MBELEG: This is last call,  
2 sir.

3 MEMBER ALBERTI: You turn off the  
4 lights or turned on the lights?

5 MR. MBELEG: On the lights.

6 MEMBER ALBERTI: Oh, you turned on  
7 the lights at 2:45.

8 MR. MBELEG: Yes, on lights, 2:45,  
9 approximately.

10 MEMBER ALBERTI: All right.

11 MR. MBELEG: Approximately, sir.

12 MEMBER ALBERTI: Okay. So you  
13 turned the lights on at 2:45?

14 MR. MBELEG: Yes.

15 MEMBER ALBERTI: Is that your  
16 customary practice?

17 MR. MBELEG: (No audible answer.)

18 CHAIRPERSON MILLER: You have to  
19 say that.

20 MEMBER ALBERTI: Is that your --

21 MR. MBELEG: Last call.

22 MEMBER ALBERTI: Answer yes or no.

1 MR. MBELEG: I turn up lights, you  
2 now.

3 MEMBER ALBERTI: Very good.

4 MR. MBELEG: Yes.

5 MEMBER ALBERTI: So --

6 MR. MBELEG: And we don't sell  
7 alcohol any more.

8 MEMBER ALBERTI: I understand.

9 MR. MBELEG: Um-hum.

10 MEMBER ALBERTI: All right. So  
11 were the lights on when you noticed this  
12 argument?

13 MR. MBELEG: I don't -- I think --  
14 I can't say any -- I don't recall exactly, but  
15 when -- 2:45 -- I think this altercation  
16 happened, I think, just before we turn up the  
17 lights. So it would be precisely 2:30 or, you  
18 know, 2:45.

19 MEMBER ALBERTI: Okay.

20 MR. MBELEG: Between that, you  
21 know.

22 MEMBER ALBERTI: Okay.

1 MR. MBELEG: Yes.

2 MEMBER ALBERTI: So when you  
3 escorted the first group out, how many people  
4 were in the establishment? Other than the  
5 group that you escorted out, how many people,  
6 you know, approximately?

7 MR. MBELEG: In general?

8 MEMBER ALBERTI: In general, in  
9 general.

10 MR. MBELEG: Ah, the club at that  
11 time had like 70 people. It was,  
12 approximately, 70 people something like that.

13 MEMBER ALBERTI: Okay. So it was  
14 fairly crowded? Fairly crowded, 70 people.

15 MR. MBELEG: Not really, because I  
16 have 180 capacity, you know.

17 MEMBER ALBERTI: But, I mean, it  
18 was more than 20 people?

19 MR. MBELEG: Yes, more than 20  
20 people.

21 MEMBER ALBERTI: More than 30?  
22 More than 50?

1 MR. MBELEG: I can't give you  
2 exact number.

3 MEMBER ALBERTI: No, I'm not  
4 asking for an exact number. You said 70 and  
5 then you seemed to --

6 MR. MBELEG: Well, you know --

7 MEMBER ALBERTI: You said 70  
8 earlier, so --

9 MR. MBELEG: Approximately, yes.

10 MEMBER ALBERTI: Okay. So it's  
11 safe to say it was more than 50?

12 MR. MBELEG: Yes.

13 MEMBER ALBERTI: Okay. So you  
14 escorted these people out.

15 MR. MBELEG: Yes.

16 MEMBER ALBERTI: You came back and  
17 did you come back to talk to the three women?  
18 And I'm calling them three women, the least  
19 aggressive party. Did you come back directly  
20 to the least aggressive party to talk to them?

21 MR. MBELEG: I think I left one  
22 security, you know, with them and they -- when

1 I came back it was, you know, to close, you  
2 know, because it was -- we have to wrap it up,  
3 you know. So make sure that, you know,  
4 everybody is safe, you know. Those -- that  
5 party remains inside and we got customers.

6 MEMBER ALBERTI: So the question  
7 was --

8 MR. MBELEG: I have people inside.

9 MEMBER ALBERTI: -- did you come  
10 back to talk to the least aggressive party?

11 MR. MBELEG: I talked to them  
12 quick, you know, but I went to take care of,  
13 you know, the closing, you know. We had to  
14 clear them out.

15 MEMBER ALBERTI: So did you take  
16 care of the closing before you came back to  
17 talk to them or after you came?

18 MR. MBELEG: Go first.

19 MEMBER ALBERTI: You talked to  
20 them first?

21 MR. MBELEG: Yes, sir.

22 MEMBER ALBERTI: Okay. Okay. So

1 this would have been how long after you  
2 escorted the first party out? Approximately.

3 MR. MBELEG: Yes, but I think  
4 there is too many -- probably not to escort  
5 that, you know, most aggressive party, you  
6 know. And I went back inside.

7 MEMBER ALBERTI: Okay. So --

8 MR. MBELEG: And I don't have,  
9 yeah.

10 MEMBER ALBERTI: Okay. So is it  
11 fair to say that it is less than five minutes?

12 MR. MBELEG: Yeah.

13 MEMBER ALBERTI: Okay. Yes, okay.  
14 Very good. So now you come back to talk to  
15 the other party. Had last call occurred?

16 MR. MBELEG: We have last call,  
17 because I remember that last, you know, call.

18 MEMBER ALBERTI: When you talked  
19 to the women?

20 MR. MBELEG: Quick, you know. It  
21 was just to make sure that everybody is safe,  
22 you know.

1 MEMBER ALBERTI: When --

2 MR. MBELEG: Make sure nothing --

3 MEMBER ALBERTI: -- did last call  
4 occur? Did it occur -- I mean, you escorted  
5 the party out.

6 MR. MBELEG: Um-hum.

7 MEMBER ALBERTI: You come back.

8 MR. MBELEG: Yes.

9 MEMBER ALBERTI: Talk to the least  
10 aggressive party. When in that interval did  
11 you -- did last call occur during that  
12 interval?

13 MR. MBELEG: Yes.

14 MEMBER ALBERTI: It did?

15 MR. MBELEG: Yes, yes.

16 MEMBER ALBERTI: And the lights  
17 went on during that interval?

18 MR. MBELEG: Yes. Yeah, I  
19 remember that we have lights on.

20 MEMBER ALBERTI: When you came  
21 back to talk to the women?

22 MR. MBELEG: Um-hum.

1                   MEMBER ALBERTI: And then what  
2                   happened with the rest of the crowd?

3                   MR. MBELEG: I posted to, you  
4                   know, close, you know, they had to go. Make  
5                   sure that everybody moved, you know, in the  
6                   manner, just make sure of that, you know.

7                   MEMBER ALBERTI: Approximately,  
8                   what time did the last person leave?

9                   MR. MBELEG: By 3:00.

10                  MEMBER ALBERTI: By 3:00. Okay.  
11                  Okay. So then when did you -- relative to --  
12                  now, thinking about that, when did you escort  
13                  the least aggressive party out?

14                  MR. MBELEG: When?

15                  MEMBER ALBERTI: Yes, when?

16                  MR. MBELEG: This altercation  
17                  occurred at -- like I said what time it was  
18                  between, you know, 2:30, 2:45. It's difficult  
19                  to recall, you know. I have no picture.

20                  MEMBER ALBERTI: Okay. All right.  
21                  So where were the MPD? When you escorted the  
22                  least aggressive party out, where was MPD?

1 MR. MBELEG: By -- just by the  
2 front door.

3 MEMBER ALBERTI: They were right  
4 there at the front door within a couple feet?

5 MR. MBELEG: Between the front  
6 door and the curb, you know, just --

7 MEMBER ALBERTI: Okay.

8 MR. MBELEG: -- it's --

9 MEMBER ALBERTI: Between the front  
10 door and the curb. MPD was --

11 MR. MBELEG: There is a --

12 MEMBER ALBERTI: -- between the  
13 front door and the curb.

14 MR. MBELEG: There are two steps,  
15 you know.

16 MEMBER ALBERTI: Okay.

17 MR. MBELEG: Yes.

18 MEMBER ALBERTI: Okay. So you  
19 heard the MPD officer testify that he got  
20 there after the altercation. After the  
21 altercation that was reported to him, he did  
22 not see it. He got there after the

1           altercation.  Is that correct?

2                       MR. MBELEG:  (No audible answer.)

3                       MEMBER ALBERTI:  You heard him  
4           testify to that?

5                       MR. MBELEG:  I think he said --

6                       MEMBER ALBERTI:  He said he didn't  
7           witness the altercation.

8                       MR. MBELEG:  Well, then maybe he--

9                       MEMBER ALBERTI:  Well, wait.

10                      MR. MBELEG:  Maybe somebody else.

11                      MEMBER ALBERTI:  Wait, wait.

12                      MR. MBELEG:  Uh-huh.

13                      MEMBER ALBERTI:  He said he didn't  
14           witness the altercation.  And he said that  
15           these three women reported to him that they  
16           had been assaulted.

17                      MR. MBELEG:  Um-hum.

18                      MEMBER ALBERTI:  All right.  So  
19           that says to me that they were assaulted  
20           before 2:45.  Is that fair to say?  Is that a  
21           fair conclusion?

22                      MR. MBELEG:  No, not fair, because

1           like I said, you know, I repeated there wasn't  
2           an assault. There was an altercation in the  
3           club. Not --

4                       MEMBER ALBERTI: I didn't say in  
5           the club. I didn't say in the club. I didn't  
6           say in the club.

7                       MR. MBELEG: At the front door.

8                       MEMBER ALBERTI: I didn't say in  
9           the club. The report to the officer was that  
10          they were attacked outside the club.

11                      MR. MBELEG: I didn't see any  
12          attack outside, sir. I didn't see any.

13                      MEMBER ALBERTI: That's not what  
14          I'm asking you. But is it a fair assumption  
15          to say that since the officer reported that he  
16          didn't see the attack, it was reported to him  
17          when he got there by three individuals that  
18          the attack happened. And I'm not saying they  
19          attacked the three individuals before the  
20          officer arrived to interview them. Is that a  
21          fair assumption?

22                      MR. MBELEG: No, it's not fair,

1           because I think this -- the attack maybe  
2           happened somewhere else, not where we are.

3                       MEMBER ALBERTI:   Okay.   So the  
4           officers were right there?

5                       MR. MBELEG:   Um-hum.

6                       MEMBER ALBERTI:   And you escorted  
7           these three women out.   What did you see after  
8           that?   What did you see happen, if anything?

9                       MR. MBELEG:   I can't recall.

10                      MEMBER ALBERTI:   Pardon?

11                      MR. MBELEG:   I can't recall.

12                      MEMBER ALBERTI:   You can't recall.  
13           Okay.   Great.   Okay.   I have no further  
14           questions.

15                      MR. MBELEG:   Thank you.

16                      CHAIRPERSON MILLER:   Okay.   I just  
17           have a few.   Did you learn, at some point,  
18           about that there was a fight or an assault  
19           outside your establishment?

20                      MR. MBELEG:   Ah, that night or --

21                      CHAIRPERSON MILLER:   Whenever.  
22           When did you -- did you learn at some point?

1                   MR. MBELEG: I think I learned,  
2                   you know, a couple days later that we have,  
3                   you know, some, you know, going on somewhere,  
4                   you know, but it was where and, you know, how  
5                   that go, you know. Good information about,  
6                   you know, what happened and where. I heard  
7                   that, you know. Some people told me that  
8                   night we have a lot of parties, you know,  
9                   around, you know, that area, so we don't know  
10                  where, you know, that happened. We don't have  
11                  a --

12                  CHAIRPERSON MILLER: When did you  
13                  learn about it?

14                  MR. MBELEG: I don't recall it. I  
15                  don't.

16                  CHAIRPERSON MILLER: Okay. Fair  
17                  answer.

18                  MR. MBELEG: Yes.

19                  CHAIRPERSON MILLER: The police  
20                  that were outside, so if you are looking in  
21                  this hearing room, how far away was the police  
22                  officer? Was it as far as the exit sign? As

1 far as the -- looking that way?

2 MR. MBELEG: And just not far.

3 CHAIRPERSON MILLER: How far?

4 MR. MBELEG: I think, you know.

5 CHAIRPERSON MILLER: To the court  
6 reporter?

7 MR. MBELEG: Um-hum, yes.

8 CHAIRPERSON MILLER: Is that what  
9 you mean? Because you are making a gesture,  
10 so, okay, to the court reporter?

11 MR. MBELEG: To the car, the  
12 police car was, yeah, you know, the curb. You  
13 know, Spot Lounge front door and the curb is  
14 just, you know, that, I think, distance, you  
15 know.

16 CHAIRPERSON MILLER: And the curb  
17 on your side of the street or the curb across  
18 the street?

19 MR. MBELEG: This side, you know,  
20 close to Spot by door.

21 CHAIRPERSON MILLER: Right there?

22 MR. MBELEG: Yes.

1 CHAIRPERSON MILLER: Okay. And  
2 that was about as far away as the court  
3 reporter is to you?

4 MR. MBELEG: Hum?

5 CHAIRPERSON MILLER: The court  
6 reporter, right there, is that about the  
7 distance?

8 MR. MBELEG: Between?

9 CHAIRPERSON MILLER: Between your  
10 front door and the curb.

11 MR. MBELEG: It's even less. It's  
12 like four steps, right?

13 CHAIRPERSON MILLER: Four steps  
14 from your front?

15 MR. MBELEG: Yeah. Something like  
16 that.

17 CHAIRPERSON MILLER: Okay.

18 MR. MBELEG: Very close, very  
19 close.

20 MEMBER ALBERTI: Wait, wait, wait.  
21 You have to answer. You can't look to your  
22 attorney.

1 MR. MBELEG: Very close. You  
2 know, I think four steps, I think.

3 CHAIRPERSON MILLER: Okay. I  
4 thought you had said --

5 MR. MBELEG: Very close.

6 CHAIRPERSON MILLER: -- 32 steps  
7 before and you are saying four steps?

8 MR. MBELEG: Yes, four. It's like  
9 to -- how you say that?

10 CHAIRPERSON MILLER: To about  
11 where the Government's attorney is?

12 MS. PHILLIPS: That's me.

13 CHAIRPERSON MILLER: That's you. I  
14 mean, that's Ms. Phillips.

15 MR. MBELEG: Yeah, yeah.

16 CHAIRPERSON MILLER: That far?

17 MR. MBELEG: Probably, yeah,  
18 probably.

19 CHAIRPERSON MILLER: So I know  
20 that you said that you don't remember how many  
21 of the most aggressive parties you took out,  
22 but did you -- you said it was more than one

1 and less than 10. Was it a group? Was it a  
2 few like three or four? More than two?

3 MR. MBELEG: I don't recall. I  
4 don't.

5 CHAIRPERSON MILLER: You don't  
6 remember?

7 MR. MBELEG: More than two  
8 definitely.

9 CHAIRPERSON MILLER: More than  
10 two.

11 MR. MBELEG: Yeah.

12 CHAIRPERSON MILLER: So how did  
13 you by yourself escort more than two  
14 aggressors?

15 MR. MBELEG: I think it's by just  
16 -- I think, I asked them just to -- you know,  
17 because when that altercation, you know,  
18 happened --

19 CHAIRPERSON MILLER: What?

20 MR. MBELEG: -- you know, we  
21 jumped to the middle, you know, and we  
22 separated, you know. And it's very easy, you

1 know, for -- I'll take one guy with me, you  
2 know, because we have three inside, one stay  
3 with the other group. I think one guy, you  
4 know, help me to escort them, you know,  
5 outside.

6 CHAIRPERSON MILLER: A security  
7 person helped you?

8 MR. MBELEG: Yes, yes, I think.

9 CHAIRPERSON MILLER: Okay.

10 MR. MBELEG: I do my best, you  
11 know, it been a long time.

12 CHAIRPERSON MILLER: Yes. And I  
13 wanted to clarify, did you say you knew that  
14 the cameras weren't working?

15 MR. MBELEG: I didn't notice that  
16 night that, you know, the camera, because, you  
17 know, I thought the camera was, you know.  
18 Because there is no way to tell if, you know,  
19 the camera working or not.

20 CHAIRPERSON MILLER: So --

21 MR. MBELEG: I thought the cameras  
22 were working.

1 CHAIRPERSON MILLER: -- you  
2 thought they were working?

3 MR. MBELEG: I thought.

4 CHAIRPERSON MILLER: And whose  
5 responsibility is it to make sure that they  
6 are working?

7 MR. MBELEG: The owner. The  
8 owner.

9 CHAIRPERSON MILLER: The owners?

10 MR. MBELEG: Yes. Owner of the  
11 club.

12 CHAIRPERSON MILLER: Okay. The  
13 owner didn't tell you they weren't working?

14 MR. MBELEG: I didn't know about  
15 that. I didn't. I wasn't aware about it, you  
16 know. I wasn't aware.

17 CHAIRPERSON MILLER: Okay. All  
18 right. I don't have any other questions. Any  
19 questions on Board questions or redirect?  
20 Thank you.

21 MR. MBELEG: Thank you.

22 CHAIRPERSON MILLER: No, no. I'm

1 just saying thank you. Do you have?

2 MS. PHILLIPS: The Government has  
3 none.

4 CHAIRPERSON MILLER: Okay.

5 MR. MPRAS: None.

6 CHAIRPERSON MILLER: Okay. Thank  
7 you very much.

8 MR. MBELEG: Thank you.

9 (Whereupon, witness was excused.)

10 MR. MPRAS: Our last witness is  
11 Mehti Benkhayat.

12 Whereupon,

13 MEHTI BENKHAYAT

14 was called as a witness by Counsel for the  
15 Licensee, and having been first duly sworn,  
16 assumed the witness stand and was examined and  
17 testified as follows:

18 CHAIRPERSON MILLER: Okay. Thank  
19 you. I think we should start, have a seat,  
20 with him spelling his name for the record.

21 MR. MPRAS: Yes.

22 DIRECT EXAMINATION

1 MR. MPRAS: Please state and spell  
2 your name for the record.

3 MR. BENKHAYAT: My name is Mehti  
4 Benkhayat. M-E-H-T-I first name. Last name  
5 B-E-N-K-H-A-Y-A-T, as in Tom.

6 MR. MPRAS: And what is your  
7 position with Spot?

8 MR. BENKHAYAT: A managing  
9 partner.

10 MR. MPRAS: Okay. Were you there  
11 on November 23, 2011?

12 MR. BENKHAYAT: Yes, sir.

13 MR. MPRAS: Okay. Did you have  
14 knowledge that an altercation took place  
15 inside of Spot that evening?

16 MR. BENKHAYAT: Yes, sir.

17 MR. MPRAS: Did you witness the  
18 altercation?

19 MR. BENKHAYAT: No, sir.

20 MR. MPRAS: When did you learn  
21 that an altercation took place that evening?  
22 When did you first learn?

1 MR. BENKHAYAT: When I first learn  
2 is when I saw my security escorting the first  
3 aggressive party outside.

4 MR. MPRAS: Okay. So you were  
5 outside at the time?

6 MR. BENKHAYAT: Yes, sir.

7 MR. MPRAS: Okay. Where exactly  
8 were you at the time?

9 MR. BENKHAYAT: I was at the front  
10 door.

11 MR. MPRAS: And at that time, was  
12 an MPD vehicle parked on 18th Street in front  
13 of the -- in front of Spot?

14 MR. BENKHAYAT: Yes, sir.

15 MR. MPRAS: Was there -- were  
16 there police present by or near spot and the  
17 police vehicle?

18 MR. BENKHAYAT: Yes, sir.

19 MR. MPRAS: Do you remember how  
20 many officers?

21 MR. BENKHAYAT: If I recall  
22 properly, it was about two people. Two.

1 MR. MPRAS: Okay.

2 MR. BENKHAYAT: I'm not sure  
3 exactly.

4 MR. MPRAS: Okay.

5 MR. BENKHAYAT: But more than one.

6 MR. MPRAS: More than one.

7 MR. BENKHAYAT: For sure.

8 MR. MPRAS: Okay. Now, did you  
9 see MPD interact with the first group that was  
10 brought out?

11 MR. BENKHAYAT: Yes, sir.

12 MR. MPRAS: Okay. And do you know  
13 what the interaction was or what was said  
14 between them?

15 MR. BENKHAYAT: No, I don't.

16 MR. MPRAS: Okay. Were you still  
17 outside at the time the second group was  
18 brought out?

19 MR. BENKHAYAT: Yes, sir.

20 MR. MPRAS: Okay. And where were  
21 you? Were you in the same location or were  
22 you a different location?

1 MR. BENKHAYAT: No, I was in the  
2 same location outside the front door.

3 MR. MPRAS: Okay. And now, after  
4 you said -- okay. After the last group was --  
5 had exited the club, what -- how long did you  
6 remain outside for leaving the area?

7 MR. BENKHAYAT: Our procedure is  
8 usually between -- we stay outside between 10  
9 to 15 minutes.

10 CHAIRPERSON MILLER: Wait. Could  
11 you speak louder, please?

12 MR. BENKHAYAT: I'm sorry.

13 CHAIRPERSON MILLER: No, that's  
14 okay.

15 MR. MPRAS: No. My question is  
16 how long did you personally stay outside?

17 MR. BENKHAYAT: After the second  
18 group?

19 MR. MPRAS: Yes.

20 MR. BENKHAYAT: Yeah, I would say  
21 15 minutes.

22 MR. MPRAS: And was any of your

1 staff outside with you?

2 MR. BENKHAYAT: Yes, sir.

3 MR. MPRAS: How many?

4 MR. BENKHAYAT: I would say three  
5 security with me.

6 MR. MPRAS: They came outside for  
7 the entire time?

8 MR. BENKHAYAT: Yes.

9 MR. MPRAS: Or --

10 MR. BENKHAYAT: When we close,  
11 when everybody come out of the club --

12 MR. MPRAS: Um-hum.

13 MR. BENKHAYAT: -- all the  
14 security were outside with me out front, at  
15 that time.

16 MR. MPRAS: Okay. Very good.  
17 Okay. When -- while you were outside, did you  
18 witness any type of altercation or fighting or  
19 anything like that?

20 MR. BENKHAYAT: No, sir.

21 MR. MPRAS: And when you left the  
22 area to go close or go inside or what have

1           you, were the police still present?

2                       MR. BENKHAYAT: Yes, sir.

3                       MR. MPRAS: Okay. Did the number  
4           of officers change at any time? Did you  
5           notice?

6                       MR. BENKHAYAT: I don't know. I  
7           didn't notice, but I know that there was more  
8           than one officers there.

9                       MR. MPRAS: Okay. Let me ask you,  
10          at any time throughout that evening, did you  
11          watch the security cameras on the monitors?

12                      MR. BENKHAYAT: Yes, sir.

13                      MR. MPRAS: Okay. Now, did all  
14          the cameras broadcast an image on the  
15          reflective monitors?

16                      MR. BENKHAYAT: Yes, they did.

17                      MR. MPRAS: Now, was the camera  
18          system recording, working properly that  
19          evening?

20                      MR. BENKHAYAT: To my knowledge it  
21          was.

22                      MR. MPRAS: But in fact, was it

1 working properly?

2 MR. BENKHAYAT: It wasn't.

3 MR. MPRAS: Sorry?

4 MR. BENKHAYAT: It wasn't working  
5 properly.

6 MR. MPRAS: Okay.

7 MS. PHILLIPS: It was not?

8 MR. BENKHAYAT: It was not working  
9 properly.

10 MS. PHILLIPS: Okay. Thank you.  
11 Sorry.

12 MR. MPRAS: Now, when did you  
13 first learn that it was not recording?

14 MR. BENKHAYAT: When we were  
15 required to give footage for the Investigator.

16 MR. MPRAS: Um-hum.

17 MR. BENKHAYAT: We find out that  
18 the DVR was damaged.

19 MR. MPRAS: Okay. And did you  
20 find out how or why it was damaged?

21 MR. BENKHAYAT: It was due to  
22 construction and due to water damage.

1 MR. MPRAS: Okay.

2 CHAIRPERSON MILLER: Could you  
3 repeat the last thing you said?

4 MR. BENKHAYAT: Due to the water  
5 damage.

6 CHAIRPERSON MILLER: Water damage?

7 MR. BENKHAYAT: Water damage and  
8 construction.

9 CHAIRPERSON MILLER: Okay. Thank  
10 you.

11 MR. MPRAS: Have you since  
12 repaired the camera?

13 MR. BENKHAYAT: Yes, we did.

14 MR. MPRAS: Okay. And what steps  
15 have you taken to keep it in working order and  
16 to ensure that this type of error doesn't  
17 happen again?

18 MR. BENKHAYAT: We relocated the  
19 DVR to a different location.

20 CHAIRPERSON MILLER: I couldn't  
21 hear you.

22 MR. BENKHAYAT: We relocated the

1 DVR to a different location.

2 CHAIRPERSON MILLER: Okay.

3 MR. BENKHAYAT: That way this  
4 problem doesn't happen again.

5 CHAIRPERSON MILLER: Okay. Thank  
6 you.

7 MR. MPRAS: Okay.

8 CROSS-EXAMINATION

9 MS. PHILLIPS: You are not Mehdi  
10 Ben El Ahmar, right?

11 MR. BENKHAYAT: No, ma'am.

12 MS. PHILLIPS: And you are not  
13 Lonena Matali?

14 MR. BENKHAYAT: No, ma'am.

15 MS. PHILLIPS: Okay. Did you know  
16 that the ABRA Investigator came to your  
17 establishment?

18 MR. BENKHAYAT: After the fact,  
19 yes.

20 MS. PHILLIPS: After the fact?

21 MR. BENKHAYAT: Yes.

22 MS. PHILLIPS: Were you -- who

1 informed you, if anyone?

2 MR. BENKHAYAT: The manager on  
3 duty, which is Mehdi Ahmar.

4 MS. PHILLIPS: Mehdi?

5 MR. BENKHAYAT: Mehdi Ben El  
6 Ahmar, the ABRA manager.

7 MS. PHILLIPS: Okay.

8 MR. BENKHAYAT: Um-hum.

9 MS. PHILLIPS: So you were a  
10 witness to all of the events and you didn't  
11 make yourself known that you had witnessed the  
12 events to ABRA after they interviewed all the  
13 other people?

14 MR. BENKHAYAT: No, because I  
15 wasn't present when the ABRA came by.

16 MS. PHILLIPS: Hum?

17 MR. BENKHAYAT: I wasn't present.  
18 And I wasn't even -- I didn't even know that  
19 he was -- an incident occurred that night.  
20 For me, there was no incident. There was just  
21 an altercation between customers. There was  
22 no police report reported to me. No incident

1 report reported to me that night. So for me,  
2 there was no altercation. There was no fight.

3 MS. PHILLIPS: Hum. So did you  
4 hear -- so I assume that, as you said, your  
5 manager, ABC manager, who was it again?

6 MR. BENKHAYAT: Mehdi Ben El  
7 Ahmar.

8 MS. PHILLIPS: Mehdi Ahmar?

9 MR. BENKHAYAT: Yes.

10 MS. PHILLIPS: He told you the  
11 ABRA Investigator came by?

12 MR. BENKHAYAT: Yes, he did.

13 MS. PHILLIPS: Did he tell you  
14 what was discussed in that meeting?

15 MR. BENKHAYAT: Not really.

16 MS. PHILLIPS: Did you ask him?

17 MR. BENKHAYAT: No, I did ask him.  
18 And then he did not specifically told me what  
19 happened in that meeting between the ABRA  
20 investigation and the -- and my staff.

21 MS. PHILLIPS: So you weren't  
22 curious as to why the ABRA Investigator came

1 by?

2 MR. BENKHAYAT: No, I did. I was.

3 MS. PHILLIPS: You were --

4 MR. BENKHAYAT: I was curious.

5 MS. PHILLIPS: -- curious?

6 MR. BENKHAYAT: Yes. But he did  
7 not give me details of what happened. That's  
8 why.

9 MS. PHILLIPS: Why not?

10 MR. BENKHAYAT: The question -- is  
11 that the question you asked me?

12 MS. PHILLIPS: That's exactly the  
13 question I asked you.

14 MR. BENKHAYAT: Okay.

15 MS. PHILLIPS: So he didn't give  
16 you details about the conversation that he  
17 had, that three people from your establishment  
18 had with the ABRA Investigator?

19 MR. BENKHAYAT: No, that -- no. I  
20 knew about that fact. But he did not --

21 MS. PHILLIPS: You knew that three  
22 people had an interview with an ABRA

1 Investigator?

2 MR. BENKHAYAT: Yes.

3 MS. PHILLIPS: All right. I got  
4 that.

5 MR. BENKHAYAT: Yes.

6 MS. PHILLIPS: All right. But  
7 they did not tell you the specifics of the  
8 interview?

9 MR. BENKHAYAT: No, they did tell  
10 me the specifics of the interview.

11 MS. PHILLIPS: So what did they  
12 tell you?

13 MR. BENKHAYAT: They told me that  
14 an ABRA Investigator came by, but apparently  
15 the night of Thanksgiving eve there was an  
16 incident where three women was injured, but  
17 they don't know the location where it was.  
18 And that's what I was told by my staff.

19 MS. PHILLIPS: So they told you  
20 that three women were injured, but they didn't  
21 know where the injury occurred?

22 MR. BENKHAYAT: No.

1 MS. PHILLIPS: Your staff members  
2 told you, that's what they told you?

3 MR. BENKHAYAT: That's what they  
4 told me.

5 MS. PHILLIPS: Okay. So did you  
6 say so why did they come?

7 MR. BENKHAYAT: I asked that  
8 question.

9 MS. PHILLIPS: And what did they  
10 tell you?

11 MR. BENKHAYAT: I asked myself  
12 that question.

13 MS. PHILLIPS: Right. But you  
14 didn't ask your --

15 MR. BENKHAYAT: No. I --

16 MS. PHILLIPS: -- security people?

17 MR. BENKHAYAT: -- just -- so that  
18 information and I was just like okay. I mean,  
19 nothing happened. They came to ask questions.

20 MS. PHILLIPS: Okay.

21 MR. BENKHAYAT: Okay. And nothing  
22 -- I didn't really go into it.

1 MS. PHILLIPS: How long have you  
2 been manager here?

3 MR. BENKHAYAT: About one -- right  
4 now, three years.

5 MS. PHILLIPS: Three years?

6 MR. BENKHAYAT: Yes.

7 MS. PHILLIPS: So were you just  
8 starting at the time of this incident?

9 MR. BENKHAYAT: Yes, that was the  
10 one year.

11 MS. PHILLIPS: You had been there  
12 one year?

13 MR. BENKHAYAT: One year, yes.

14 MS. PHILLIPS: Okay. So were you  
15 aware of the history that this establishment  
16 had before you got involved?

17 MR. BENKHAYAT: No.

18 MS. PHILLIPS: So --

19 MR. BENKHAYAT: I wasn't aware of  
20 what happened before.

21 MS. PHILLIPS: Before. Oh, so are  
22 you owner along with some people who were

1           there from the beginning?

2                       MR. BENKHAYAT:  Yes.

3                       MS. PHILLIPS:  So who are the  
4           people who are owners that you, you know --

5                       MR. MPRAS:  Objection.

6                       CHAIRPERSON MILLER:  Okay.  Wait a  
7           minute.  There is an objection.  What's the  
8           objection?

9                       MR. MPRAS:  Like relevance.

10                      CHAIRPERSON MILLER:  Okay.

11                      MR. MPRAS:  Where the Government  
12           is going with this.

13                      CHAIRPERSON MILLER:  Okay.  What's  
14           the relevance of asking about the other  
15           owners?

16                      MS. PHILLIPS:  Part of what is  
17           happening here is a Motion to Dismiss based on  
18           rumors.  And we now know that this is a new  
19           manager and I'm trying to find out who was  
20           there when he came and what he knew about  
21           previous --

22                      MR. MPRAS:  For our purposes, that

1 is moot. That motion has been adjudicated.

2 MS. PHILLIPS: For the purposes of  
3 testimony, if there is an appeal, I think  
4 there ought to be testimony from the people  
5 involved with the establishment who own the  
6 establishment, because if there is an appeal  
7 on the motion --

8 CHAIRPERSON MILLER: Are you  
9 saying that --

10 MS. PHILLIPS: -- or the evidence,  
11 they need to have evidence. The Appellate  
12 Court needs to have evidence about what  
13 happens, what this --

14 MR. MPRAS: The time to appeal the  
15 motion has elapsed. It is moot.

16 CHAIRPERSON MILLER: Okay. Ms.  
17 Phillips though, what are you saying? That  
18 the other side needs to produce witnesses?  
19 That's where you are going?

20 MS. PHILLIPS: No, I'm asking this  
21 witness questions. I didn't say that they had  
22 to produce anybody else. I'm asking him

1 questions. So I'm asking --

2 MR. MPRAS: Irrelevant questions.

3 MS. PHILLIPS: -- him who was  
4 there from -- you know, this has got a report.  
5 There is a report. And there are one, two,  
6 three, four LLC members listed. And you can  
7 read them or I can read them into the record.

8 This gentleman is not listed, so--

9 MR. MPRAS: Nor is he required to  
10 be under a certain percentage. And again,  
11 where is the relevance? I mean, we are  
12 running around in circles and we have already  
13 been here hours.

14 CHAIRPERSON MILLER: Now, I'm not  
15 really sure where you are going. Do you want  
16 to ask him why he is not listed or what is it  
17 you are looking for about those? For him to  
18 talk about the other owners, what they knew?

19 MS. PHILLIPS: No.

20 CHAIRPERSON MILLER: Which he  
21 doesn't have personal knowledge.

22 MS. PHILLIPS: I'm just trying to

1 find out where he fits in. Usually that is a  
2 question the Board asks when they are not  
3 listed on the investigation report.

4 CHAIRPERSON MILLER: Okay. I  
5 don't have a problem with that question.

6 MR. MPRAS: The Board had a  
7 hearing on that in May when we initially began  
8 this matter.

9 CHAIRPERSON MILLER: Okay. All  
10 right. Let's let you do it for a limited  
11 extent. Certainly, he is not listed as an  
12 owner, so I don't see a problem with asking.

13 MEMBER ALBERTI: Yes.

14 CHAIRPERSON MILLER: I don't see a  
15 problem asking about his relationship as  
16 owner, because he identified himself as an  
17 owner and he is not listed. And I don't have  
18 a problem with you pursuing that.

19 MS. PHILLIPS: You identified  
20 yourself as an owner. What percentage owner  
21 are you?

22 MR. BENKHAYAT: I'm a 5 percent

1 owner.

2 MS. PHILLIPS: 5 percent?

3 MR. BENKHAYAT: 5 percent.

4 MS. PHILLIPS: 5 percent. And  
5 have you -- when -- the night of the incident  
6 in question, you told us what you saw. Is  
7 that correct?

8 MR. BENKHAYAT: Um-hum.

9 MS. PHILLIPS: And you understood  
10 that an ABRA Investigator came and spoke to  
11 some of your staff. Is that correct?

12 MR. MPRAS: It is asked and  
13 answered. I object.

14 CHAIRPERSON MILLER: Overruled.  
15 Okay.

16 MS. PHILLIPS: That's correct,  
17 right?

18 MR. BENKHAYAT: Can you repeat the  
19 question, please?

20 MS. PHILLIPS: I know it's very  
21 difficult.

22 MR. BENKHAYAT: I'm sorry.

1 MS. PHILLIPS: I'm just trying to  
2 summarize to get to a point.

3 MR. BENKHAYAT: Okay.

4 MS. PHILLIPS: And you told -- and  
5 your security people and your ABC manager told  
6 you that an ABRA Investigator came and spoke  
7 to them about what they saw in the incident in  
8 question?

9 MR. BENKHAYAT: Yes, ma'am.

10 MS. PHILLIPS: Is that correct?

11 MR. BENKHAYAT: Yes, ma'am.

12 MS. PHILLIPS: Okay. And you knew  
13 that you had first hand knowledge of the  
14 incident in question, but you weren't  
15 interviewed by the ABRA Investigator. Is that  
16 fair?

17 MR. BENKHAYAT: Yes, ma'am.

18 MS. PHILLIPS: But you didn't call  
19 the ABRA Investigator and said I too saw stuff  
20 and you should talk to me?

21 MR. BENKHAYAT: No, ma'am.

22 MS. PHILLIPS: Okay. And you

1 weren't told the specifics of what the -- your  
2 personnel people who were interviewed by the  
3 ABRA Investigator told the ABRA Investigator?  
4 Is that fair?

5 MR. BENKHAYAT: Yeah.

6 MS. PHILLIPS: Did you --

7 MR. BENKHAYAT: I wasn't.

8 MS. PHILLIPS: When did you learn  
9 that three women were in your establishment  
10 and were assaulted, according to what they  
11 told police?

12 MR. BENKHAYAT: When my staff  
13 member asked me for the footage for that  
14 night.

15 MS. PHILLIPS: And when did your  
16 staff member ask you for the footage?

17 MR. BENKHAYAT: After the  
18 Investigator came by.

19 MS. PHILLIPS: So that would be  
20 like sometime after December 16th, because  
21 that's when he came by, according to his  
22 report?

1 MR. BENKHAYAT: Sometimes, yes.

2 MS. PHILLIPS: Sometime then. But  
3 you don't remember how many days later?

4 MR. BENKHAYAT: No, I don't.

5 MS. PHILLIPS: And did you take it  
6 upon yourself to call the ABRA Investigator  
7 about the footage?

8 MR. BENKHAYAT: I don't recall  
9 exactly what happened.

10 CHAIRPERSON MILLER: Now, you need  
11 to speak louder.

12 MR. BENKHAYAT: I don't recall  
13 exactly what happened then. What happened,  
14 how, you know, what happened.

15 MS. PHILLIPS: Okay. And I  
16 concede it has been a long time.

17 MR. BENKHAYAT: Yes.

18 MS. PHILLIPS: So but you  
19 testified that you viewed the footage that  
20 night on a monitor?

21 MR. BENKHAYAT: Yes. I saw the  
22 cameras were -- I mean, they looked to me that

1           they were working.

2                       MS. PHILLIPS:   And you  
3           subsequently learned that they weren't  
4           working.  Is that correct?  Or that they  
5           weren't recording.  What did you learn?

6                       MR. BENKHAYAT:  They weren't  
7           recording.

8                       MS. PHILLIPS:  They weren't  
9           recording?  So what you looked at you thought  
10          was actually what was happening in your  
11          establishment.

12                      MR. BENKHAYAT:  Yes.

13                      MS. PHILLIPS:  Is that correct?

14                      MR. BENKHAYAT:  Yes.

15                      MS. PHILLIPS:  Yes?

16                      MR. BENKHAYAT:  That's correct.

17                      MS. PHILLIPS:  Okay.  And how many  
18          views did you look at that night?

19                      MR. BENKHAYAT:  What do you mean  
20          by views?

21                      MS. PHILLIPS:  I understand there  
22          are seven cameras.

1 MR. BENKHAYAT: Yes.

2 MS. PHILLIPS: So that should be  
3 seven views, right?

4 MR. BENKHAYAT: Um-hum.

5 MS. PHILLIPS: Yes?

6 MR. BENKHAYAT: Yes, ma'am.

7 MS. PHILLIPS: Okay. Does any of  
8 those seven cameras show anything outside?

9 MR. BENKHAYAT: Yes, ma'am.

10 MS. PHILLIPS: It does?

11 MR. BENKHAYAT: Yes, ma'am.

12 MS. PHILLIPS: Okay. So for how  
13 long did you -- when was the first time you  
14 viewed the cameras on the night of the  
15 incident? Which I have listed as the 24th,  
16 according to all the reports.

17 MR. BENKHAYAT: The first time  
18 would be when -- at the beginning when we  
19 opened.

20 MS. PHILLIPS: When you opened?

21 MR. BENKHAYAT: Um-hum.

22 MS. PHILLIPS: And that is when?

1 MR. BENKHAYAT: I would say 10:00.

2 MS. PHILLIPS: And then you review  
3 it for how long?

4 MR. BENKHAYAT: 10 minutes.

5 MS. PHILLIPS: 10 minutes?

6 MR. BENKHAYAT: Yes.

7 MS. PHILLIPS: And then do you  
8 recall the next time you viewed those cameras?

9 MR. BENKHAYAT: Throughout the  
10 night.

11 MS. PHILLIPS: Throughout the  
12 night. Was it like you sit right in front of  
13 them?

14 MR. BENKHAYAT: No, no, no. I  
15 just --

16 MS. PHILLIPS: You wandered in and  
17 out?

18 MR. BENKHAYAT: -- glanced through  
19 them. I just glanced through them.

20 MS. PHILLIPS: You glanced.

21 MR. BENKHAYAT: Yes.

22 MS. PHILLIPS: But where are they

1 located, these monitors?

2 MR. BENKHAYAT: They are in the  
3 office.

4 MS. PHILLIPS: In your office?

5 MR. BENKHAYAT: Yes, in my office.

6 MS. PHILLIPS: Okay. And you sit  
7 in your office all night?

8 MR. BENKHAYAT: No.

9 MS. PHILLIPS: Okay. So you are  
10 in and out of your office how often?

11 MR. BENKHAYAT: I would say three  
12 to four times a night.

13 MS. PHILLIPS: Three to four times  
14 a night.

15 MR. BENKHAYAT: Yes.

16 MS. PHILLIPS: So a night starts  
17 at 10:00 did you say?

18 MR. BENKHAYAT: 10:00, um-hum.

19 MS. PHILLIPS: And ends at?

20 MR. BENKHAYAT: 3:00 that night.

21 MS. PHILLIPS: 3:00.

22 MR. BENKHAYAT: That night, yes.

1 MS. PHILLIPS: Okay. So four  
2 times.

3 MR. BENKHAYAT: I would say I  
4 don't remember exactly, but I would say a  
5 minimum of four times.

6 MS. PHILLIPS: Okay. But you --  
7 and was it fair to say that you did not notice  
8 any altercation on the camera?

9 MR. BENKHAYAT: No, ma'am.

10 MS. PHILLIPS: Okay. So you  
11 weren't probably in your office then when that  
12 happened?

13 MR. BENKHAYAT: No, I wasn't.

14 MS. PHILLIPS: Okay. But you did  
15 learn that there was an altercation in your --  
16 inside your establishment?

17 MR. BENKHAYAT: Yes, ma'am.

18 MS. PHILLIPS: That night. And do  
19 you recall when you learned that there was  
20 that altercation inside your establishment?

21 MR. BENKHAYAT: When or --

22 MS. PHILLIPS: When.

1 MR. BENKHAYAT: -- what?

2 MS. PHILLIPS: When, when.

3 MR. BENKHAYAT: What time you mean  
4 or when?

5 MS. PHILLIPS: Yeah, what time or  
6 when.

7 MR. BENKHAYAT: Okay. So I mean,  
8 one is on the November 24th.

9 MS. PHILLIPS: Okay.

10 MR. BENKHAYAT: But what time,  
11 approximately, I would say closing time.

12 MS. PHILLIPS: Closing time.

13 MR. BENKHAYAT: Which is between  
14 2:30 and 3:00.

15 MS. PHILLIPS: Okay. Which is  
16 when the incident allegedly happened, some  
17 time in that half hour?

18 MR. BENKHAYAT: Yes, yes.

19 MS. PHILLIPS: Is that fair?

20 MR. BENKHAYAT: Yes.

21 MS. PHILLIPS: Okay. So you knew  
22 it happened?

1 MR. BENKHAYAT: Did I knew what  
2 happened?

3 MS. PHILLIPS: You knew it  
4 happened inside your club, something happened.  
5 Is that correct?

6 MR. BENKHAYAT: Yes, an  
7 altercation, yes.

8 MS. PHILLIPS: Yes. So did you  
9 see the first group be escorted out?

10 MR. BENKHAYAT: Yes, ma'am.

11 MS. PHILLIPS: You did?

12 MR. BENKHAYAT: Yes, ma'am.

13 MS. PHILLIPS: And that was  
14 because you were outside?

15 MR. BENKHAYAT: I was -- yes, I  
16 was outside.

17 MS. PHILLIPS: Outside. And  
18 outside was that like right outside the door?

19 MR. BENKHAYAT: I would say  
20 outside the ropes.

21 MS. PHILLIPS: And ropes?

22 MR. BENKHAYAT: Right out -- I

1 would say -- I mean, I would say outside the  
2 door. In front of the door, but outside of  
3 it.

4 MS. PHILLIPS: Okay. So here is  
5 the door.

6 MR. BENKHAYAT: I would say --

7 MS. PHILLIPS: Where are the  
8 ropes?

9 MR. BENKHAYAT: I would -- the  
10 ropes would be right in front of it.

11 MS. PHILLIPS: Right in front of  
12 the door?

13 MR. BENKHAYAT: Yes, right in  
14 front of the door.

15 MS. PHILLIPS: How many feet from  
16 the door?

17 MR. BENKHAYAT: I would say feet,  
18 I'm not sure. Maybe 1 foot. I don't know.

19 MS. PHILLIPS: 1 foot?

20 MR. BENKHAYAT: Yeah.

21 MS. PHILLIPS: 1 foot. 1 foot?

22 MR. BENKHAYAT: No. 1 foot.

1 MS. PHILLIPS: 1 foot?

2 MR. BENKHAYAT: So I would say  
3 maybe 3 foot. 3, 4, foot.

4 MS. PHILLIPS: 3 foot?

5 MR. BENKHAYAT: 6 foot. 6 foot,  
6 I'm sorry.

7 MS. PHILLIPS: From here to the  
8 end of my hand?

9 MR. BENKHAYAT: 6 foot.

10 MS. PHILLIPS: 3 feet. So 6 feet  
11 would be --

12 MR. BENKHAYAT: Yes, yes.

13 MS. PHILLIPS: I'm not 6 feet.  
14 Are you 6 feet?

15 MR. BENKHAYAT: No.

16 MS. PHILLIPS: Okay. So 6 feet is  
17 where the ropes are?

18 MR. BENKHAYAT: Yeah, about 6  
19 feet.

20 MS. PHILLIPS: Okay. And then  
21 from the ropes to the curb where the MPD would  
22 be how far? 10 feet?

1 MR. BENKHAYAT: I would say --

2 MS. PHILLIPS: 20 feet?

3 MR. BENKHAYAT: -- 10 feet.

4 MS. PHILLIPS: 10 feet?

5 MR. BENKHAYAT: I think.

6 MS. PHILLIPS: Okay.

7 MR. BENKHAYAT: I'm not good with  
8 measurements really.

9 MS. PHILLIPS: Me either.

10 MR. BENKHAYAT: So I'm just, you  
11 know, giving you --

12 MS. PHILLIPS: Okay.

13 MR. BENKHAYAT: -- my --

14 MS. PHILLIPS: Well, that's the  
15 best you can do.

16 MR. BENKHAYAT: Right.

17 MS. PHILLIPS: And so you were  
18 standing inside the ropes?

19 MR. BENKHAYAT: Yes. But I -- no,  
20 not inside the ropes. Outside the ropes.

21 MS. PHILLIPS: Outside the ropes?

22 MR. BENKHAYAT: Yes. So I don't

1 block the front door. So people can --

2 MS. PHILLIPS: You don't --

3 MR. BENKHAYAT: -- come in and  
4 come out.

5 MS. PHILLIPS: -- block the front  
6 door. And who was out there with you when you  
7 first got out there?

8 MR. BENKHAYAT: There was a  
9 security member.

10 MS. PHILLIPS: Who?

11 MR. BENKHAYAT: That checks IDs.  
12 Hamzma.

13 MS. PHILLIPS: Hamzel?

14 MR. BENKHAYAT: Yes.

15 MS. PHILLIPS: How do you spell  
16 that?

17 MR. BENKHAYAT: H-A-M-Z-M-A. He  
18 is not listed in the witness.

19 MS. PHILLIPS: He is not listed in  
20 the report. So that is another security  
21 person. He was out there together and you saw  
22 the first group come out, the most aggressive

1 group?

2 MR. BENKHAYAT: Yes, yes, ma'am.

3 MS. PHILLIPS: And you saw -- who  
4 escorted them outside the door?

5 MR. BENKHAYAT: My security  
6 manager, which is Jeremy Mbeleg.

7 MS. PHILLIPS: Jeremy?

8 MR. BENKHAYAT: Yes.

9 MS. PHILLIPS: All right. That's  
10 the easiest name to say.

11 MR. BENKHAYAT: Yes.

12 MS. PHILLIPS: And did you see the  
13 police interview those aggressors?

14 MR. BENKHAYAT: I saw them talking  
15 to each other, yes.

16 MS. PHILLIPS: You saw them  
17 talking to each other. Okay. Did you go over  
18 and talk to them?

19 MR. BENKHAYAT: No, ma'am.

20 MS. PHILLIPS: The police, that  
21 is.

22 MR. BENKHAYAT: No. No, ma'am.

1 MS. PHILLIPS: All right. And  
2 it's my understanding -- when did you learn  
3 that there were still people inside who were  
4 considered by your investigator, Mr. Mbeleg,  
5 the least aggressive people? They were still  
6 inside.

7 MR. BENKHAYAT: Yes.

8 MS. PHILLIPS: When did you learn  
9 that?

10 MR. BENKHAYAT: I learned that  
11 when he escorted the first group out. And the  
12 MPD took over the situation. And then he  
13 informed me that there was a second  
14 altercation group inside as -- you know, and  
15 he state to me as procedure, we need to leave  
16 the other group inside until the aggressive  
17 party is gone.

18 MS. PHILLIPS: Right. Did you  
19 talk to him about what kind of investigation  
20 he was going to conduct while those people  
21 were staying inside?

22 MR. BENKHAYAT: Who was

1           investigating? He has to do an investigation,  
2           you mean?

3                       MS. PHILLIPS: Did you --

4                       MR. BENKHAYAT: No, I didn't ask  
5           him.

6                       MS. PHILLIPS: -- talk to him  
7           about what he was going to do while he was in  
8           there with those people, the least aggressive  
9           group?

10                      MR. BENKHAYAT: I just -- just the  
11           first -- if I remember correctly, you know,  
12           when he escorted the first group outside to  
13           the MPD, he came back to me and informed me  
14           that there is another group inside which is  
15           less aggressive and that he was going to give  
16           them some time until, you know, the first  
17           aggressive party leaves the block. And then  
18           I said that's good. And I said are they okay?  
19           Is there any injuries? Is there anything?  
20           And he is like no, there is no injuries,  
21           nothing. There was just an altercation. No  
22           fight, no nothing. I said okay.

1 MS. PHILLIPS: All right.

2 MR. BENKHAYAT: And he went back  
3 inside to secure the club.

4 MS. PHILLIPS: Do you expect him  
5 to interview the people who are left inside,  
6 since they are -- you are keeping them inside  
7 anyway?

8 MR. BENKHAYAT: To interview them?

9 MS. PHILLIPS: To interview them.  
10 To find out what they thought happened.

11 MR. BENKHAYAT: Yes, of course. I  
12 mean, they would have a certain communication  
13 between security and --

14 MS. PHILLIPS: Yes, but he didn't  
15 do that, did he?

16 MR. BENKHAYAT: I believe he did.

17 MS. PHILLIPS: Well, you heard him  
18 testify today, didn't you?

19 MR. BENKHAYAT: I heard him  
20 testify. And I believe afterward what I heard  
21 is that he give them enough time to gather  
22 their belongings. He give them time to stay.

1 He give them time to -- you know, he even said  
2 that he give them 10 minutes after we close.  
3 So basically, we close at 3:00, he give them  
4 until 3:10 to make sure to look for their  
5 belongings. To make sure that, you know,  
6 their -- if they need any help or anything.  
7 Then he escort them outside.

8 MS. PHILLIPS: Right. Did you ask  
9 him what those -- the less aggressive party  
10 told him happened?

11 MR. BENKHAYAT: Yes. I asked him  
12 that question and that would be around 3:00  
13 when, you know, the club was closing and  
14 everybody was escorted out. And they were  
15 still inside. I asked him what's -- you know,  
16 are they okay inside? Is there something they  
17 need? And he said that the only thing they  
18 were concerned about is their belongings.  
19 That they were looking for their purse.

20 MS. PHILLIPS: Did you ask him --  
21 well, did you ask him what happened?

22 MR. MPRAS: Objection. This

1 question has been asked and answered.

2 MR. BENKHAYAT: I asked him just  
3 exactly what --

4 MR. MPRAS: Many times.

5 MR. BENKHAYAT: -- he -- I told --  
6 I think he asked me that question and I  
7 answered it.

8 CHAIRPERSON MILLER: I'll give a  
9 little more leeway. What --

10 MR. BENKHAYAT: I can answer it  
11 again if you want me to.

12 MS. PHILLIPS: You got to answer  
13 it as many times as they let me ask it.

14 MR. BENKHAYAT: Okay. Sure, sure.  
15 No problem. No problem.

16 MR. MPRAS: Ma'am, she has asked--

17 CHAIRPERSON MILLER: I couldn't  
18 hear his answer because there was a  
19 discussion, but I don't think you can keep  
20 asking over and over again. So what was your  
21 answer to her question about what happened?  
22 Did you ask him what happened?

1 MS. PHILLIPS: Did you ask your  
2 investigator -- did you ask them what  
3 happened?

4 MR. BENKHAYAT: Yeah, I asked him  
5 what happened and he said there was no fight,  
6 no nothing, just an altercation and that's  
7 about it.

8 MS. PHILLIPS: So he didn't say  
9 but they told me X, Y and Z?

10 MR. BENKHAYAT: No, that's -- at  
11 the beginning, this is what he told me. At  
12 the end when everybody left and they were  
13 still inside, I asked why are they still  
14 inside? Is there something we can do and he  
15 said no, they are looking for their  
16 belongings.

17 MS. PHILLIPS: All right.

18 MR. BENKHAYAT: That's about it.

19 MS. PHILLIPS: And you didn't ask  
20 him well, what did they say happened?

21 MR. BENKHAYAT: No.

22 MS. PHILLIPS: Okay. That's the

1 question I was asking.

2 CHAIRPERSON MILLER: I would just  
3 like to acknowledge Mr. Jones has joined us on  
4 the dias.

5 MEMBER JONES: Thank you, Madam  
6 Chair.

7 CHAIRPERSON MILLER: Okay.

8 MS. PHILLIPS: Were you present  
9 when the ABRA Investigator came back again on  
10 January 20th?

11 MR. BENKHAYAT: No, I wasn't.

12 MS. PHILLIPS: Did you ever call  
13 the ABRA Investigator who investigated this  
14 incident that occurred on the Wednesday before  
15 Thanksgiving? Did you ever call him to tell  
16 him about the security cameras?

17 MR. BENKHAYAT: No.

18 MS. PHILLIPS: Thank you. I have  
19 no further questions.

20 CHAIRPERSON MILLER: Okay. Board  
21 questions?

22 MEMBER BROOKS: I have questions.

1 CHAIRPERSON MILLER: Mr. Brooks?

2 MEMBER BROOKS: Sir, you indicated  
3 that the young ladies indicated to you that  
4 they were looking for their purses?

5 MR. BENKHAYAT: Not to me, sir,  
6 but to my security.

7 MEMBER BROOKS: Security?

8 MR. BENKHAYAT: Yes, to my  
9 security manager.

10 MEMBER BROOKS: Did he tell you  
11 that?

12 MR. BENKHAYAT: Sorry?

13 MEMBER BROOKS: Did he tell you  
14 that?

15 MR. BENKHAYAT: Yes, he did tell  
16 me that.

17 MEMBER BROOKS: He did?

18 MR. BENKHAYAT: Yes, sir.

19 MEMBER BROOKS: Did they ever find  
20 their purses?

21 MR. BENKHAYAT: No, sir.

22 MEMBER BROOKS: Did anyone ever

1 help them look for their purses?

2 MR. BENKHAYAT: Yes, my -- I  
3 believe my staff help them to look for their  
4 purses.

5 MEMBER BROOKS: Okay. Thank you,  
6 Madam Chair.

7 CHAIRPERSON MILLER: Any others?

8 MEMBER ALBERTI: Yes.

9 CHAIRPERSON MILLER: Mr. Alberti?

10 MR. BENKHAYAT: Hi, Mr. Benkhayat?

11 MR. BENKHAYAT: Yes, sir.

12 MEMBER ALBERTI: Yes. Mr.  
13 Benkhayat, I want to go back to the ownership  
14 issue, because you said you owned 5 percent?

15 MR. BENKHAYAT: Yes, sir.

16 MEMBER ALBERTI: I will tell you  
17 right off the bat, that that's not consistent  
18 with our records.

19 So when did you become a 5 percent  
20 owner?

21 MR. BENKHAYAT: I would say March  
22 2011.

1 MEMBER ALBERTI: March 2011?

2 MR. BENKHAYAT: Yes, something  
3 like that, yes.

4 MEMBER ALBERTI: Okay. Well, all  
5 right. I'll leave it at that.

6 Well, the reason I -- I will just  
7 tell you. The reason I have asked is that our  
8 records have the other four owners as  
9 collectively owning 100 percent, leaving  
10 nothing for you in our records. So something  
11 is not consistent there. But that's not the  
12 topic of this hearing.

13 Okay. So now, you were at the  
14 front door?

15 MR. BENKHAYAT: Yes, sir.

16 MEMBER ALBERTI: Okay. So you  
17 said you witnessed the first group, the more  
18 aggressive group, being escorted out.

19 MR. BENKHAYAT: Yes.

20 MEMBER ALBERTI: Is that right?  
21 And who notified MPD that they were being  
22 escorted out? That they were coming out.

1 MR. BENKHAYAT: The --

2 MEMBER ALBERTI: Pardon?

3 MR. BENKHAYAT: No, who -- I'm  
4 sorry, I didn't --

5 MEMBER ALBERTI: Who notified MPD  
6 that this group of people was being escorted  
7 out?

8 MR. BENKHAYAT: The security that  
9 was at the front door checking IDs at that  
10 moment.

11 MEMBER ALBERTI: She what?

12 MR. BENKHAYAT: The security that  
13 was checking the IDs at that moment at the  
14 front door.

15 MEMBER ALBERTI: What's that  
16 person's name?

17 MR. BENKHAYAT: Hamzma.

18 MEMBER ALBERTI: Hamzma?

19 MR. BENKHAYAT: Yes.

20 MEMBER ALBERTI: Okay. A male?

21 MR. BENKHAYAT: I'm sorry?

22 MEMBER ALBERTI: Is it a male?

1 MR. BENKHAYAT: It is a male.

2 MEMBER ALBERTI: Pardon?

3 MR. BENKHAYAT: It is a male, yes,  
4 sir.

5 MEMBER ALBERTI: Okay. Mr.  
6 Hamzma. He -- how did he notify MPD?

7 MR. BENKHAYAT: Well, he got a  
8 call on the radio, I believe, from inside.  
9 Then we went up to the police officer and he  
10 said that --

11 MEMBER ALBERTI: Okay. So where  
12 was the police officer when he went to the  
13 police officer?

14 MR. BENKHAYAT: The police officer  
15 was standing I would say in front of the front  
16 -- in front of the door, in front of the Spot  
17 Lounge door. I would say like we explained  
18 before, maybe 6 feet. I mean, that's what we  
19 determined.

20 MEMBER ALBERTI: So very close to  
21 you?

22 MR. BENKHAYAT: Yeah. Not close

1 to me, but I would say where the -- what do  
2 you call it --

3 MEMBER ALBERTI: Okay. So from  
4 the testimony I heard, there is the front  
5 door. About 6 feet out is the ropes. And  
6 then about 10 feet farther than that is MPD,  
7 correct?

8 MR. BENKHAYAT: Yes, he was --

9 MEMBER ALBERTI: You were standing  
10 next to the ropes?

11 MR. BENKHAYAT: Yes, sir.

12 MEMBER ALBERTI: And so the police  
13 officer was standing where relative to you?

14 MR. BENKHAYAT: I was standing to  
15 the left of the door.

16 MEMBER ALBERTI: Uh-huh.

17 MR. BENKHAYAT: And the officer  
18 was in front of the door.

19 MEMBER ALBERTI: He was in front  
20 of the door?

21 MR. BENKHAYAT: Yes.

22 MEMBER ALBERTI: Outside the

1 ropes?

2 MR. BENKHAYAT: Outside the ropes,  
3 yes, sir.

4 MEMBER ALBERTI: Okay. How far  
5 outside the ropes?

6 MR. BENKHAYAT: To the curb where  
7 the --

8 MEMBER ALBERTI: To the curb?

9 MR. BENKHAYAT: -- curb was.

10 MEMBER ALBERTI: What did the  
11 officer to then?

12 MR. BENKHAYAT: I just told my  
13 security call in for the officer and then the  
14 altercation -- I mean, the aggressive group  
15 was escorted out by my other security.

16 MEMBER ALBERTI: Okay. And what  
17 did the officer do?

18 MR. BENKHAYAT: He took over then.

19 MEMBER ALBERTI: Okay. What did  
20 he do?

21 MR. BENKHAYAT: That's -- I don't  
22 know. I saw him talking to the -- coming to

1 the party, talking to the party and tell them  
2 to come down and, you know, to --

3 MEMBER ALBERTI: Okay. So where--

4 MR. BENKHAYAT: I didn't hear --

5 MEMBER ALBERTI: -- did he talk to  
6 them?

7 MR. BENKHAYAT: I'm sorry?

8 MEMBER ALBERTI: Where did he talk  
9 to them?

10 MR. BENKHAYAT: Outside. Between  
11 the curb and the ropes.

12 MEMBER ALBERTI: Right directly in  
13 front of Spot?

14 MR. BENKHAYAT: Yes, sir.

15 MEMBER ALBERTI: Okay. How long  
16 did he talk to them?

17 MR. BENKHAYAT: I don't recall  
18 exactly.

19 MEMBER ALBERTI: Okay. What  
20 happened after he talked to them?

21 MR. BENKHAYAT: After what  
22 happened? I don't know.

1 MEMBER ALBERTI: After he talked  
2 to -- after he spoke to them, what happened?  
3 Did they move? Did he put handcuffs on them?

4 MR. BENKHAYAT: No.

5 MEMBER ALBERTI: Did he pull his  
6 car up? Did they run? Did they walk back  
7 into the club?

8 MR. BENKHAYAT: All I remember is  
9 they were talking to him. I remember  
10 currently and then nothing happened. No  
11 arrest was made. No nothing. They just start  
12 walking down the street and that's it.

13 MEMBER ALBERTI: They started  
14 walking down the street?

15 MR. BENKHAYAT: Yes.

16 MEMBER ALBERTI: Okay. You were  
17 there the whole time?

18 MR. BENKHAYAT: Yes, I was there.

19 MEMBER ALBERTI: Okay. Did you  
20 leave?

21 MR. BENKHAYAT: Did I?

22 MEMBER ALBERTI: Did you leave

1           between when they started walking down the  
2           street and the second group came out?

3                       MR. BENKHAYAT: Yes, sir. I went  
4           for a minute. I went inside and then I went  
5           back outside.

6                       MEMBER ALBERTI: Okay. What did  
7           you do when you went back inside?

8                       MR. BENKHAYAT: Just to make sure  
9           that we are in the closing procedure, to close  
10          the bar tabs and close up.

11                      MEMBER ALBERTI: Okay. And when  
12          you came back outside, did you come back  
13          outside before the second group or after the  
14          second group came out?

15                      MR. BENKHAYAT: I came before the  
16          second group came out.

17                      MEMBER ALBERTI: Okay. And what  
18          did you see when you came outside?

19                      MR. BENKHAYAT: The second group  
20          or the first group?

21                      MEMBER ALBERTI: No, no, no.  
22          After you came back out. You went inside.

1 Now, this is before the second group had come  
2 out.

3 MR. BENKHAYAT: Um-hum.

4 MEMBER ALBERTI: You go back  
5 inside. Did you see the first group out  
6 there? Did you see the officer? What do you  
7 see outside?

8 MR. BENKHAYAT: I see a lot of  
9 people from other clubs come out from the  
10 Eighteenth Street Lounge, from Public, from  
11 every other clubs. I see a lot of people and  
12 I see police officers standing in front of the  
13 club.

14 MEMBER ALBERTI: Okay. All right.  
15 Now, you testified it was about 3:10 when the  
16 second group was escorted out?

17 MR. BENKHAYAT: Yes, sir.

18 MEMBER ALBERTI: What was the  
19 crowd like out front?

20 MR. BENKHAYAT: It started  
21 dispersing. People started leaving.

22 MEMBER ALBERTI: Okay. Well,

1           what's that mean? Were there --

2                       MR. BENKHAYAT: At 3:10, people  
3 were leaving. Like there was not that many  
4 people left.

5                       MEMBER ALBERTI: Okay.

6                       MR. BENKHAYAT: Some people  
7 started leaving going to their cars.

8                       MEMBER ALBERTI: Okay. Did you  
9 recognize anyone from the first party on the  
10 street when the second party came out?

11                      MR. BENKHAYAT: No, sir.

12                      MEMBER ALBERTI: If they were  
13 there, would you have recognized them?

14                      MR. BENKHAYAT: No, sir, because I  
15 don't recall exactly. I don't remember their  
16 faces. I remember what they were wearing, but  
17 I don't remember how they looked like.

18                      MEMBER ALBERTI: Okay. Fine. So  
19 did you remember -- did you see anyone wearing  
20 similar clothing?

21                      MR. BENKHAYAT: No.

22                      MEMBER ALBERTI: Okay. Where was

1 the police officer when the second group was  
2 escorted out?

3 MR. BENKHAYAT: Same place, in  
4 front of the club across from the sidewalk.

5 MEMBER ALBERTI: And did those  
6 young women interact with the police officer  
7 when they came out?

8 MR. BENKHAYAT: When they came  
9 out, I saw them again talking to the officer.  
10 I don't recall exactly, but I remember them  
11 coming out. The officer was standing there  
12 and they were talking. But what is being --  
13 maybe they were -- I don't know what they been  
14 saying between them. I don't know, you know.  
15 I don't remember or recall exactly what had  
16 been said between the second group and the  
17 officer.

18 MEMBER ALBERTI: Okay. Okay. So  
19 then what happened? Did the women leave? Did  
20 they stay? What happened?

21 MR. BENKHAYAT: Then they said  
22 they started moving down the street, walking

1 down the street. Me and my security was  
2 standing still outside for another, I would  
3 say, 10 to 15 minutes, which is 3:10 or 3:20.

4 MEMBER ALBERTI: Okay.

5 MR. BENKHAYAT: Nobody was  
6 outside. Everybody was coming --

7 MEMBER ALBERTI: You were there  
8 until 3:20 then?

9 MR. BENKHAYAT: I would say 3:20.

10 MEMBER ALBERTI: Okay. I'm having  
11 a little difficulty here because I have a  
12 report that says, from the officer, the  
13 incident happened at 3:00. You were out there  
14 until 3:20. I have three young women, at  
15 least two of them, with bruises on their face  
16 from the pictures. And you know, they may  
17 have been mistaken as to where they got the  
18 injuries, whether it was inside or outside,  
19 but it's clear from the evidence that they  
20 have injuries.

21 So I'm having a little difficulty  
22 figuring out when they could have gotten these

1 injuries according to your time line. Because  
2 you didn't see an altercation outside. You  
3 were there at 3:20. I have a police report  
4 that says 3:00.

5 MR. MPRAS: The police report says  
6 3:30.

7 MEMBER ALBERTI: Sorry?

8 MR. MPRAS: The police report says  
9 3:30.

10 MEMBER ALBERTI: Oh, it says 3:30.

11 MR. MPRAS: Yes, sir.

12 MEMBER ALBERTI: Okay. Start time  
13 3:30. Okay. Very good. All right. So you  
14 were not aware of any altercation at 3:20?

15 MR. BENKHAYAT: No, sir.

16 MEMBER ALBERTI: Okay. Did you  
17 see any injuries on these women when they came  
18 out?

19 MR. BENKHAYAT: No, sir.

20 MEMBER ALBERTI: Okay. Thank you.  
21 I have no further questions.

22 CHAIRPERSON MILLER: Others?

1           Okay. I'll pick up there. So what happened  
2           at 3:20 with you? Did you leave at 3:20?

3                       MR. BENKHAYAT: We walked back  
4           inside. We locked the door. Took all the  
5           ropes back inside and then proceeded with the  
6           closing, the bartenders.

7                       CHAIRPERSON MILLER: Okay. What  
8           time did you leave?

9                       MR. BENKHAYAT: What time did I  
10          leave that night?

11                      CHAIRPERSON MILLER: Yes.

12                      MR. BENKHAYAT: I would say I  
13          don't remember exactly. I don't recall. You  
14          know, I had the manager on duty that night, so  
15          he does the closing. Maybe I just, you know,  
16          walked inside, you know, made sure everything  
17          is okay and then I left right after that. I  
18          would say maybe I stayed another 10 minutes  
19          maybe. 10, 15 minutes.

20                      CHAIRPERSON MILLER: 10, 15  
21          minutes?

22                      MR. BENKHAYAT: After 3:20. I

1 would say 10, 15 minutes afterwards.

2 CHAIRPERSON MILLER: 10, 15

3 minutes after what? After 3:20?

4 MR. BENKHAYAT: After 3:20 when we  
5 locked the front door.

6 CHAIRPERSON MILLER: Do you leave  
7 out the front or the back?

8 MR. BENKHAYAT: I leave through  
9 the back.

10 CHAIRPERSON MILLER: And when you  
11 left, was anything happening outside?

12 MR. BENKHAYAT: No, ma'am. At  
13 that moment, I mean, I drove the car from the  
14 back door, that's where I parked, and then I  
15 just left.

16 CHAIRPERSON MILLER: And did you  
17 hear at some time that there was an assault  
18 that evening outside your club?

19 MR. BENKHAYAT: No, sir. No,  
20 ma'am.

21 CHAIRPERSON MILLER: You learned  
22 it at some point?

1 MR. BENKHAYAT: After when  
2 Investigator came by.

3 CHAIRPERSON MILLER: I'm sorry,  
4 can you speak louder?

5 MR. BENKHAYAT: I learned it when  
6 the -- when I was required for the footage,  
7 that's when I learned that there was an  
8 incident that night.

9 CHAIRPERSON MILLER: You learned  
10 it when you were required for what?

11 MR. BENKHAYAT: For footage. For  
12 the footage. For the camera footage.

13 CHAIRPERSON MILLER: Oh, for the--  
14 okay. And that's what I wanted to ask you,  
15 when was that? Was that when the Investigator  
16 came?

17 MR. BENKHAYAT: Yes, ma'am.

18 CHAIRPERSON MILLER: In December?

19 MR. BENKHAYAT: Some time in  
20 December, yes, ma'am.

21 CHAIRPERSON MILLER: Okay. So and  
22 that was when you learned that they weren't

1 working?

2 MR. BENKHAYAT: Yes, ma'am.

3 CHAIRPERSON MILLER: Okay. And  
4 why were you outside on the evening of  
5 November 24th around 3:00?

6 MR. BENKHAYAT: Why? I just --  
7 it's a routine for me. I come outside to make  
8 sure that the customers are treated well, that  
9 the security checking IDs, that there is no  
10 intoxicated people going back inside, you  
11 know, all that stuff. So I make sure that --  
12 that's what I -- you know, that's my first  
13 priority.

14 CHAIRPERSON MILLER: Okay. So  
15 that's routine for you to be there.

16 MR. BENKHAYAT: Yes, ma'am.

17 CHAIRPERSON MILLER: Okay. Do you  
18 recall how many people were in the group of  
19 the most aggressive that the security manager  
20 was bringing out?

21 MR. BENKHAYAT: I don't really  
22 recall, but I recall more than one or two.

1 More than two I would say. I recall more than  
2 two.

3 CHAIRPERSON MILLER: Okay. And  
4 you -- at what time did you see them walking  
5 away from the police?

6 MR. BENKHAYAT: The first or the  
7 second?

8 CHAIRPERSON MILLER: The first.

9 MR. BENKHAYAT: The first one, I  
10 would say they had a conversation for like  
11 maybe 5, 10 minutes, 5 minutes conversation  
12 and then they started walking down the street.

13 CHAIRPERSON MILLER: Okay. So  
14 what time was that about?

15 MR. BENKHAYAT: I would say,  
16 approximately, around 2:50. Between 2:45 and  
17 3:00.

18 CHAIRPERSON MILLER: Okay.

19 MR. BENKHAYAT: Around that time.

20 CHAIRPERSON MILLER: That was the  
21 time that they left the police?

22 MR. BENKHAYAT: That was the time

1 when?

2 CHAIRPERSON MILLER: They left the  
3 police and went walking away?

4 MR. BENKHAYAT: Yes, yes.

5 CHAIRPERSON MILLER: And did you  
6 say it was 3:20 when the women left the  
7 police?

8 MR. BENKHAYAT: The second group?

9 CHAIRPERSON MILLER: The second  
10 group.

11 MR. BENKHAYAT: I would say 3:15.

12 CHAIRPERSON MILLER: Okay. Did  
13 they go in the same direction?

14 MR. BENKHAYAT: I believe they  
15 went down the street.

16 CHAIRPERSON MILLER: Down what  
17 street?

18 MR. BENKHAYAT: The same street,  
19 yeah. Down the same direction I would say,  
20 yeah.

21 CHAIRPERSON MILLER: Okay. What  
22 was that? Was that Connecticut Avenue or --

1 MR. BENKHAYAT: No. We are on  
2 18th. They were going towards M Street.

3 CHAIRPERSON MILLER: 18th down to  
4 M?

5 MR. BENKHAYAT: M, yes.

6 CHAIRPERSON MILLER: Okay. And I  
7 just want to clarify, did you say that you  
8 learned about the incident inside the  
9 establishment the next day or that night? No,  
10 you saw it, so you knew about it.

11 MR. BENKHAYAT: I saw it.

12 CHAIRPERSON MILLER: Okay. Did  
13 you talk to the police at all?

14 MR. BENKHAYAT: No, ma'am.

15 CHAIRPERSON MILLER: Okay. I  
16 don't have any other questions. Thank you.  
17 Any question on Board questions?

18 MR. MPRAS: No, ma'am.

19 MS. PHILLIPS: No, thank you,  
20 Madam Chair.

21 CHAIRPERSON MILLER: Any redirect?  
22 Oh. Are you finished?

1 MR. MPRAS: Yes.

2 CHAIRPERSON MILLER: Are you  
3 finished, too? No redirect.

4 MR. MPRAS: I'm done.

5 CHAIRPERSON MILLER: Okay. Thank  
6 you very much.

7 MR. BENKHAYAT: Okay.

8 (Whereupon, witness was excused.)

9 CHAIRPERSON MILLER: You rest your  
10 case?

11 MR. MPRAS: Yes, I'm sorry.

12 CHAIRPERSON MILLER: Okay. All  
13 right. Closing? Whenever you are ready for  
14 closing.

15 MS. PHILLIPS: Me?

16 CHAIRPERSON MILLER: Yes.

17 MS. PHILLIPS: All right. Thank  
18 you, Madam Chair, Board Members. First, the  
19 first thing I want to do is instead of talking  
20 about all the legal arguments that have been  
21 raised in the District's opposition to the two  
22 Motions to Dismiss, I would just, you know,

1 incorporate the District's opposition and all  
2 its attachments as part of its closing  
3 argument, so I don't have to discuss it again,  
4 because mainly I'm going to argue the facts.

5 And those oppositions, the first  
6 one to the Motion to Dismiss, incorporated the  
7 transcripts of the Fact-Finding Hearings that  
8 the District believes contains relevant  
9 information with regard to the frequency of  
10 security plan violations, the frequency of  
11 this --

12 MR. MPRAS: I object. This isn't  
13 a motion's closing. This is -- which you are  
14 focusing on a motion. That has been heard.  
15 That has been decided. This is --

16 MS. PHILLIPS: Excuse me. I can  
17 say anything I want to in closing.

18 CHAIRPERSON MILLER: Okay. This  
19 is --

20 MS. PHILLIPS: Unless she tells me  
21 no.

22 CHAIRPERSON MILLER: Okay. This

1 is argument. This is argument.

2 MS. PHILLIPS: That's right. It's  
3 argument.

4 CHAIRPERSON MILLER: So --

5 MS. PHILLIPS: I can say almost  
6 anything unless it doesn't comport with the  
7 facts. May I start again?

8 CHAIRPERSON MILLER: Yeah, go  
9 ahead.

10 MS. PHILLIPS: Thank you. The  
11 District renews all of its legal arguments and  
12 all of the factual information that it put in  
13 its oppositions to the first Motion to Dismiss  
14 which contains all of the transcripts of the  
15 Fact-Finding Hearings, which discuss why this  
16 establishment has -- can overcome the rumors  
17 argument and can -- this establishment can be  
18 sanctioned for the security plan violations  
19 and also for the A23 claim in Count 1. So I  
20 incorporate all of those oppositions and all  
21 of the factual transcripts in my closing. And  
22 I'm not going to talk about it again.

1                   On May 15, 2013, the District  
2                   called three injured patrons who were attacked  
3                   both inside the club and then outside the  
4                   club. Those three witnesses were:

5                   Timnit Solomon, T-I-M-N-I-T  
6                   Solomon and her testimony is referenced in the  
7                   transcript from pages 11 to 105/106. She, Ms.  
8                   Solomon, indicated that she was attacked both  
9                   inside the club and outside the club. That  
10                  she -- it wasn't just an argument, that she  
11                  was pushed, punched and at least I think she  
12                  was the one that fell onto the floor.

13                  The second person was Seret  
14                  Medhani, S-E-R-E-T M-E-D-H-A-N-I. Her  
15                  testimony is recorded in the transcript of the  
16                  15th hearing at 106 through 198. She, too,  
17                  was -- talked about what happened inside the  
18                  club and outside the club.

19                  And the third witness was Walta,  
20                  W-A-L-T-A, Kiflezghi, K-I-F-L-E-Z-G-H-I. Her  
21                  testimony is recorded in pages 216 through the  
22                  end.

1                   If you have forgotten what  
2                   happened, they were attacked physically  
3                   inside, their purses were stolen, their cell  
4                   phones were stolen and they sustained  
5                   injuries. They said that they begged to have  
6                   the personnel from the club call the police.  
7                   That they begged to be allowed to remain  
8                   inside, because they were afraid that they  
9                   would be attacked outside the club. And that  
10                  they were not allowed to stay more than a  
11                  couple of minutes.

12                  The received no help with regard  
13                  to finding their personal property. They  
14                  received no consolation. They received no  
15                  investigation into what happened. They were  
16                  not allowed to tell their story. They were  
17                  ceremoniously escorted out and were attacked  
18                  immediately upon exiting the club. That's  
19                  their testimony.

20                  They received injuries from both  
21                  inside and outside, but it's going to be hard  
22                  to deflect or determine which injuries

1 occurred when. They just know that they were  
2 injured in both places.

3 Now, the pictures I have, of  
4 course, were taken after both sets of attacks  
5 and they were A, B and C. And the injuries  
6 were also recorded in the MPD report and the  
7 MPD report, though brief, which is attached to  
8 the investigative report, also says that at  
9 least one of the complainants was attacked  
10 inside, punched inside the club and then  
11 attacked outside the club.

12 Exhibit D is Ms. Solomon's credit  
13 card, which shows that her credit card was  
14 used shortly thereafter, on the very same  
15 night as her purse was stolen, the credit card  
16 was used. That was Exhibit D.

17 I forget which one, I believe it  
18 was probably Ms. Kiflezghi, because her  
19 medical record is thicker, but one of the two,  
20 Ms. Kiflezghi or Ms. Medhani was attacked so  
21 brutally outside the club immediately after  
22 being escorted out, according to their

1 testimony, that she lost consciousness.

2 Subsequently, an ABRA  
3 Investigator, of course, went to investigate  
4 this matter and he reduced the information he  
5 received from all parties he interviewed to a  
6 report, which was entered into the record as  
7 G, Defendant's Exhibit G or -- no, District's  
8 Exhibit G.

9 I'm going to read you in pertinent  
10 part what he recorded he was told by the  
11 witness who testified today, Mr. Mbeleg.

12 Mr. Mbeleg stated that around last  
13 call, a fight broke out near the front of the  
14 bar inside the establishment. Mr. Mbeleg  
15 stated that he did not witness what prompted  
16 the fight. He further stated that he and  
17 another Spot security responded to the area  
18 and immediately separated the combatants.

19 He escorted at least 10 people out  
20 of the establishment. Mr. Mbeleg stated that  
21 nobody from Spot called the police, because  
22 they knew police were in the area. Mr. Mbeleg

1           stated that once outside, he observed  
2           extremely large crowds of people and almost  
3           instantly a large fight broke out, involving  
4           many different people, including some of those  
5           removed from Spot.

6                         Mr. Mbeleg stated that MPD  
7           officers arrived almost simultaneously and  
8           quelled the large brawl. That's what he told  
9           the Investigator. That's what the  
10          Investigator recorded in his report on  
11          December 16th.

12                        He testified differently today.  
13          One of the things that we know just as general  
14          perspective with regard to ABRA investigations  
15          and incidents that occur in alcohol  
16          establishments is that if we can get the  
17          victims to come in, we are often very lucky,  
18          because these victims don't really get  
19          anything out of this.

20                        This is not like, you know, I  
21          bring a case on their behalf in Superior Court  
22          and they get damages. They get money. They

1 get their hospital bills paid. They get  
2 reimbursed for what was stolen if they didn't  
3 recover it from their credit card. You know,  
4 they get reimbursed for pain and suffering.

5 They usually come in to prevent  
6 this and they did testify to prevent this from  
7 happening at this establishment to other, in  
8 this case, young women who go out to try to  
9 have a good time with their friends, some of  
10 whom are coming in for Thanksgiving, and they  
11 haven't seen for a while and be safe. And  
12 they try to make sure this doesn't happen  
13 again.

14 Now, as ABRA Investigators, ABRA  
15 Investigators go out and they have no stake in  
16 what happened. They are just trying to  
17 uncover the facts and they just try to talk to  
18 all of the witnesses that know anything and  
19 they try to discover who those witnesses are.

20 And they went into the  
21 establishment and they interviewed three  
22 people. And they weren't -- the ABRA

1 Investigator wasn't told that anybody else saw  
2 anything or was involved and I read you  
3 exactly what Mr. Mbeleg said -- that Mr.  
4 Ghenene said Mr. Mbeleg said, which is  
5 entirely different from what he said now.

6 And additionally, he said in his  
7 report that he spoke to ABC Manager, Mehdi Ben  
8 El Ahmar. M-E-H-D-I space B-E-N E-L A-H-M-  
9 A-R. And Mr. Ahmar recalled the incident  
10 similarly to Mr. Mbeleg.

11 So Mr. Ahmar sort of reiterated  
12 what Mr. Mbeleg said in the interview that was  
13 conducted on December 16th, so we have a  
14 report. We have it reported in their report.  
15 And then we have a verification by a second  
16 personnel person from the establishment.

17 The only people that really care  
18 about the outcome of any of these cases is the  
19 establishment and the establishment personnel.  
20 Even though it was 6 and 16 what is that, 22  
21 days, 24 days, 23 days, anyway, it was 20 some  
22 days between when the incident occurred and

1 when the Investigator talked to Mr. Mbeleg.  
2 It certainly was closer to the incident in  
3 question than today.

4 And so, therefore, what is  
5 recorded in the report, there is no reason not  
6 to believe that that's truly what happened and  
7 what Mr. Mbeleg saw.

8 And a second personnel person, Mr.  
9 Ahmar, said that he recalled the incident  
10 similarly to what Mr. Mbeleg had said. And  
11 you heard all of them say they were all  
12 interviewed together. So everybody heard what  
13 everybody said.

14 Because of the facts of this case,  
15 the District believes that it has carried the  
16 burden on the three charges in the event that  
17 they -- and that the Board should find against  
18 the establishment on this incident for all  
19 three counts.

20 The District recommends that if  
21 the security plan hasn't been updated, that it  
22 should be updated to meet the requirements of

1 the statutory requirements for security plans,  
2 even though this is a tavern, not a nightclub.

3 For example, there should be an  
4 incident report. Something happened. They  
5 separated people. An altercation? I don't  
6 know. They didn't -- you heard Mr. Mbeleg say  
7 nobody interviewed these people. It happened  
8 too quickly. They didn't even try to find out  
9 what happened.

10 They didn't see what started it  
11 and they are not -- so if they didn't see what  
12 started it, they don't know how long before  
13 they intervened that it had been occurring.  
14 So they should have written an incident  
15 report. They should have identified the  
16 witnesses. They should have identified all  
17 the people who had first hand knowledge of the  
18 event.

19 And when the ABRA Investigator  
20 came, they should have said, well, these three  
21 people have first hand knowledge and also our  
22 witness here, the 5 percent owner. They

1           should be required to call the police whether  
2           they are outside or inside. And they should  
3           be required to do what their security plan  
4           says they should do.

5                           And according to the testimony  
6           that Mr. Ghenene obtained and according to the  
7           testimony of the three victims, they did not  
8           live up to the section which says they  
9           separate people for a long period of time and  
10          they don't release them to be attacked  
11          immediately on their front doorstep, which is  
12          what the victims say happened and what the  
13          victims told the police on the night of the  
14          incident and what the victims told the ABRA  
15          Investigator, which on the 16th two  
16          establishment personnel confirmed.

17                           In addition, they should be fined  
18          \$4,000 with seven days suspension, all days  
19          served, that would be \$2,000 for Charge 1 and  
20          \$1,000 for each of the two security plan  
21          violations. Five of the suspension days are  
22          triggered by a previous violation and two

1 suspension days would be for a Charge 1.

2 Thank you, Madam Chair and Board  
3 Members.

4 CHAIRPERSON MILLER: I'm sorry,  
5 could you just repeat the suspension day  
6 recommendation that you just said?

7 MS. PHILLIPS: I'm sorry, I didn't  
8 hear you.

9 CHAIRPERSON MILLER: Could you  
10 repeat the suspension days? Oh, sorry. Could  
11 you repeat the suspension day recommendation?

12 MS. PHILLIPS: Yes, ma'am. Let me  
13 find a little spot in my file.

14 CHAIRPERSON MILLER: Thank you.

15 MS. PHILLIPS: The total fine  
16 would be \$4,000 with seven days suspended, all  
17 served. Five of the suspension days are  
18 apparently triggered from a previous event and  
19 I would have to look back to see which it is,  
20 because I don't have it written here. And two  
21 suspension days would be for Charge 1, which  
22 is the A23 charge.

1 CHAIRPERSON MILLER: Okay. Thank  
2 you. Okay.

3 MR. MPRAS: Members of the Board,  
4 the Government's closing argument is based on  
5 an emotional plea, not based on fact and law.  
6 It erroneously focuses on the victims not on  
7 the fact that the venue acted in accordance  
8 with its responsibilities.

9 The venue M.I.A. and its staff on  
10 the night in question did not violate their  
11 security plan nor any other laws of the  
12 District of Columbia.

13 The Government's witnesses in this  
14 matter are unreliable witnesses, as they had  
15 all consumed alcohol throughout the evening  
16 and have all given conflicting testimony as to  
17 the timing of the events, specifically the  
18 times of arrival, when the altercation took  
19 place inside the venue, how long they remained  
20 inside the venue and when they finally exited  
21 and claimed that the police watched them being  
22 assaulted for 5 to 10 minutes before taking

1 any police action.

2 This has been refuted by the  
3 testimony of Officer Brown who witnessed no  
4 such altercation nor would have allowed such  
5 to take place in his presence.

6 Now, Ms. Solomon, in fact,  
7 perjured herself in her testimony, page 96 of  
8 the transcript, before the Board when she  
9 stated there was no verbal altercation. There  
10 was no -- "there was no verbal altercation.  
11 There was no interaction with these people."

12 In fact, the -- in the -- the MPD  
13 report stated that -- excuse me. Okay. No.  
14 In the MPD report, Ms. Solomon stated that she  
15 was punched in the face after a verbal  
16 altercation. Ms. Solomon goes on to state  
17 that the incident outside the venue ended at  
18 2:30 a.m., page 75 of the transcript of her  
19 testimony.

20 Ms. Solomon contradicts herself  
21 again by stating that she looked and found her  
22 necklace and then later stating that she was

1 not allowed to look for her belongings.

2 Ms. Medhani stated in her  
3 testimony that she arrived between 12:50 and  
4 1:15 a.m. and was there only one hour. She  
5 also contradicts her own testimony by first  
6 stating that her male friends did not assist  
7 them, page 170 of the transcript, and then  
8 later stating that she does not recall if they  
9 did or not, page 177.

10 She also did not recall speaking  
11 to an ABRA Investigator, page 179 of the  
12 transcript, contrary to Investigator Ghenene's  
13 report.

14 Ms. Kiflezghi testified that she  
15 arrived at the venue at 12:45 and the  
16 altercation started 30 to 45 minutes  
17 thereafter. She testified that the fight  
18 started at 1:30 a.m., page 276 of the  
19 transcript, contrary to the testimony of Ms.  
20 Solomon and Ms. Medhani.

21 Ms. Kiflezghi stated that they  
22 were, in fact, looking for their items, page

1 274 of the transcript.

2 Now, Charge 1 must be summarily  
3 dismissed as it is defective on its face.  
4 This is pursuant to DC Code 2-1802.01. The  
5 defect being that the charge incorrectly  
6 states the time a fight allegedly took place  
7 inside the venue when, in fact, it did not and  
8 the venue was, in fact, closed at that time.

9 Now, we reassert that pursuant to  
10 the 1900 M Restaurant Association Incorporated  
11 vs. District of Columbia Alcohol Beverage  
12 Control Board, the Government has failed to  
13 establish a continuous force of conduct  
14 necessary to establish a violation of Charges  
15 2 and 3 as specified. Subsequently, these  
16 charges must also be summarily dismissed.

17 Now, Investigator Ghenene's report  
18 was riddled with inconsistencies. There was  
19 very little if no follow-up and no actual  
20 investigation whatsoever. It was a gathering  
21 of statements and compiling them in a report.

22 The Government is correct, the

1 Investigator has no stake in what happened and  
2 that's clearly evident by the poor  
3 investigative effort. It is not the duty of  
4 the venue to do the job of the ABRA  
5 Investigator. And unfair that the Government  
6 has tried to place that burden erroneously on  
7 them.

8 It is the duty of the venue to  
9 cooperate with the ABRA Investigator fully and  
10 they have done so. Thank you.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you. Is there any redirect? I don't mean  
13 redirect. I mean rebuttal to closing? I  
14 don't think so. I think you are done. I  
15 think we are done.

16 MS. PHILLIPS: Yes, the District  
17 has nothing else to say.

18 CHAIRPERSON MILLER: We got that.  
19 All right.

20 MS. PHILLIPS: Thanks for  
21 offering, Madam Chair.

22 CHAIRPERSON MILLER: All right.

1           So I'm going to close the record, at this  
2           time. And ask the parties if they want to  
3           file proposed findings of fact and conclusions  
4           of law or waive their right to do so?

5                       MS. PHILLIPS: The District  
6           waives.

7                       MR. MPRAS: We do not. We're  
8           going to reserve.

9                       CHAIRPERSON MILLER: You reserve  
10          it. Okay.

11                      MR. MPRAS: Madam Chair, because  
12          of the holidays coming up, I would request 45  
13          days, please.

14                      MEMBER ALBERTI: No.

15                      MEMBER BROOKS: No.

16                      MEMBER ALBERTI: No way.

17                      CHAIRPERSON MILLER: Okay. You  
18          heard the Board. So it's not -- you realize  
19          that it's 30 days from when the transcript  
20          comes out?

21                      MR. MPRAS: Right.

22                      CHAIRPERSON MILLER: Okay. If you

1 change your mind, would you let us know?

2 MR. MPRAS: Absolutely.

3 CHAIRPERSON MILLER: Okay. Is the  
4 Government reserving their right then instead?

5 MS. PHILLIPS: I don't know what  
6 it means I'm reserving my right. I'm  
7 reserving my right to, if I decide to do  
8 findings of fact and conclusions of law or I  
9 am not going to waive it at this time and I'm  
10 definitely going to do? I don't know what  
11 that means. What does that mean?

12 CHAIRPERSON MILLER: Okay. It  
13 means he is not waiving it, that's for sure.

14 MS. PHILLIPS: He's not waiving  
15 it. So he is going to decide at some future  
16 time.

17 CHAIRPERSON MILLER: I think. Are  
18 you intending to file and then if you don't --

19 MR. MPRAS: I am intending --

20 CHAIRPERSON MILLER: -- you will  
21 let us know?

22 MR. MPRAS: -- and if I do not, I

1 will notify the Board, yes.

2 CHAIRPERSON MILLER: And --

3 MR. MPRAS: As I previously  
4 stated.

5 CHAIRPERSON MILLER: And the  
6 Government. Okay. And serve the Government  
7 as well.

8 MR. MPRAS: Yes, ma'am.

9 CHAIRPERSON MILLER: Okay.

10 MS. PHILLIPS: If the Government  
11 feels the need to respond to any of the  
12 statements that he makes through that, then I  
13 can do that in 10 days afterwards?

14 CHAIRPERSON MILLER: I don't think  
15 it works that way.

16 MR. MPRAS: No.

17 MS. PHILLIPS: Well, I know it  
18 doesn't work that way, but --

19 CHAIRPERSON MILLER: I think it's  
20 a simultaneous --

21 MS. PHILLIPS: -- usually we get  
22 to waive. And I mean usually you don't get to

1           reserve and decide at some future date whether  
2           or not you are going to do it.

3                         CHAIRPERSON MILLER: We have never  
4           done that. Do you want to do that?

5                         MR. MPRAS: I just stated that I  
6           will do it.

7                         MS. PHILLIPS: He is going to do  
8           it. Okay.

9                         CHAIRPERSON MILLER: Okay.

10                        MEMBER ALBERTI: And sometimes  
11           they don't.

12                        MS. PHILLIPS: And sometimes they  
13           don't.

14                        CHAIRPERSON MILLER: Okay. Let me  
15           just ask are you guys all right with that, her  
16           responding?

17                        MEMBER ALBERTI: I don't know  
18           what --

19                        CHAIRPERSON MILLER: We don't  
20           usually do that.

21                        MEMBER ALBERTI: -- I don't think  
22           it's allowed. There is no 10 days.

1 CHAIRPERSON MILLER: Well --

2 MEMBER ALBERTI: There is no 10  
3 day grace period to respond to it.

4 CHAIRPERSON MILLER: They do. She  
5 is just asking us if we have the right to  
6 waive any of our rights and allow it, if we so  
7 choose.

8 MEMBER ALBERTI: No, but you can--

9 CHAIRPERSON MILLER: Is that the  
10 consensus?

11 MEMBER ALBERTI: But the  
12 Government could say that they are going to do  
13 it and notify us if they don't, decide not to.

14 CHAIRPERSON MILLER: That's not  
15 what she is asking, correct?

16 MEMBER ALBERTI: I'm just telling  
17 -- yeah, I would oppose allowing -- deviating  
18 from our past practices and allowing a period  
19 for rebuttal on the findings of fact and  
20 conclusions of law.

21 CHAIRPERSON MILLER: Okay. All  
22 right.

1 MS. PHILLIPS: What the District  
2 doesn't want to do is -- the District wants to  
3 waive findings of fact and conclusions of law.

4 CHAIRPERSON MILLER: Right.

5 MS. PHILLIPS: What the District  
6 doesn't want to do is because they don't file  
7 findings of fact and conclusions of law  
8 because they opposed bunches of motions and  
9 the transcript speaks for itself, that the  
10 District not be allowed to correct the record  
11 and have the Board believe exactly what the  
12 respondent puts in the findings of fact and  
13 conclusion of law.

14 And if that is what the Board does  
15 when it only gets one side, then the District,  
16 of course, will retract its waiver and indeed  
17 do findings of fact and conclusions of law,  
18 because we can't allow that to happen, that  
19 being to believe what they say and not what  
20 the transcript says.

21 MEMBER ALBERTI: It's unfortunate,  
22 but I think you have categorized it correctly.

1 MS. PHILLIPS: So the District  
2 withdraws its waiver and if -- and will do so  
3 unless informed that Mr. Mpras decides not to  
4 do so, then the District will also not do so.  
5 Otherwise we have 30 days?

6 MR. MPRAS: And if the Government  
7 -- okay.

8 MEMBER ALBERTI: Mr. Mpras, just  
9 to be fair to both sides, you know, we face  
10 this all the time and, quite frankly,  
11 personally as a Board Member I'm not pleased  
12 when I hear, you know, two days before the end  
13 of the period that a party is not filing.

14 Can you make a commitment to as to  
15 when you will decide? You have 30 days.

16 MR. MPRAS: Yes, sir.

17 MEMBER ALBERTI: You have 30 days  
18 from the transcript. So basically, you have  
19 six weeks from today to decide whether you are  
20 going to do this.

21 Can you give us a commitment as to  
22 when you would tell us whether you really will

1 file findings of fact and conclusions of law?

2 MR. MPRAS: Sure. If it's going  
3 to be filed, it's going to be filed within  
4 that time period. I'm exercising my right as  
5 per the DC Code, so I can't give you an exact  
6 date and I'm not going to box myself in.

7 MEMBER ALBERTI: Fine. Great.  
8 You have every right to do that. Thank you.

9 CHAIRPERSON MILLER: So --

10 MS. PHILLIPS: I'll withdraw my  
11 waiver on behalf of the District.

12 CHAIRPERSON MILLER: Right. You  
13 withdraw your waiver?

14 MS. PHILLIPS: Yes. I'm not going  
15 to waive if he is going to file.

16 CHAIRPERSON MILLER: Oh, that, I  
17 know.

18 MS. PHILLIPS: Yeah.

19 CHAIRPERSON MILLER: Okay. All  
20 right. All right. I mean, I tend to think  
21 that it is a lot of effort, maybe a lot of  
22 wasted effort if one side isn't going to do

1           it, you know, for the Government resources.  
2           The only reason you would be doing it is  
3           because the licensee is doing it.

4                   MS. PHILLIPS: That would be the  
5           only reason.

6                   CHAIRPERSON MILLER: That would be  
7           the only reason. Correct. So --

8                   MR. MPRAS: But it's up to her to  
9           base it on that. Either they want to do it or  
10          they don't. They can't base it on my actions.

11                   CHAIRPERSON MILLER: Well, okay.  
12          All I'm saying is I would -- you know, if the  
13          Board has a change of heart with respect to  
14          the alternative of responding to it, we will  
15          let you know. As of now, there is -- it's two  
16          out of four already saying that they don't  
17          want to do that.

18                   MS. PHILLIPS: I understand.

19                   CHAIRPERSON MILLER: And it is a  
20          change, so we would have to think about that.  
21          Okay. So the parties are not waiving their  
22          right. The transcript comes out, I think, in

1 two to three weeks and then you will have 30  
2 days from then.

3 And if a party decides that they  
4 are not going to do proposed findings of fact,  
5 they should alert the Board and the other  
6 party.

7 MR. MPRAS: And just for the  
8 record, the last time I was to do one and it  
9 was a case where I withdrew as counsel and I  
10 notified ABRA immediately as well as the  
11 Government.

12 CHAIRPERSON MILLER: Okay.

13 MR. MPRAS: And they did not have  
14 to wait for it.

15 CHAIRPERSON MILLER: Okay.

16 MR. MPRAS: So I don't do it on  
17 purpose. I just have to protect the best  
18 interest of my client.

19 CHAIRPERSON MILLER: Okay. Thank  
20 you. All right. Okay. I think then after  
21 that we will issue an order within 90 days.  
22 And all that is left is I'm going to read the

1 instructions. We are going to take a vote on  
2 deliberating in closed session and you don't  
3 have to stay if you don't want to, but you  
4 can.

5 As Chairperson of the Alcoholic  
6 Beverage Control Board for the District of  
7 Columbia and in accordance with Section 405 of  
8 the Open Meetings Amendment Act of 2010, I  
9 move that the ABC Board hold a closed meeting  
10 for the purpose of seeking legal advice from  
11 our counsel on Case No. 11-251-00372, Spot,  
12 per Section 405(b)(4) of the Open Meetings  
13 Amendment Act of 2010, and deliberating upon  
14 this case for the reasons cited in Section  
15 405(b)(13) of the Open Meetings Amendment Act  
16 of 2010.

17 Is there a second?

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Mr. Brooks  
20 has seconded the motion. I'll now take a roll  
21 call vote on the motion now that it has been  
22 seconded.

1 Mr. Brooks?

2 MEMBER BROOKS: I agree.

3 CHAIRPERSON MILLER: Mr. Alberti?

4 MEMBER ALBERTI: I agree.

5 CHAIRPERSON MILLER: Ms. Miller  
6 agrees.

7 Mr. Silverstein?

8 MEMBER SILVERSTEIN: I agree.

9 CHAIRPERSON MILLER: Mr. Jones,  
10 are you in this? Okay. So it appears that  
11 the motion has passed by a 4-0-0 vote.

12 I hereby give notice that the ABC  
13 Board will hold a closed meeting in the ABC  
14 Board conference room upon receipt of the  
15 proposed findings of fact and conclusions of  
16 law pursuant to the Open Meetings Amendment  
17 Act of 2010 and then issue an order within 90  
18 days of then.

19 Thank you very much.

20 MS. PHILLIPS: Thank you.

21 CHAIRPERSON MILLER: Okay. All  
22 right. Before the next case, the Board is

1           just going to take a five minute break.

2                               (Whereupon, the Show Cause Hearing  
3           in the above-entitled matter was concluded at  
4           3:41 p.m.)

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