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DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD
MEETING

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IN THE MATTER OF: :
 :
Love Des, LLC :
t/a Love :
1350 Okie Street, NE : Show Cause
Retailer CN : Hearing
License No. 84726 :
ANC 5B :
Case No. 12-251-00100 :
Allowed the Establishment to be :
Used for an Unlawful or :
Disorderly Purpose, Failed to :
Comply With Security Plan :
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November 7, 2012

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

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<p style="text-align: right;">2</p> <p>1 PRESENT</p> <p>2</p> <p>3 RUTHANNE MILLER, Chairperson</p> <p>4 NICK ALBERTI, Member</p> <p>5 DONALD BROOKS, Member</p> <p>6 HERMAN JONES, Member</p> <p>7 CALVIN NOPHLIN, Member</p> <p>8 MIKE SILVERSTEIN, Member</p> <p>9</p> <p>10 ALSO PRESENT</p> <p>11 MICHAEL STERN, OAG</p> <p>12 JABRIEL SHAKOOR, ABRA</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">4</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>1 11:17 a.m.</p> <p>2 CHAIRPERSON MILLER: Good morning. The next</p> <p>3 case on our calendar is 12-251-00100. It's the Love</p> <p>4 establishment located at 1350 Okie Street, N.E.,</p> <p>5 License No. 84726, in ANC 5B. And this is a show cause</p> <p>6 hearing. Would the parties introduce themselves for</p> <p>7 the record and also be sure to sign in on the sheet?</p> <p>8 Did you get that? I'm sorry. Could you please? Yeah.</p> <p>9 MS. LATIMER: Tina Latimer, manager.</p> <p>10 CHAIRPERSON MILLER: Okay.</p> <p>11 MR. SMOTHERS: Dean Smothers, Love Nightclub.</p> <p>12 MR. BAILEY: David Bailey, Love Nightclub.</p> <p>13 CHAIRPERSON MILLER: Mr. Bailey, what's --</p> <p>14 you're head of security?</p> <p>15 MR. BAILEY: Yes, ma'am.</p> <p>16 CHAIRPERSON MILLER: Okay. Thank you. Okay.</p> <p>17 Are there any preliminary matters?</p> <p>18 MR. STERN: Yes, there are. I guess you --</p> <p>19 first of all, I spoke with Ms. Latimer. She's the</p> <p>20 manager. She will be faxing to the Board this</p> <p>21 afternoon authority to act on behalf of the owner --</p> <p>22</p>
<p style="text-align: right;">3</p> <p style="text-align: center;">C O N T E N T S</p> <p>1</p> <p>2</p> <p>3 Opening Statement for the Government 14</p> <p>4 Opening Statement for the Licensee 16</p> <p>5 Closing Statement for the Government 145</p> <p>6 Closing Statement for the Licensee 149</p> <p>7</p> <p>8 WITNESSES</p> <p>9 Jabriel Shakoor 19</p> <p>10 David Bailey 77</p> <p>11</p> <p>12 EXHIBITS</p> <p>13 Government's</p> <p>14 1 Investigator's report 55</p> <p>15 2 New Security plan, Love Nightclub 109</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">5</p> <p>1 written authority. The parties have also discussed an</p> <p>2 offer in compromise, which we hope the Board will</p> <p>3 accept.</p> <p>4 The establishment will pay a fine of \$9000</p> <p>5 within 60 days. That will be distributed as \$3000 for</p> <p>6 each of the three cited violations. They will also</p> <p>7 employ a reimbursable detail of four officers for four</p> <p>8 hours per night on Friday and Saturday nights, which</p> <p>9 actually are Saturday and Sunday mornings, 12:00 to</p> <p>10 4:00. And that will -- what the government has reached</p> <p>11 --</p> <p>12 CHAIRPERSON MILLER: Do you know the hours in</p> <p>13 particular or just any four hours?</p> <p>14 MR. STERN: Well, it'll be 12:00 to -- we are</p> <p>15 expecting 12:00 to 4:00. We have agreed on that.</p> <p>16 It'll of course be up to the police department to be</p> <p>17 able to schedule that.</p> <p>18 CHAIRPERSON MILLER: Oh, I see. Okay.</p> <p>19 MR. STERN: So pending police approval, it'll</p> <p>20 be 12:00 to 4:00 or some reasonable activity around</p> <p>21 that time. The police didn't actually schedule this.</p> <p>22 CHAIRPERSON MILLER: Okay. So what I</p>

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<p style="text-align: right;">6</p> <p>1 understand the offer in compromise to be is a fine of 2 \$9000, which is \$3000 for each violation to be paid 3 within 60 days. And the establishment will also employ 4 reimbursable detail, consisting of four officers for 5 four hours Friday and Saturday night. And let me just 6 ask this one question. That -- when would that start, 7 as soon as the next weekend? 8 MR. STERN: As is -- the range of our 9 quotation is 30 days because that's what the police 10 have informed us it takes them to process and get 11 somebody out there. But -- 12 CHAIRPERSON MILLER: Okay. Okay. Ms. 13 Latimer, so I know you're speaking on behalf of the 14 establishment but you are going to get authority 15 confirmed by fax this afternoon; is that correct? 16 MS. LATIMER: Yes. 17 CHAIRPERSON MILLER: All right. So I 18 repeated the offer in compromise that Mr. Stern 19 represented. Is that your understanding of the offer 20 in compromise and do you agree to that? 21 MS. LATIMER: (Indicating yes) 22 CHAIRPERSON MILLER: And do you also</p>	<p style="text-align: right;">8</p> <p>1 the gentleman -- the security personnel that was 2 accused of assaulting a patron -- 3 CHAIRPERSON MILLER: Uh-huh. 4 MR. BAILEY: -- I would like the Board to 5 know that he did report the young lady came in there 6 testified that she was intoxicated and she was unaware 7 of who actually hit her, she expressed that's what she 8 thought had happened but the charges against him were 9 dropped. Since then, he was -- he was terminated for 10 other reasons. But the other person -- the other 11 security personnel who was both -- who was an SPO 12 involved in handcuffs has also left our staff as well. 13 CHAIRPERSON MILLER: He was an SPO that what 14 happened? 15 MR. BAILEY: The gentleman who was involved 16 in the handcuffing incident was -- he left the 17 establishment as well. 18 CHAIRPERSON MILLER: Okay. And has there 19 been any other changes in the security plan or any 20 guidelines for behavior for security personnel? 21 MR. BAILEY: I mean, I have instructed my 22 security -- I mean, although, there are SPOs who have</p>
<p style="text-align: right;">7</p> <p>1 understand that that waives your right to a hearing? 2 MS. LATIMER: Yes. 3 CHAIRPERSON MILLER: Okay. Do Board members 4 have questions on this offer in compromise? Well, I 5 have a question and that being that just based on the 6 investigative report that I have read, it raises 7 concerns about the behavior of the security personnel 8 of Love. And I would like to know if those personnel 9 are still employed by Love and/or if any other changes 10 have been made to the security to address that -- the 11 allegations of the investigative report. 12 MS. LATIMER: Those employees in question are 13 not employed by Love. 14 CHAIRPERSON MILLER: I'm sorry, could you 15 speak -- 16 MS. LATIMER: They are not employed. 17 CHAIRPERSON MILLER: How many are you 18 referring to? 19 MS. LATIMER: With these questions, I would 20 defer them to -- 21 CHAIRPERSON MILLER: Mr. Bailey? 22 MR. BAILEY: Well, first of all, the first --</p>	<p style="text-align: right;">9</p> <p>1 in their ratio -- they don't -- a lot of them come in 2 straight from their jobs as SPOs -- let them know to 3 have nothing other than a flashlight inside of the 4 establishment. 5 CHAIRPERSON MILLER: Okay. 6 MR. BAILEY: And also in regards to the third 7 incident with there was the young lady that said that 8 security did not do anything. They actually did have 9 people down in the detox area. The young lady never 10 came down to -- had left and did not come to identify 11 the person that we had. And the-- 12 CHAIRPERSON MILLER: Okay. Yeah. So we 13 don't want to get too much into the merits of the case. 14 MR. BAILEY: Okay. 15 CHAIRPERSON MILLER: But I -- just before 16 considering, you know, not getting into the merits, I 17 wanted to just have an understanding whether -- what 18 was happening with the particular personnel. So thank 19 you. I appreciate that. Mr. Alberti? 20 MR. ALBERTI: Ms. Miller, can get the names 21 of the individuals for the record? There's no -- 22 CHAIRPERSON MILLER: Sure.</p>

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<p style="text-align: right;">10</p> <p>1 MR. BAILEY: Brian Short (ph) and I need a 2 second. 3 CHAIRPERSON MILLER: Okay. 4 MR. BAILEY: Okay. Gary Matthews (ph). 5 MR. ALBERTI: Gary what? 6 MR. BAILEY: Matthews. 7 MR. ALBERTI: Matthews. Okay. Thank you. 8 CHAIRPERSON MILLER: Okay. Are there other 9 questions, Board members? Okay. Then I'm going to 10 move approval of the offer in compromise of \$9000 fine, 11 \$3000 for each offense, to be paid within 60 days and 12 then the employment of reimbursable detail of four 13 officers for four hours, Friday and Saturday nights, to 14 be arranged with the MPD as to the exact hours, but 15 approximately from 12:00 to 4:00. 16 And that would be in place as soon as it can 17 be arranged with MPD and Mr. Stern represented that 18 would be within 30 days. And I'm moving this primarily 19 because I think the reimbursable detail factor 20 addresses my concern about safety for the public. And 21 then there is a fine here as well. 22 So do I have a second on this?</p>	<p style="text-align: right;">12</p> <p>1 I would accept nothing less than many days of 2 suspension here and possibly a higher fine. 3 This is -- this is completely unacceptable 4 behavior of the management. It's completely 5 unacceptable. 6 CHAIRPERSON MILLER: Others? I would say 7 that -- just to speed it up, there are some very 8 serious allegations in here but they are still 9 allegations. And they're not stated facts at this 10 point. 11 MR. ALBERTI: No. But they're removing all 12 liability with the OIC. I will point that out. 13 CHAIRPERSON MILLER: Okay. Mr. Silverstein? 14 MR. SILVERSTEIN: I would like to associate 15 myself with the concerns of Board Member Alberti. But 16 I will be voting differently and that is because I 17 believe that the agreement for a reimbursable detail is 18 so in the public interest and is so necessary that it 19 will be the determinative factor in my vote. That 20 said, there's disconnect in my own reasoning here, 21 because what happened didn't happen outside, but it 22 happened inside.</p>
<p style="text-align: right;">11</p> <p>1 MR. SILVERSTEIN: Second. 2 CHAIRPERSON MILLER: Okay. Mr. Silverstein 3 has seconded. Does someone want -- any Board members 4 want to speak to the motion? 5 MR. ALBERTI: I would like to. 6 CHAIRPERSON MILLER: Okay. Mr. Alberti. 7 MR. ALBERTI: I will be dissenting on this 8 motion. It appears from the allegations in the report 9 there was complete mayhem that night. We had three 10 incidents occur of that night. Each of them involved 11 egregious acts by security personnel. That conveys to 12 me not that there was some rogue security officer who - 13 - if that happens, it conveys to me that there is an 14 atmosphere and a lack of training and a lack of proper 15 messaging sent to the staff about what behavior will be 16 accepted by staff. 17 And it's management's responsibility to do 18 that. And based on what I've seen in this -- in this 19 report, I don't see management stepping up to the plate 20 and having the proper management control over their 21 staff and setting the right atmosphere. And that's 22 important, especially in an establishment this large.</p>	<p style="text-align: right;">13</p> <p>1 And it was egregious and horrific. And if 2 anything like this happens again or anything similar to 3 this happens, there will be very, very serious 4 penalties. It -- or I believe that there should be. 5 And I hope that we can move forward. I hope that the 6 fine, as minimal as it is considering the offense, and 7 the RDO will provide an element of public safety that 8 has been lacking. And based solely on that, I will 9 vote, "Yes." But I'm deeply, deeply troubled. 10 The primary obligation of any establishment 11 is to ensure the safety of patrons from the 12 establishment's people first. And there was a terrible 13 failure here. And it's very troubling. Madam Chair? 14 CHAIRPERSON MILLER: Okay. Thank you. 15 Anybody else? Okay, then. There's been a motion to 16 approve the OIC that's been seconded. All those in 17 favor, say aye? 18 MR. SILVERSTEIN: Aye. 19 CHAIRPERSON MILLER: Aye. All those opposed? 20 MR. ALBERTI: Opposed. 21 MR. JONES: No. 22 CHAIRPERSON MILLER: Then the vote is 2-2-0</p>

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<p style="text-align: right;">14</p> <p>1 and the motion fails for lack of majority. Are you 2 prepared now then to go forward to hearing, Mr. Stern? 3 MR. STERN: Yes. 4 CHAIRPERSON MILLER: Okay. 5 MR. STERN: Thank you, Members of the Board. 6 The government's evidence today will show that on 7 February 19th, 2012 Investigator Shakoor of the 8 Alcoholic Beverage Regulation Authority reported to 9 Love Nightclub for -- to investigation some incidents 10 that occurred. When he got there, he spoke to 11 witnesses and he determined that there was an incident 12 where a female patron was attacked in the club and she 13 received no assistance whatsoever in breaking up the 14 fight or assisting her by the security guards of Love. 15 She saw them there but they did not intervene 16 to assist her. And that -- this is both a violation of 17 their security agreement and is cause to determine that 18 they allowed an unlawful or disorderly act to occur in 19 their club. In addition, he learned of another 20 incident where some unruly male patrons were taken to 21 the detox room and they were handcuffed and kept there. 22 This also is a violation of Love's security</p>	<p style="text-align: right;">16</p> <p>1 MS. LATIMER: Thank you. 2 CHAIRPERSON MILLER: Okay. So if you would 3 like to make an opening statement, feel free to do so. 4 MS. LATIMER: (Inaudible) -- 5 CHAIRPERSON MILLER: Is Mr. -- okay. Is one 6 of you going to take the role of presenting the case? 7 Is that you, Mr. Smothers, or is that -- 8 MR. SMOTHERS: That would be me, Dean 9 Smothers. I'm the owner. 10 CHAIRPERSON MILLER: Oh, okay. Go ahead then. 11 MR. SMOTHERS: Okay. Responding to the 12 allegations made on February the 19th, 2012, the first 13 case -- 14 CHAIRPERSON MILLER: Can I just say one 15 thing? Just make sure you understand because I know 16 you don't practice before the Board to -- this is just 17 a -- just -- it's not testimony. It's not evidence. 18 MR. SMOTHERS: Okay. 19 CHAIRPERSON MILLER: You'll get a chance to 20 put on your case. What it is, it's just saying an 21 overview of, you know, "My case is going to show that 22 we didn't do this or we did do this or" -- just kind of</p>
<p style="text-align: right;">15</p> <p>1 plan wherein that the security plan, it specifies that 2 no one shall be kept in the detox center without -- 3 against their will. And this was clearly done in this 4 instance by chaining to -- excuse me -- chaining a 5 patron to a railing. At the conclusion of the case, 6 the government will ask the Board to find that Love 7 committed three violations, the first violation being 8 allowing a disorderly or unlawful establishment, the 9 second two violations being two different violations of 10 the security plan. 11 CHAIRPERSON MILLER: Thank you. Ms. Latimer, 12 I'm sorry I didn't go into an explanation of the order 13 of procedure, which I should do. You're not as 14 familiar as Mr. Stern. Okay. The first part is 15 opening statements. Mr. Stern just gave an opening 16 statement. It's not required but what it does is just 17 give your overview of what your case is going to be. 18 And Mr. Stern has the burden of proof, so he 19 goes first. And then he will call his witnesses. And 20 he'll ask questions. And you can cross and we can ask 21 questions. Then you'll call your witnesses. And then 22 there'll be closings.</p>	<p style="text-align: right;">17</p> <p>1 tell us in general -- 2 MR. SMOTHERS: Okay. 3 CHAIRPERSON MILLER: -- what you're going to 4 tell us -- 5 MR. SMOTHERS: Right. And -- 6 CHAIRPERSON MILLER: -- but don't give us the 7 meat. Yeah. 8 MR. SMOTHERS: And we're here to explain what 9 happened on that night. And we'll show that -- 10 CHAIRPERSON MILLER: Okay. 11 MR. SMOTHERS: -- in this case, the first one 12 presented, where a young lady was allegedly attacked 13 and held against her will, that we did act in 14 accordance to our security plan and we did act in the 15 best interest of public safety. 16 CHAIRPERSON MILLER: Good. Thank you very 17 much. Okay. So Mr. Stern, your first witness? Oh, 18 how many witnesses do you have on hand? 19 MR. STERN: Just one. 20 CHAIRPERSON MILLER: Just one. And do you 21 have any witnesses? 22 MR. SMOTHERS: Yeah. Yes.</p>

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<p style="text-align: right;">18</p> <p>1 CHAIRPERSON MILLER: Okay. 2 MR. SMOTHERS: Head of security, Mr. Bailey. 3 CHAIRPERSON MILLER: Mr. Bailey? Okay. And 4 if you -- one of you also could testify if you -- if 5 that's part of your evidence? Okay. All right. 6 MR. STERN: Mr. Bailey should perhaps -- 7 CHAIRPERSON MILLER: You want Mr. Bailey -- 8 okay. There is what's called a rule on witnesses, 9 whereas -- Mr. Stern is invoking that -- whereas if 10 your witness is going to testify on something that, you 11 know, another witness is going to testify on, such as 12 the investigator, that he step out of the room so that 13 he doesn't hear that testimony. So because he's 14 requesting that, I'm going to have to ask you, Mr. 15 Bailey, to step out. Just Mr. Bailey. There you go. 16 MR. BAILEY: (Inaudible) I'm aware of the 17 procedures and I'm just trying to (inaudible) -- 18 CHAIRPERSON MILLER: Okay. You need a minute 19 to talk to him before you go? Okay. Okay. It's just 20 for this witness. 21 Okay, Mr. Shakoor. Do you swear to tell the 22 truth, the whole truth, nothing but the truth?</p>	<p style="text-align: right;">20</p> <p>1 noise complaint actually to the establishment. When I 2 arrived on the scene, I made my way to the entrance. 3 And as I got there, I observed a female patron exiting 4 the front doors with blood coming from her nose and 5 mouth and yelling and screaming that she had been beat 6 up and attacked. 7 MR. STERN: Okay. And would you describe her 8 demeanor? 9 MR. SHAKOOR: She was pretty frantic. 10 MR. STERN: Okay. And what happened after 11 that? 12 MR. SHAKOOR: While I was there, she came out 13 and she continued to say that a security guard did not 14 help her or did not assist her while this was going on. 15 MR. STERN: Did she say what the 16 circumstances were? 17 MR. SHAKOOR: She said that she was attacked 18 by a group of girls while inside. 19 MR. STERN: Okay. And how -- what led her to 20 believe that she was not being assisted by security? 21 MR. SHAKOOR: She claims that she approached 22 security, I think, two or three times and they just</p>
<p style="text-align: right;">19</p> <p>1 MR. SHAKOOR: I do. 2 CHAIRPERSON MILLER: Thank you. 3 MR. STERN: Good morning. Could you give us 4 your name and spell your last name for the court 5 reporter, please? 6 MR. SHAKOOR: First name is Jabriel. My last 7 name's Shakoor. That's S-H-A-K-O-O-R. 8 MR. STERN: And are you employed, Mr. 9 Shakoor? 10 MR. SHAKOOR: I am. 11 MR. STERN: And how are you employed? 12 MR. SHAKOOR: I'm employed as an investigator 13 for the Alcoholic Beverage Regulation Administration. 14 MR. STERN: And were you employed as such on 15 Sunday, February 19th, 2012? 16 MR. SHAKOOR: I was. 17 MR. STERN: And on that date did you have 18 occasion to become acquainted with a club called Love? 19 MR. SHAKOOR: I did. 20 MR. STERN: Okay. Can you tell me what 21 brought Love to your attention? 22 MR. SHAKOOR: I was actually responding to a</p>	<p style="text-align: right;">21</p> <p>1 pushed her away. So that was her statement. 2 MR. STERN: Okay. And did you speak to 3 anyone else about that particular instance? 4 MR. SHAKOOR: At the moment, like I said, she 5 was not being attended to so I went and notified the 6 police officers who were on the scene. And they began 7 doing an investigation at the time. 8 MR. STERN: Okay. And what happened after 9 that? 10 MR. SHAKOOR: After that, a second group -- a 11 group of girls then exited who also complained and said 12 that they were involved in an altercation, this time 13 with a security guard. 14 MR. STERN: Now, were they involved with the 15 same first person you saw? 16 MR. SHAKOOR: No. They said this was a 17 complete, separate incident. It was about three girls. 18 They had notable -- noticeable scars and scratches on 19 their legs and arms. And a third girl, who was 20 involved in this group also, had a very large lump on 21 her forehead over her eye. 22 MR. STERN: Based on your observation, did</p>

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<p style="text-align: right;">22</p> <p>1 they appear to be fresh injuries or older injuries? 2 MR. SHAKOOR: No, these were brand-new 3 injuries. They were clearly injured within a few 4 minutes. 5 MR. STERN: Okay. And can you describe what 6 they said occurred that caused their injuries? 7 MR. SHAKOOR: They said that a large melee 8 took -- broke, I believe, on the second floor of the 9 establishment, I think where the performance of the -- 10 performance was supposed to take place at. They said 11 that security start pushing people away from the stage 12 or off of the stage. At that time they said they were 13 trying to assist one of their friends and the security 14 guard punched one of them. 15 MR. STERN: Okay. Did you speak to any of 16 them about whether or not other security guards were 17 visible at the time? 18 MR. SHAKOOR: They said it was very dark and 19 they couldn't see anybody else really. But they said 20 that one security guard was who they were engaged with 21 and he was attacking them. 22 MR. STERN: Okay. Did you speak to a Ms.</p>	<p style="text-align: right;">24</p> <p>1 did not assist her. She stated that the group of 2 female patrons later observed her again and attacked 3 her for a second time in view of the security guard. 4 She said she couldn't understand why the 5 security guard did not stop the altercation when it was 6 clearly in view of -- when it was clearly in their 7 view. 8 MR. STERN: Okay. Now, did you speak to 9 anybody else about other incidents? 10 MR. SHAKOOR: Yes. I spoke with the other 11 complainants. 12 MR. STERN: Okay. What was the other 13 incident that you spoke about? 14 MR. SHAKOOR: The other incident was the 15 second group of girls I observed that were coming 16 outside. 17 MR. STERN: Other than those group of girls, 18 was there any other instance that night? 19 MR. SHAKOOR: Yes, the incident that took 20 place in the detox room where the patrons were 21 handcuffed. 22 MR. STERN: Okay. And did you speak to --</p>
<p style="text-align: right;">23</p> <p>1 Wyche (ph), who was a witness to this? 2 MR. SHAKOOR: Yes, I believe I did. 3 MR. STERN: Okay. Did she tell you anything 4 about whether she had seen any security guards? 5 MR. SHAKOOR: Let me find her testimony. 6 MR. STERN: If you don't recall, I can 7 refresh your recollection. 8 MR. SHAKOOR: I have it here. Yes. This was 9 the first victim actually -- 10 MR. STERN: Okay. 11 MR. SHAKOOR: -- who had -- was bleeding from 12 her mouth and nose. She stated that she bumped into an 13 unknown male patron while on the second floor. She 14 stated that an unknown female patron then engaged her 15 in a physical altercation. She stated that the female 16 patron then punched her face twice along with another 17 group of female friends. She said a security person 18 was visible but did not intervene to stop the fight. 19 She stated that she crawled away after being 20 knocked down. She said after she did get away, she did 21 notify a security guard of what happened. She said 22 that the security guard instructed her not to leave and</p>	<p style="text-align: right;">25</p> <p>1 what did you find out occurred during that instance? 2 MR. SHAKOOR: I was actually notified of this 3 third incident by the Detective Stanley Farmer. And I 4 was able to speak with a complainant there, a Jeffrey 5 Turner McNeil (ph). He stated that he was involved in 6 an altercation while on the first floor of the 7 establishment with an unknown male patron. Mr. McNeil 8 stated that the security guard responded and separate 9 himself and the unknown male patron. 10 He stated that he was taken to the detox are 11 and then handcuffed. He also stated that his brother- 12 in-law was enraged at the security guards for 13 handcuffing him and started another altercation in the 14 detox area with the security guards. 15 MR. STERN: When you -- when you say he was 16 handcuffed, can you describe how the handcuffs were 17 applied? 18 MR. SHAKOOR: I do have photos of it 19 specifically. Specifically, he was handcuffed walking 20 into the detox area. So the security guard handcuffed 21 himself to the patron. 22 MR. STERN: Okay. And did he remain</p>

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<p style="text-align: right;">26</p> <p>1 handcuffed to the security guard? 2 MR. SHAKOOR: Well, there were, again, two 3 patrons who were handcuffed. The first one was a first 4 complainant who came downstairs handcuffed. He was 5 actually very calm. They sat him down and they 6 unhandcuffed him. The second one who came down, he was 7 highly aggressive. They handcuffed him to a railing on 8 the stairs. And he remained there. Okay. And as this 9 was going on, he became more and more enraged and 10 became engaged in an altercation with a security guard. 11 He is seen on the camera handcuffed to the 12 railing, pulling -- trying to pull away and swinging 13 wildly at security guards. 14 MR. STERN: Were either of these patrons free 15 to leave while they were handcuffed? 16 MR. SHAKOOR: No, they were not. It was 17 clear that they were handcuffed to the railing and they 18 could not leave. 19 MR. STERN: Okay. Did you -- in the course 20 of your investigation did you attempt to retrieve video 21 footage? 22 MR. SHAKOOR: Yes. I was able to view</p>	<p style="text-align: right;">28</p> <p>1 she'd been assaulted inside of the club, correct? 2 MR. SHAKOOR: That's correct. 3 MR. SMOTHERS: Okay. Now, how -- what steps 4 did you take to determine whether her allegations were 5 correct or incorrect? 6 MR. SHAKOOR: First I notified the police 7 department who was there because -- 8 MR. SMOTHERS: Uh-huh. 9 MR. SHAKOOR: -- Because they are the ones to 10 identify an assailant and therefore, make an arrest. 11 CHAIRPERSON MILLER: Mr. Shakoor, can you 12 speak up a little louder? Speak up a little louder or 13 closer to the -- 14 MR. SHAKOOR: No problem. 15 CHAIRPERSON MILLER: -- microphone? 16 MR. SHAKOOR: I said I -- 17 CHAIRPERSON MILLER: I didn't catch the last 18 thing you said. 19 MR. SHAKOOR: Immediately I saw that she was 20 not being assisted to so I went and got the police 21 officers when they're on scene and notified them of the 22 situation so that they could get him immediately.</p>
<p style="text-align: right;">27</p> <p>1 footage and get a hold of it. 2 MR. STERN: Okay. And were there any issues 3 regarding the video footage? 4 MR. SHAKOOR: Just the time was off about an 5 hour or so at the time. 6 MR. STERN: Okay. Thank you. That's all the 7 questions I have for right now. 8 CHAIRPERSON MILLER: Mr. Smothers, when 9 you're ready you can cross-examine Mr. Shakoor. 10 MR. SMOTHERS: I don't -- Good. Okay. I 11 just want to ask you a couple of questions in regards 12 to the first incident. You said you passed the young 13 lady on the way out. You passed the young lady -- the 14 young lady passed you? You were on your way into the 15 club? 16 MR. SHAKOOR: No, no. First I walked up to 17 speak with management. 18 MR. SMOTHERS: Uh-huh. 19 MR. SHAKOOR: The girl came out of the 20 establishment. She had some bleeding from her mouth 21 and her nose. 22 MR. SMOTHERS: Okay. And she suggested that</p>	<p style="text-align: right;">29</p> <p>1 CHAIRPERSON MILLER: Thank you. 2 MR. SMOTHERS: Okay. Were there any arrests 3 -- were there any arrests made? 4 MR. SHAKOOR: I believe they made one arrest. 5 I'm not sure what time. 6 MR. SMOTHERS: Are we aware of who that was? 7 MR. SHAKOOR: No, I'm not aware of who it 8 was. 9 MR. SMOTHERS: Was it a Love personnel? 10 MR. SHAKOOR: I believe it was a security 11 person -- was a -- 12 MR. SMOTHERS: For the record, no one at Love 13 was arrested that night. Did she inform you of what 14 floor this occurred on? 15 MR. SHAKOOR: I believe it was multiple 16 floors. I can re-check the report real quick. 17 MR. SMOTHERS: Well, I'm talking specifically 18 of where the incident took place. 19 MR. SHAKOOR: She said she was on the second 20 floor actually. 21 MR. SMOTHERS: Okay. She was on the second 22 floor. Did she indicate to you the manner in which</p>

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<p style="text-align: right;">30</p> <p>1 things happened? Did she indicate that security was 2 actually -- asked her to stand there while they went to 3 -- or asked her to point out who assaulted her? Did 4 she -- 5 MR. SHAKOOR: No. She didn't go that much 6 into detail. She said that she went to a security 7 guard and informed them of the incident. And the 8 security guard didn't assist her? 9 MR. SMOTHERS: Okay. Well, what I'm trying 10 to actually ascertain is how you got your facts or if 11 you investigated while you were there. That's what I'm 12 trying to figure out. So she had told you it was on 13 the second floor. Were you able -- was she able to 14 point out to you who might have assaulted her? 15 MR. SHAKOOR: No, she didn't point it out to 16 me. 17 MR. SMOTHERS: Did you observe the video 18 while you were there? 19 MR. SHAKOOR: Not that night. I went back 20 and looked at it. 21 MR. SMOTHERS: Did you look at it later? 22 MR. SHAKOOR: Yes, we did.</p>	<p style="text-align: right;">32</p> <p>1 security when they're not? 2 MR. SHAKOOR: That's possible, yes. 3 MR. SMOTHERS: It's possible. Okay. And 4 again, there's no arrest made of any personnel that 5 worked at Love Nightclub that night that you are aware 6 of? 7 MR. SHAKOOR: Like I said, I'm not aware of 8 that. I'm not a police officer. 9 MR. SMOTHERS: Okay. Okay. And we went 10 through the incident, which was the handcuffing issue. 11 MR. SHAKOOR: Uh-huh. 12 MR. SMOTHERS: Okay. Speaking on the 13 incident where the gentleman was handcuffed, you have 14 his name, right? 15 MR. SHAKOOR: No, I don't have the names. 16 Oh, the second victim? Yes. 17 MR. SMOTHERS: Well, excuse me, Board. I 18 want to go back to the first incident. 19 CHAIRPERSON MILLER: But do you want the 20 answer to that question or not? 21 MR. SMOTHERS: Oh, well, it's the handcuffing 22 incident --</p>
<p style="text-align: right;">31</p> <p>1 MR. SMOTHERS: Okay. And did you see her 2 being assaulted by anyone -- anybody -- any security at 3 Love Nightclub? 4 MR. SHAKOOR: No, we couldn't make it out. 5 It was very dark on the second floor. 6 MR. SMOTHERS: While you're there, are you 7 able to determine who's security and who's not besides 8 the people in the front? 9 MR. SHAKOOR: Could you be more specific with 10 that? 11 MR. SMOTHERS: Would you believe that it'd be 12 -- would you think that it would be easy to have 13 somebody as security confused with somebody that's not 14 security? 15 MR. STERN: Objection. 16 MR. SMOTHERS: Can you -- can you walk into 17 the club and is every -- here's a question. Does 18 everybody in Love Nightclub have, "Security," on their 19 chest? 20 MR. SHAKOOR: No, they don't. 21 MR. SMOTHERS: They don't. So then it would 22 be possible for someone to assume that somebody's</p>	<p style="text-align: right;">33</p> <p>1 MR. STERN: The answer? 2 MR. SMOTHERS: Yeah, I actually want to go 3 back because I forgot one important thing about the 4 first incident, which was the young lady who was 5 leaving the venue. 6 CHAIRPERSON MILLER: Okay. 7 MR. SMOTHERS: Okay. Did she -- did she 8 inform you that she was leaving against the nightclub 9 security's direction? 10 MR. SHAKOOR: What she indicated was that the 11 security guard told her to stay there. 12 MR. SMOTHERS: Correct. 13 MR. SHAKOOR: Okay. 14 MR. SMOTHERS: Did she inform you why they 15 told her to stay there? 16 MR. SHAKOOR: No, she did not. 17 MR. SMOTHERS: No. For the record, they 18 informed her to stay there -- 19 CHAIRPERSON MILLER: Wait, wait. I just 20 wanted to tell you -- I'm cutting in here a little bit 21 because your role here is to ask questions. And then 22 you'll get a chance to testify and put your statements</p>

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<p style="text-align: right;">34</p> <p>1 on the record. 2 MR. SMOTHERS: Okay. 3 CHAIRPERSON MILLER: Okay. 4 MR. SMOTHERS: Thank you. 5 CHAIRPERSON MILLER: Okay. 6 MR. SMOTHERS: The handcuffing incident, you 7 said you did not have his name for the record? 8 MR. SHAKOOR: I apologize about that. I do 9 have his name. 10 MR. SMOTHERS: Oh, you do have his name. 11 Okay. Did he inform you of why he was handcuffed? 12 MR. SHAKOOR: No, he did not actually. When 13 I spoke with him, he was actually surprised to find out 14 that they could not be handcuffed. He believed, I 15 guess, that they had the authority to do that. 16 MR. SMOTHERS: Did he appear to be 17 intoxicated to you? 18 MR. SHAKOOR: I couldn't say that from the 19 video. 20 MR. SMOTHERS: Did he appear to be over 21? 21 MR. SHAKOOR: I couldn't say that from the 22 video.</p>	<p style="text-align: right;">36</p> <p>1 MR. SMOTHERS: Were there any arrests made in 2 that case? 3 MR. SHAKOOR: Not that I'm aware of. 4 MR. SMOTHERS: Are you aware that MPD was on 5 the scene during that case? 6 MR. SHAKOOR: Yes, I notified them. 7 MR. SMOTHERS: I have no further questions. 8 CHAIRPERSON MILLER: Okay. Board question? 9 Mr. Brooks? 10 MR. BROOKS: Yeah, thank you, Madam Chair. 11 Mr. Investigator, were you able to see any video? 12 MR. SHAKOOR: Yes, I was. 13 MR. BROOKS: Okay. You were able to see. 14 And did you see any altercation at that time? 15 MR. SHAKOOR: No, I wasn't. But other -- the 16 three incidents that occurred, I saw the victims as 17 they came out, but I was unable to actually identify 18 the altercation on the video footage. 19 MR. BROOKS: Okay. 20 MR. SHAKOOR: That was in part due to the 21 statements from the complainants. I wasn't able to 22 identify a specific time. And again, where it happened</p>
<p style="text-align: right;">35</p> <p>1 MR. SMOTHERS: Okay. Did he appear to be 2 unruly? 3 MR. SHAKOOR: The first -- Mr. McNeil, no, he 4 did not. He was the calmer of the two patrons. 5 MR. SMOTHERS: We're talking about the 6 gentleman that was handcuffed? 7 MR. SHAKOOR: Both were handcuffed. 8 MR. SMOTHERS: Uh-huh. 9 MR. SHAKOOR: The second one was his brother- 10 in-law, I believe -- was handcuffed to the railing. 11 MR. SMOTHERS: Right. 12 MR. SHAKOOR: Correct. 13 MR. SMOTHERS: Okay. Do you believe he was 14 being verbally aggressive? Was he being verbally 15 aggressive? 16 MR. SHAKOOR: There's no audio on the tape so 17 I couldn't tell you that. 18 MR. SMOTHERS: And how long were you in his 19 presence while he was handcuffed? 20 MR. SHAKOOR: I didn't observe him that night 21 at all. I was made aware of it after by the detective 22 by some footage, got a statement from the detectives...</p>	<p style="text-align: right;">37</p> <p>1 at on the second floor, it was very, very dark. All 2 you see is black and a mass of people. 3 MR. BROOKS: Okay. Do you have any idea of 4 how many cameras that they have at Love? 5 MR. SHAKOOR: It was approximately 80 6 cameras, I believe. 7 MR. BROOKS: Eighty? 8 MR. SHAKOOR: Approximately, yeah. 9 MR. BROOKS: Okay. And are any of those 10 infrared cameras that you know of? 11 MR. SHAKOOR: Possibly some maybe, but I 12 couldn't tell you definitely. 13 MR. BROOKS: So if a camera was infrared, 14 would it show that particular scene that you could not 15 make out because it was so dark? 16 MR. SHAKOOR: Yes. It would show more of it. 17 MR. BROOKS: Okay. Okay. And you indicated 18 that you saw someone being handcuffed or was in 19 handcuffs? 20 MR. SHAKOOR: That's correct. 21 MR. BROOKS: You did? Okay. And from the 22 security plan of Love, is that permitted?</p>

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38	<p>1 MR. SHAKOOR: It doesn't say specifically 2 that they -- that -- it doesn't mention handcuffs at 3 all but that was an issue I took up later when I spoke 4 with management. I spoke with Mr. Smothers. I spoke 5 with Ms. Latimer, another manager, Warren Green, and a 6 head of security, Mr. Bailey, specifically about the 7 handcuffs. Is that -- were they company policy, a 8 manager's policy or just a security guard had that? 9 All the managers, including Mr. Smothers, 10 stated that they did not -- did not at all use 11 handcuffs, except to have security move -- said that 12 the security guards do carry handcuffs, flashlights and 13 air pistols. 14 MR. BROOKS: Okay. So handcuffs is a part of 15 their equipment then? 16 MR. SHAKOOR: According to the head of 17 security. 18 MR. BROOKS: According to what you heard. 19 Okay. Thank you, Madam Chair. 20 CHAIRPERSON MILLER: Thank you, Mr. Brooks. 21 Others? Mr. Alberti? 22 MR. ALBERTI: Hi, Investigator Shakoor.</p>	40	<p>1 MR. ALBERTI: Okay. Do you know how many 2 security people were there that evening? 3 MR. SHAKOOR: I was unable to get an exact 4 count that night. 5 MR. ALBERTI: Do you know approximately? 6 MR. SHAKOOR: I don't know approximately. 7 MR. ALBERTI: Do you know how the security 8 are dressed at Love? 9 MR. SHAKOOR: To get back to this question, 10 it is a bit difficult to clearly identify that they are 11 security guards. That night I do recall security 12 guards that were wearing boots, I believe, and BDU 13 style pants and mostly all black though. 14 MR. ALBERTI: Okay. It says in the security 15 plan, "Uniform for" -- I guess it's SP for Security 16 Personnel -- "may change for -- given the nature of the 17 event but in general they'll have black shirts, black 18 shoes, black belt, black socks, company-approved ear 19 piece, company-approved flashlights, company-issued 20 label nametags, IDs." 21 Did they have -- did they have ID tags or is 22 -- or were they labeled in any way?</p>
39	<p>1 Let's talk about the cameras first. I missed your 2 answer. Mr. Brooks asked you how many cameras they had 3 and what was your answer? 4 MR. SHAKOOR: Approximately 80. 5 MR. ALBERTI: Eighty? 6 MR. SHAKOOR: Correct. 7 MR. ALBERTI: Okay. And again, tell me why 8 you -- with 80 cameras you couldn't see any of -- 9 anything? 10 MR. SHAKOOR: On the footage that was 11 recovered on the second floor, it was almost pitch 12 black. 13 MR. ALBERTI: Oh, because they're not 14 infrared cameras? 15 MR. SHAKOOR: I couldn't tell you that 16 they're not infrared cameras. 17 MR. ALBERTI: Oh, but -- 18 MR. SHAKOOR: But what the picture picked up 19 was pretty much pitch black. 20 MR. ALBERTI: Okay. 21 MR. SHAKOOR: And you have some strobe 22 lighting. But it -- you couldn't make it out.</p>	41	<p>1 MR. SHAKOOR: Not that I saw. 2 MR. ALBERTI: Did you -- did they all have 3 flashlights? 4 MR. SHAKOOR: I didn't do a count of the 5 flashlights at all but I would assume they would have. 6 MR. ALBERTI: Pardon? 7 MR. SHAKOOR: I did not see -- 8 MR. ALBERTI: Okay. 9 MR. SHAKOOR: -- flashlights myself. 10 MR. ALBERTI: The security guards you saw, 11 did they have ear pieces? 12 MR. SHAKOOR: Yes, they did. 13 MR. ALBERTI: On most nights you will be 14 issued a wrist band -- wrist arm band. Did the 15 security personnel you see have wrist or arm bands? 16 MR. SHAKOOR: I did not see that, no. 17 MR. ALBERTI: You said the first victim, Ms. 18 Wyche (ph) was her name, or something like that? 19 MR. SHAKOOR: I believe so, yeah. 20 MR. ALBERTI: Yeah. I thought I heard you 21 say when she came out, she was not being attended to. 22 Can you -- can you talk to that again and tell me about</p>

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<p style="text-align: right;">42</p> <p>1 what you saw there? 2 MR. SHAKOOR: Right. I could only speak to 3 what I saw from when she came outside. 4 MR. ALBERTI: Right. 5 MR. SHAKOOR: I didn't observe what happened 6 inside. 7 MR. ALBERTI: Right. 8 MR. SHAKOOR: But when she came out, what I 9 would expect to see is that a security guard approach 10 her immediately -- 11 MR. ALBERTI: Right. 12 MR. SHAKOOR: -- things like that. They get 13 -- someone notify the police. It was right there. 14 MR. ALBERTI: Right. 15 MR. SHAKOOR: I went ahead and did that. So 16 I notified the police myself. 17 MR. ALBERTI: So she came out and then how 18 did she -- how did you make contact with her? 19 MR. SHAKOOR: She came right out. I mean, I 20 was at the bottom of the stairs and she came out from 21 the top of the stairs, yelling and screaming. 22 MR. ALBERTI: Oh, yelling and screaming. All</p>	<p style="text-align: right;">44</p> <p>1 Security personnel procedure in D-licensed SP -- this 2 is on Page 3 of their security plan -- an SP procedure 3 in dealing with issues. On -- it says -- at the end of 4 that first paragraph, it says, "On occasion, patrons 5 may become hard to deal with and uncooperative. In 6 those instances, use the ICT strategy when possible. 7 Inform the customer in a pleasant manner that the 8 witnessed behavior is inappropriate. Request that the 9 patron follow the club procedures and policies. Okay. 10 And it's -- confirm a final warning stating that if the 11 undesirable behavior does not cease, the guest will 12 have to leave the premise. Take action accordingly." 13 Let me see here. Okay. Would you -- would 14 you assume from those steps that the, "Take action 15 appropriately," is escort the person out of the club 16 rather than detain them? 17 MR. SHAKOOR: Personally, it's quite general. 18 MR. ALBERTI: Uh-huh. 19 MR. SHAKOOR: It's not clear what, "Take 20 action accordingly," means. 21 MR. ALBERTI: Okay. 22 MR. SHAKOOR: And I find a little issue with</p>
<p style="text-align: right;">43</p> <p>1 right. Were there other security personnel out there? 2 MR. SHAKOOR: Yes. They were outside 3 handling the line and things like that. 4 MR. ALBERTI: Did any of them come over to 5 her? 6 MR. SHAKOOR: It was a lady out - I believe - 7 - I'm not sure of her position but I believe she was 8 doing tickets or money or accounting, something like 9 that. And she was trying to speak to her about what 10 happened to her. 11 MR. ALBERTI: Okay. 12 MR. SHAKOOR: So someone was there. But 13 again, when someone's bleeding from the mouth and nose, 14 I think you want to get the police immediately. 15 MR. ALBERTI: So it wasn't the level of 16 action that you think should -- was warranted provided 17 the situation? 18 MR. SHAKOOR: Correct. What I -- when you 19 see numerous incidents when you have the police 20 department, who's there on scene, you need to get them 21 immediately. And that's what they're there for. 22 MR. ALBERTI: Now -- excuse me for a moment.</p>	<p style="text-align: right;">45</p> <p>1 that myself. 2 MR. ALBERTI: So -- all right. So you saw in 3 the video -- you saw someone actually handcuffed to 4 whom? Who -- you saw the victim -- you saw a civilian 5 -- a patron handcuffed to whom? 6 MR. SHAKOOR: Two patrons, when they first 7 come down the stairs into the detox area. 8 MR. ALBERTI: Okay. So they're coming down 9 the stairs from where? 10 MR. SHAKOOR: I believe -- I'm not sure. I 11 think they're coming down from the first floor 12 possibly. 13 MR. ALBERTI: Okay. 14 MR. SHAKOOR: It's a -- it's a back 15 stairwell. 16 MR. ALBERTI: To the detox area? 17 MR. SHAKOOR: Correct. He's handcuffed to a 18 security guard by his wrist. 19 MR. ALBERTI: How do you know it was a 20 security guard? 21 MR. SHAKOOR: It's clear from the video. He 22 walks down and he takes him both, handcuffs them and</p>

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<p style="text-align: right;">46</p> <p>1 he's clearly a security guard. 2 MR. ALBERTI: But does he have any 3 identifying markings on him? 4 MR. SHAKOOR: They're all dressed the same 5 way, with the boots and BDUs and things like that. 6 MR. ALBERTI: Okay. Does the person appear 7 to be stumbling? 8 MR. SHAKOOR: No. This -- the first patron 9 did not. He sat down and was pretty cooperating. 10 MR. ALBERTI: No. He didn't -- he didn't 11 outwardly exhibit the behavior of someone who was 12 intoxicated? 13 MR. SHAKOOR: No. And not outwardly, no. 14 MR. ALBERTI: Okay. Okay. So then now, the 15 second person? 16 MR. SHAKOOR: The second person comes down. 17 He's very unruly. He comes down, observes what from 18 the statement is his family member, starts an 19 altercation there with a security guard. 20 MR. ALBERTI: While the other person's still 21 handcuffed or after the other person's let go? 22 MR. SHAKOOR: Handcuffed at the time. And</p>	<p style="text-align: right;">48</p> <p>1 style that goes straight out. 2 MR. ALBERTI: Are you aware at all if they 3 called the police on that? 4 MR. SHAKOOR: The police were already there 5 on the scene. 6 MR. ALBERTI: Because of? 7 MR. SHAKOOR: For the event that night. The 8 police were already on the scene. 9 MR. ALBERTI: No. But you -- did you -- were 10 you aware of whether or not they asked the police to 11 deal with those patrons who had been handcuffed? 12 MR. SHAKOOR: On the video police did not 13 walk in at all or are not visible. So I would have to 14 assume no. 15 MR. ALBERTI: And how long did this video go 16 on for approximately? 17 MR. SHAKOOR: Video went for -- from about 18 3:02 to 3:14, so about 12 minutes. 19 MR. ALBERTI: How -- so you were watching 20 this for 12 minutes and no police showed up at all? 21 MR. SHAKOOR: No. 22 MR. ALBERTI: And they were on the scene.</p>
<p style="text-align: right;">47</p> <p>1 then you come down. 2 MR. ALBERTI: Okay. 3 MR. SHAKOOR: They get control of him and 4 handcuff him to a railing. 5 MR. ALBERTI: With the same set of handcuffs 6 or a second set? 7 MR. SHAKOOR: Second pair. 8 MR. ALBERTI: Second pair of handcuffs. 9 Okay. The handcuffs are really -- when did they 10 release the first individual? 11 MR. SHAKOOR: After the second one calmed 12 down. It just took a little while, I believe a minute 13 or so, maybe two minutes on the video. After this 14 time, the second patron is wildly swinging, pulling 15 away from the railing and just clearly can't get away. 16 MR. ALBERTI: How many security guards were 17 there? 18 MR. SHAKOOR: In the detox area? I'd say 19 approximately about ten. 20 MR. ALBERTI: Okay. Is there an exit out of 21 the detox area to the outside that you know of? 22 MR. SHAKOOR: Yes. There's a big garage door</p>	<p style="text-align: right;">49</p> <p>1 What do you mean they were on the scene? 2 MR. SHAKOOR: Like I said, when I got there 3 that night, they were already there on the scene and 4 they were there for the remainder of the night. 5 MR. ALBERTI: And they were out -- right 6 outside the entrance? 7 MR. SHAKOOR: That's correct. 8 MR. ALBERTI: How many police officers? 9 MR. SHAKOOR: I believe I saw two cars that 10 night, so approximately four officers. 11 MR. ALBERTI: Four officers. Okay. I have 12 no further -- thank you, Investigator Shakoor. 13 CHAIRPERSON MILLER: Others? You? Okay. 14 I've just got a couple of follow up. When -- you said 15 the police were on the scene. Do you know if they had 16 been called by the establishment? 17 MR. SHAKOOR: Not that -- from the first 18 incident, I was the one that notified them. 19 CHAIRPERSON MILLER: You called them? 20 MR. SHAKOOR: That's correct. 21 CHAIRPERSON MILLER: Okay. So they weren't 22 on the scene until you called them?</p>

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<p style="text-align: right;">50</p> <p>1 MR. SHAKOOR: No, no. They were parked 2 outside the front. They were already there. 3 CHAIRPERSON MILLER: Oh, okay. 4 MR. SHAKOOR: They were not directly in the 5 view of the front doors. They're parked a little way 6 back. As this is going on, no patron witness said, 7 "Let's get this" -- no staff member witness said, "Let 8 me get MPD," who's right there. 9 CHAIRPERSON MILLER: Okay. Do you know why 10 they came to the scene, whether they came in response 11 to a call? 12 MR. SHAKOOR: I don't have the bills of 13 record so I couldn't tell you if they were paid to be 14 there. I would assume that because they were parked 15 there. 16 CHAIRPERSON MILLER: Parked there. Okay. 17 But there was a gap between the woman who came out and 18 the police that were parked there? No one escorted her 19 to a police car? 20 MR. SHAKOOR: No, that's correct. 21 CHAIRPERSON MILLER: Okay. Did you think 22 about escorting her to the police car?</p>	<p style="text-align: right;">52</p> <p>1 MR. SHAKOOR: Yes, I was walking distance. I 2 walked maybe five feet. 3 CHAIRPERSON MILLER: Oh, okay. So when you 4 saw the woman come out, you called the police? 5 MR. SHAKOOR: I walked over and got them out 6 of the car so they could be notified. 7 CHAIRPERSON MILLER: Okay. Does that mean 8 you brought them to her? 9 MR. SHAKOOR: Yes, that's correct. 10 CHAIRPERSON MILLER: You didn't -- so you 11 didn't go with her to the police cars? 12 MR. SHAKOOR: No. I took -- brought the 13 police -- 14 CHAIRPERSON MILLER: To her? 15 MR. SHAKOOR: -- to her. 16 CHAIRPERSON MILLER: Okay. Were you able to 17 confirm on the video whether there was a fight between 18 the various female customers? 19 MR. SHAKOOR: No, I was not. 20 CHAIRPERSON MILLER: No? You didn't see 21 that? Okay. And was that supposedly on that second 22 floor?</p>
<p style="text-align: right;">51</p> <p>1 MR. SHAKOOR: My thoughts were to notify MPD 2 immediately so they could get involved. They are the 3 best at doing that. That's what they do. 4 CHAIRPERSON MILLER: Notify who? 5 MR. SHAKOOR: The police department. That's 6 -- they get involved. They can front the investigation 7 and they can -- 8 CHAIRPERSON MILLER: But were they parked 9 across the street when you saw this woman coming out? 10 MR. SHAKOOR: No, no, no. They're -- Love is 11 on a -- it's a warehouse. And so it's not on a -- in 12 an open street like that. 13 CHAIRPERSON MILLER: Okay. They weren't 14 close? 15 MR. SHAKOOR: Yeah, no. They're open but, I 16 mean, they're parked on the same -- it's not really an 17 open street. You drive in through an alley pretty 18 much. 19 CHAIRPERSON MILLER: Okay. I mean, the cars 20 weren't that -- the police cars weren't that close? 21 MR. SHAKOOR: They were very close. I can -- 22 CHAIRPERSON MILLER: They were close?</p>	<p style="text-align: right;">53</p> <p>1 MR. SHAKOOR: That's correct. 2 CHAIRPERSON MILLER: And was -- that would be 3 -- that's because in the video you testified that it 4 was dark? 5 MR. SHAKOOR: That's correct. 6 CHAIRPERSON MILLER: Okay. Could you tell 7 whether it was actually dark or just that the video was 8 dark? 9 MR. SHAKOOR: It's where a performance was 10 supposed to take place. So I would assume most 11 performances, they do dim the lights down. I would 12 assume that, yes, it was dark in there. There was some 13 strobe lighting, I believe, going on. But that with 14 the cameras, you weren't able to make out -- 15 CHAIRPERSON MILLER: Okay. I think that's 16 all my questions. 17 MR. ALBERTI: I have -- 18 CHAIRPERSON MILLER: Go ahead. 19 MR. ALBERTI: Go ahead with Mr. Silverstein's 20 questions. I just had one thought. 21 CHAIRPERSON MILLER: Okay. 22 MR. ALBERTI: Mr. Shakoor, going back to the</p>

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<p style="text-align: right;">54</p> <p>1 handcuff person. Did they exhibit any weapons? 2 MR. SHAKOOR: The patrons? 3 MR. ALBERTI: Yeah. 4 MR. SHAKOOR: No. 5 MR. ALBERTI: The patrons who were 6 handcuffed. Did you see anybody searching them for 7 weapons? 8 MR. SHAKOOR: No, I did not. 9 MR. ALBERTI: Okay. So as far as you know, 10 they were -- they were unarmed? 11 MR. SHAKOOR: That's correct. 12 MR. ALBERTI: I have no other questions. 13 Thank you. 14 MR. STERN: I have some redirect. 15 CHAIRPERSON MILLER: Okay. 16 MR. STERN: Mr. Shakoor, did you -- as part 17 of your investigation, did you review the security plan 18 for Love Nightclub? 19 MR. SHAKOOR: I did. 20 MR. STERN: And did you attach that to your 21 investigative report? 22 MR. SHAKOOR: I believe so.</p>	<p style="text-align: right;">56</p> <p>1 (ph). 2 MR. STERN: Yes. And what did he tell you 3 about that? 4 MR. SHAKOOR: Lieutenant Shelton stated that 5 the SPOs do have authority to handcuff but only when 6 it's assigned at a designated and contracted 7 establishment and they are in their specific SPO 8 uniform. 9 MR. STERN: And were these security personnel 10 dressed as such? 11 MR. SHAKOOR: No, they were dressed as Love 12 security personnel. 13 MR. STERN: Okay. Now, does the security 14 plan -- does the security plan lay out a uniform for 15 security personnel? 16 MR. SHAKOOR: Yes, it does. 17 MR. STERN: And you stated -- I thought I 18 heard -- you can tell me if I'm wrong -- that when you 19 viewed the video, you could tell someone was a security 20 personnel because of the way they were dressed? 21 MR. SHAKOOR: I was able to identify they 22 were security guards because the majority of them were</p>
<p style="text-align: right;">55</p> <p>1 MR. STERN: And I'm going to show you a copy 2 of your investigative report and ask you to take a look 3 at it. 4 MR. SHAKOOR: I've got it. 5 MR. STERN: Okay. Do -- 6 CHAIRPERSON MILLER: Excuse me, is it -- 7 MR. STERN: Is that a report that you wrote? 8 CHAIRPERSON MILLER: Mr. Smothers? Excuse 9 me, Mr. Stern. I just want to see if Mr. Smothers has 10 a copy of the security -- of the investigative report. 11 MR. STERN: I believe he does. 12 CHAIRPERSON MILLER: Okay. Thank you. Okay. 13 MR. STERN: Is that a report you wrote? 14 MR. SHAKOOR: That's correct. 15 MR. STERN: Including the addendums? 16 MR. SHAKOOR: Yes. 17 MR. STERN: We move that into evidence. Now, 18 regarding the handcuffs, did you speak to anyone 19 representing the police department or SPOs regarding 20 how SPOs use handcuffs? 21 MR. SHAKOOR: I did. I spoke with security 22 officers' branch management, Lieutenant John Shelton</p>	<p style="text-align: right;">57</p> <p>1 all dressed in a similar manner. 2 MR. STERN: Okay. Is there any reason to 3 believe that the young woman who told you she was able 4 to see a security guard -- could not make the same 5 determination? 6 MR. SHAKOOR: I go to -- because they were 7 not ID tagged or their shirt did not say, "Security," 8 on it, I can understand how someone would -- could 9 mistake someone else as security. They were dressed in 10 all black and could be mistaken for someone else. 11 MR. STERN: Well, we've got the possibilities 12 but you don't have any reason to believe that girl did 13 mistake somebody else for a security guard, do you? 14 MR. SHAKOOR: No, I don't. 15 MR. STERN: Okay. Now, in fact, not wearing 16 an ID that identifies them as a security guard is a 17 violation of the security plan; isn't that right? 18 MR. SHAKOOR: That's correct. 19 MR. STERN: Okay. Now, is there also a 20 portion of the security plan that regards use of force? 21 MR. SHAKOOR: I believe there is. 22 MR. STERN: Okay. And are security personnel</p>

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<p style="text-align: right;">58</p> <p>1 at Love, according to the security plan, allowed to use 2 force against a patron? For your recollection I'll 3 point you to Section 6 in the security plan. 4 MR. SHAKOOR: Yeah, I believe in Section 6 it 5 says, "SPs cannot legally use force against a person 6 unless it's self-defense and in defense of others from 7 imminent harm." 8 MR. STERN: When you saw the gentleman 9 handcuffed -- well, can we both agree that using 10 handcuffs is a use of force? 11 MR. SHAKOOR: That's correct. 12 MR. STERN: Okay. And when you saw the 13 person handcuffed, did it appear to you -- the first 14 person handcuffed, did it appear to you as though there 15 was a need for self-defense at that point? 16 MR. SHAKOOR: With the first patron? No, not 17 at all. 18 MR. STERN: Okay. Now, is there also a 19 portion of the security plan that talks about this 20 customer care center? 21 MR. SHAKOOR: Yes, I believe so. 22 MR. STERN: Okay. And what does it say about</p>	<p style="text-align: right;">60</p> <p>1 have any recross based on Mr. Stern or the Board's 2 questions? 3 MR. SMOTHERS: Yes. In regards to the young 4 lady that you passed, did -- were you aware that she 5 was coming out of the entrance? 6 MR. SHAKOOR: Yes. That's where she came out 7 from. 8 MR. SMOTHERS: Okay. So she came out. Were 9 you aware that she was not being attended to because 10 she was not supposed to be there in the first place? 11 MR. STERN: Objection, double negative. 12 MR. SMOTHERS: What is that? 13 CHAIRPERSON MILLER: Do you want to break up 14 your question? Okay. 15 MR. SMOTHERS: You had -- you hadn't -- at 16 the time when you encountered her, you were at the 17 front door, right? 18 MR. SHAKOOR: That's correct. 19 MR. SMOTHERS: Correct. Okay. And she came 20 out of the front door; is that correct? 21 MR. SHAKOOR: That's correct. 22 MR. SMOTHERS: Okay. Did she inform you that</p>
<p style="text-align: right;">59</p> <p>1 restraining customers in the customer sick care center? 2 MR. SHAKOOR: Could you refresh me on what 3 section that is? 4 MR. STERN: Yes. If you look at, "Customer 5 care center," it's Section 7 of the security plan. And 6 go to the -- I believe it's the last sentence there. 7 MR. SHAKOOR: Correct. At no time is SP 8 allowed to force a patron to stay inside customer care 9 against their will, unless a felony has been committed 10 or it is necessary to protect the patron or others from 11 harm. 12 MR. STERN: Did anyone report to you that a 13 felony had been committed by either of the two men who 14 were handcuffed? 15 MR. SHAKOOR: No, they did not. 16 MR. STERN: Okay. In fact, did you see 17 whether a felony had been committed by either of the 18 two men? 19 MR. SHAKOOR: No, and not from the 20 information I have obtained. 21 MR. STERN: Thank you. That's all I have. 22 CHAIRPERSON MILLER: Mr. Smothers, do you</p>	<p style="text-align: right;">61</p> <p>1 she was informed not to move from where she was when 2 she allegedly got assaulted? 3 MR. SHAKOOR: Yes. But she stated that 4 security had told her not to -- not to leave. 5 MR. SMOTHERS: Correct. But when you made 6 contact with her, she wasn't where she allegedly got 7 assaulted? 8 MR. SHAKOOR: No, she was not. She was 9 outside. 10 MR. SMOTHERS: Okay. In regards to the 11 handcuffing issue, did you witness from the beginning 12 to the end, from where the incident first take -- took 13 place -- first of all, let me -- let me ask you, where 14 did this -- the handcuffing issue, where did the whole 15 incident take -- start? Where did it begin at? 16 MR. SHAKOOR: I believe from what I witnessed 17 on the video and from the testimony from the interviews 18 from the head of security the patrons were becoming 19 highly aggressive. They said that they were -- that 20 security was able to intervene before it became a much 21 worse situation. 22 MR. SMOTHERS: Okay. What floor did it start</p>

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<p style="text-align: right;">62</p> <p>1 on?</p> <p>2 MR. SHAKOOR: I believe they said that first</p> <p>3 floor it started on.</p> <p>4 MR. SMOTHERS: It started on the first floor?</p> <p>5 MR. SHAKOOR: I believe that's what they told</p> <p>6 me, yes.</p> <p>7 MR. SMOTHERS: Do you know how many parties</p> <p>8 were involved -- how many individuals?</p> <p>9 MR. SHAKOOR: I couldn't tell you the number</p> <p>10 of individuals.</p> <p>11 MR. SMOTHERS: You don't know how many</p> <p>12 individuals were involved? Okay. In regards to Love's</p> <p>13 security plan, would it be -- would you agree that</p> <p>14 restraining someone to protect himself from harming</p> <p>15 himself or others is okay?</p> <p>16 MR. SHAKOOR: Be more specific. You said,</p> <p>17 "the security plan?"</p> <p>18 MR. SMOTHERS: In regards to Love's security</p> <p>19 plan, to restrain someone from harming himself or</p> <p>20 other, would you agree that that would be permissible?</p> <p>21 MR. SHAKOOR: It would have to say it in the</p> <p>22 security plan.</p>	<p style="text-align: right;">64</p> <p>1 MR. SHAKOOR: Could you point out the</p> <p>2 provision, what page it's on and what paragraph?</p> <p>3 MR. SMOTHERS: Section 6.</p> <p>4 MR. SHAKOOR: What page are you on?</p> <p>5 MR. SMOTHERS: Section 7, last paragraph.</p> <p>6 MR. SHAKOOR: What page are you on?</p> <p>7 MR. SMOTHERS: Page 7. Section -- and we're</p> <p>8 on Page 7, Section 7, last paragraph.</p> <p>9 MR. STERN: At no time --</p> <p>10 MR. SHAKOOR: Right. We read that one</p> <p>11 already. It says, "At no time is SP allowed to force a</p> <p>12 patron to stay inside customer care against their will,</p> <p>13 unless a felony has been committed or it is necessary</p> <p>14 to protect the patron or others from harm."</p> <p>15 MR. SMOTHERS: Yes. That's the paragraph I'm</p> <p>16 talking about.</p> <p>17 MR. SHAKOOR: What's your question?</p> <p>18 MR. SMOTHERS: The question is, if a patron</p> <p>19 has harmed -- is intoxicated -- I mean, is to a point</p> <p>20 where he's harming himself or putting the public at</p> <p>21 harm -- others, is it okay to restrain him?</p> <p>22 MR. SHAKOOR: That would have to be</p>
<p style="text-align: right;">63</p> <p>1 MR. SMOTHERS: Well, answer me this. Section</p> <p>2 6, "Use of force protect against -- to protect a patron</p> <p>3 from harming himself or others." Forces -- Section 7,</p> <p>4 "You can restrain someone by force to protect himself</p> <p>5 and the public from harm."</p> <p>6 MR. STERN: I'm not really hearing a</p> <p>7 question. I'll object.</p> <p>8 CHAIRPERSON MILLER: If I understood, he was</p> <p>9 asking if he was aware in the security plan that you</p> <p>10 could use -- you could restrain someone to protect them</p> <p>11 from hurting themselves or others. And then Mr.</p> <p>12 Shakoor said, "Where is it in the security plan," I</p> <p>13 think. And I believe Mr. Smothers is responding to</p> <p>14 that with a statement that it's in --</p> <p>15 MR. STERN: The question is, "Are you aware</p> <p>16 of that?"</p> <p>17 CHAIRPERSON MILLER: Is there a question now?</p> <p>18 I think he was referring to -- did you cite the</p> <p>19 security plan, Mr. Smothers, where --</p> <p>20 MR. SMOTHERS: It's that I was trying to</p> <p>21 determine whether he was aware --</p> <p>22 CHAIRPERSON MILLER: Of that provision?</p>	<p style="text-align: right;">65</p> <p>1 determined by case by case but in this incident, what</p> <p>2 was -- what was made clear was that security intervened</p> <p>3 before the -- it became a physical altercation. So I</p> <p>4 would say, "No," because nothing was committed.</p> <p>5 MR. SMOTHERS: How did you -- how did you</p> <p>6 determine that nothing was committed?</p> <p>7 MR. SHAKOOR: From what the -- your staff</p> <p>8 told me. They said that they intervened before it</p> <p>9 became -- they were acting very belligerent and they</p> <p>10 were being very heated. But they intervened before it</p> <p>11 became a physical altercation.</p> <p>12 MR. SMOTHERS: Did you get -- who did -- who</p> <p>13 gave you -- can you give me a name?</p> <p>14 MR. SHAKOOR: Yeah, your head of security,</p> <p>15 David Bailey.</p> <p>16 MR. SMOTHERS: My head of security? Okay.</p> <p>17 So in your words, my head of security suggested --</p> <p>18 MR. STERN: Objection.</p> <p>19 CHAIRPERSON MILLER: No. I -- sit -- you</p> <p>20 have to hear the question first. Go ahead.</p> <p>21 MR. SMOTHERS: I'm trying to ascertain how</p> <p>22 you got the information. You got it from my head of</p>

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<p style="text-align: right;">66</p> <p>1 security whose name is -- what's my head of security's 2 name? 3 MR. SHAKOOR: David Bailey. 4 MR. SMOTHERS: David Bailey informed you that 5 these gentlemen were not causing harm to themselves and 6 others? 7 MR. SHAKOOR: No. That's not what he 8 informed me of. He said that security intervened 9 before it became a physical altercation. 10 MR. SMOTHERS: Okay. I -- maybe I'm not 11 asking the question right. From what you were able to 12 determine, did these gentlemen appear -- either one or 13 the other appear to be in a physical altercation? 14 MR. SHAKOOR: The second patron did become 15 involved in an altercation in the detox area with 16 security guards. 17 MR. SMOTHERS: Okay. So the answer is, "Yes, 18 he did?" 19 MR. SHAKOOR: Yes, he was involved in a 20 physical altercation -- 21 MR. STERN: Objection. 22 MR. SHAKOOR: -- in the detox area.</p>	<p style="text-align: right;">68</p> <p>1 you. 2 MR. SMOTHERS: In regards to the SPO, you 3 earlier stated that you couldn't tell who was -- or it 4 would be hard for you to tell who was security and who 5 was not. Then you later stated that you could tell -- 6 CHAIRPERSON MILLER: Yeah, Mr. Smothers, is 7 this going to be one question? Do you want to break it 8 to two? 9 MR. SMOTHERS: Could you tell who -- when you 10 walked up, who was Love Nightclub security? 11 MR. SHAKOOR: Personally, I would say it's 12 difficult to determine that because the patrons are 13 dressed in such a -- they're all dressed kind of in 14 boots, heavy jeans, things like that. And the security 15 guards also dressed in boots, BDUs and heavy coats 16 also. 17 MR. SMOTHERS: Okay. In your experience, 18 isn't that the dress of SPOs? 19 MR. SHAKOOR: I have to disagree. I have to 20 say, "No," because I don't deal with SPOs in such a 21 high manner that I could tell you how they're all 22 dressed.</p>
<p style="text-align: right;">67</p> <p>1 MR. STERN: The answer is what the answer 2 was. 3 MR. SMOTHERS: Right. In regards to how -- 4 MR. ALBERTI: Will you rule on the objection? 5 CHAIRPERSON MILLER: Well, I -- it's over. 6 Did you -- are you going to ask me to strike -- 7 MR. STERN: Well, obviously the question -- 8 CHAIRPERSON MILLER: -- are you asking me to 9 strike his answer? No. 10 MR. STERN: The objection is asked and 11 answered. He can't recharacterize his answer. 12 CHAIRPERSON MILLER: Okay. And you -- and 13 you said that in the middle of answering. And then you 14 went on to another question. So is there an -- is 15 there something on the table for me to rule on? I 16 didn't think there was but if there is, you can 17 rephrase that, Mr. Stern. And I'll see if I can rule 18 on it. Is there something to rule on or have we gone 19 beyond it? 20 MR. STERN: I'm -- we can probably move 21 beyond it. 22 CHAIRPERSON MILLER: Okay. Go ahead. Thank</p>	<p style="text-align: right;">69</p> <p>1 MR. SMOTHERS: So you're saying -- is that a, 2 "No?" 3 MR. SHAKOOR: I'm saying I couldn't tell you 4 how all SPOs normally dress. I don't have enough 5 experience in that. 6 MR. SMOTHERS: Okay. So that's not a 7 specific answer. Do you know how all SPOs dress? 8 MR. SHAKOOR: No, I don't. 9 MR. SMOTHERS: No. So then it would be -- 10 then you couldn't determine whether we had SPOs on duty 11 that night? 12 MR. SHAKOOR: Actually I was able to 13 determine they were not SPOs on duty when I spoke to 14 Mr. Shelton. He stated Love doesn't have -- is not 15 contracted for SPOs. So therefore, even if they are 16 licensed SPOs serving another time at a different 17 location, when they're at Love, working in security 18 guard capacity, they are not special police officers. 19 They are Love security guards. That's it. 20 MR. SMOTHERS: According to Love's security 21 plan, as far as you're concerned, does it say that we 22 can or cannot restrain people using handcuffs?</p>

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<p style="text-align: right;">70</p> <p>1 MR. SHAKOOR: I believe handcuffs are not in 2 there at all. So I would say, "No." 3 MR. SMOTHERS: Well, I -- okay. So then -- 4 so your answer is? 5 MR. SHAKOOR: It -- we haven't reviewed that 6 security plan. Maybe you can point out a specific 7 location where it says that? But I don't believe it 8 says -- 9 MR. SMOTHERS: Well, I'm asking you because 10 you said that we violated our security plan by 11 handcuffing. And I -- the reason I'm asking you is 12 that I'm assuming you read or -- read somewhere in the 13 security plan that said we can or cannot use security - 14 - I mean, handcuffs. Since it's not -- 15 MR. SHAKOOR: It does not say that Love can 16 handcuff people. 17 MR. SMOTHERS: Say again. 18 MR. SHAKOOR: It does not say that Love has 19 the authority to handcuff people. 20 MR. SMOTHERS: It does not say that we do not 21 have the authority to handcuff people? 22 MR. STERN: Objection.</p>	<p style="text-align: right;">72</p> <p>1 Shakoor, I want to refer you to your report -- 2 investigative report on Page 2. 3 MR. SHAKOOR: Yes. 4 MR. ALBERTI: The bottom of Page 2. 5 MR. SHAKOOR: Yes. 6 MR. ALBERTI: The last paragraph continues 7 onto the next page. 8 MR. SHAKOOR: Yes. 9 MR. ALBERTI: Could you just take a moment 10 and read that? It involves the woman who you saw 11 coming out and what she told you. And I wanted to 12 refresh your memory. 13 MR. SHAKOOR: All right. 14 MR. ALBERTI: Okay. At the bottom -- the 15 very bottom of Page 2 it says, "Ms. Wyckoff (ph) stated 16 that the security personnel were visible but did not 17 even stop the fight. Ms. Wyckoff stated that she 18 crawled away. After being knocked down, Ms. Wyckoff 19 stated that she notified the security guard of the 20 incident. Ms. Wyckoff stated that the security guard 21 instructed" -- I believe it's him -- it says -- and I 22 believe it's her; it says, "Him," here -- "not to</p>
<p style="text-align: right;">71</p> <p>1 CHAIRPERSON MILLER: Okay. 2 MR. STERN: I think we've been asking -- 3 CHAIRPERSON MILLER: And what is -- I'm not 4 clear. What -- Mr. Shakoor, what -- it does not say 5 that Love cannot handcuff -- 6 MR. SHAKOOR: It does not say that Love can 7 handcuff patrons. 8 CHAIRPERSON MILLER: Okay. So that's your 9 answer. It does not say -- 10 MR. SHAKOOR: Correct. 11 CHAIRPERSON MILLER: -- that Love -- 12 MR. SHAKOOR: By handcuffing -- 13 CHAIRPERSON MILLER: -- can handcuff -- 14 MR. SMOTHERS: Does it say that we cannot? 15 MR. SHAKOOR: No, it does not. 16 MR. SMOTHERS: Thank you. That's all I have 17 for right now. 18 CHAIRPERSON MILLER: Okay. 19 MR. ALBERTI: Ms. Miller, I have -- 20 CHAIRPERSON MILLER: Yes. Yeah. 21 MR. ALBERTI: -- just one additional -- and I 22 apologize. If you'll indulge me? Mr. Investigator</p>	<p style="text-align: right;">73</p> <p>1 leave." 2 MR. SHAKOOR: That's correct. 3 MR. ALBERTI: So is that your recollection of 4 what she told you? 5 MR. SHAKOOR: That's correct. 6 MR. ALBERTI: Okay. Then she goes on and she 7 says -- you say, "Ms. Wyckoff stated that the group of 8 females observed her and attacked her again in view of 9 the security guard. Ms. Wyckoff stated that she did 10 not understand why the security guard did not stop the 11 altercation and did nothing to help her. She stated 12 that she was visibly bleeding and notified the security 13 guard again of the altercation and her injuries. Ms. 14 Wyckoff stated the security guard told her to go 15 outside." 16 Is that what you remember her telling you? 17 MR. SHAKOOR: Absolutely. 18 MR. ALBERTI: Thank you. No further 19 questions. 20 CHAIRPERSON MILLER: Mr. Shakoor, I also want 21 to ask just a clarifying couple of questions. I think 22 you referred to Mr. Bailey saying that security</p>

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<p style="text-align: right;">74</p> <p>1 intervened before something -- more serious altercation 2 occurred? 3 MR. SHAKOOR: What -- you want to read what I 4 have here on the report? 5 CHAIRPERSON MILLER: What? 6 MR. SHAKOOR: You want me to read what I have 7 in the report here? 8 CHAIRPERSON MILLER: I didn't get it from the 9 report. I got it -- I mean, I noticed it from your 10 testimony. I don't know whether -- I was going to ask 11 you whether that referred to the handcuffing or whether 12 the -- what the security did to -- 13 MR. SHAKOOR: What -- 14 CHAIRPERSON MILLER: -- intervene before 15 things got worse? 16 MR. SHAKOOR: I interviewed Mr. Bailey 17 specifically about that -- the incidents and the 18 handcuffed patron. Mr. Bailey stated that the male 19 patron had been handcuffed due to his belligerent 20 behavior and for the safety of security personnel. 21 CHAIRPERSON MILLER: Okay. 22 MR. SHAKOOR: That's what he stated to me.</p>	<p style="text-align: right;">76</p> <p>1 occurred and weapons were drawn or broken bottles and 2 someone was cut and bleeding, then this was obviously a 3 situation where some drastic measure would have to be 4 taken. That was not indicated to me. They indicated 5 that the patron was belligerent. And to get them under 6 control, they handcuffed them and brought them to the 7 detox area. 8 Okay. Now, belligerent patrons are what 9 security guards deal with every single day. 10 CHAIRPERSON MILLER: Okay. 11 MR. SHAKOOR: So that to me is not such 12 outstanding circumstances where you have to handcuff 13 somebody. 14 CHAIRPERSON MILLER: Okay. So to take that 15 person away in your view is not a violation of security 16 plan, but to handcuff them -- handcuff them is? That's 17 a greater use of force? 18 MR. SHAKOOR: Correct. 19 CHAIRPERSON MILLER: Okay. Thank you. Okay. 20 Any other question? No -- any other recross based on 21 the Board's questions? No. Okay. Thank you, Mr. 22 Shakoor. Okay. Mr. Stern, Mr. Shakoor was your only</p>
<p style="text-align: right;">75</p> <p>1 CHAIRPERSON MILLER: Thank you. All right. 2 So then my question is, do you think that that is in 3 violation of the security plan? And I want to bring 4 your attention to a paragraph in the security plan that 5 I think is relevant possibly to this. It's Page 6, 6 Section 6, Use of force, third paragraph. "SPs cannot 7 legally use force against a person unless in self- 8 defense and/or defense of others from imminent harm." 9 So my question is, is this -- your just -- 10 what Mr. Bailey said and the investigative report that 11 you were referring to, could you say that intervening 12 before a more serious altercation occurs or however 13 it's exactly stated is interfering before imminent harm 14 occurred? 15 MR. SHAKOOR: Well, what was stated to me 16 when the -- when security intervened, it's not at such 17 an intense level. 18 CHAIRPERSON MILLER: It was not according to 19 -- 20 MR. SHAKOOR: Okay. It escalated further 21 once they got into the detox -- from what I observed. 22 Okay. Now, if Bailey told me that an all-out brawl had</p>	<p style="text-align: right;">77</p> <p>1 witness, correct? 2 MR. STERN: Yes. 3 CHAIRPERSON MILLER: Okay. So Mr. Bailey can 4 come back in now at this point. Do you want to go get 5 Mr. Bailey? Okay. Mr. Smothers, is Mr. Bailey your 6 first witness? 7 MR. SMOTHERS: Yes. 8 CHAIRPERSON MILLER: Okay. Do you swear to 9 tell the truth, the whole truth, nothing but the truth? 10 MR. BAILEY: I do. 11 CHAIRPERSON MILLER: Okay. Thank you. So 12 you can proceed and ask him questions or you can 13 testify without questions, however you want to proceed. 14 MR. SMOTHERS: Okay. How are you doing, Mr. 15 Bailey? 16 MR. BAILEY: I am fine. 17 CHAIRPERSON MILLER: Oh, he needs to give his 18 name and -- for the record. 19 MR. SMOTHERS: Okay. 20 MR. BAILEY: David Bailey, head of security 21 of Love Nightclub. 22 CHAIRPERSON MILLER: Thank you.</p>

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<p style="text-align: right;">78</p> <p>1 MR. SMOTHERS: On February 19th do you 2 remember the incident -- or were you involved in an 3 incident where a young lady came out of the front door 4 supposedly bleeding from the nose or around the head 5 area? 6 MR. BAILEY: Which -- was it -- would this be 7 the one that -- there was two young ladies involved in 8 an altercation that came outside. Just read both of 9 them that you -- 10 MR. SMOTHERS: Is -- there's one young lady 11 that was allegedly assaulted on the second floor -- 12 MR. BAILEY: Correct. 13 MR. SMOTHERS: -- and told to stay by 14 security. 15 MR. BAILEY: Right, okay. That young lady -- 16 she came -- she came outside. I was just meeting 17 Investigator Shakoor out front. He came there probably 18 for a noise violation or something and I greeted him 19 out front. The young lady came outside, stated that 20 she was assaulted inside. I called over the radio to 21 my -- to my security personnel, trying to figure out 22 exactly what happened.</p>	<p style="text-align: right;">80</p> <p>1 detox area who, you know, appeared to be aggressors in 2 the establishment, we had them of course leave the 3 area. 4 MR. SMOTHERS: Okay. And who walked the 5 aggressors down to the detox area? 6 MR. BAILEY: The security personnel. 7 MR. SMOTHERS: Security did? 8 MR. BAILEY: Yes. 9 MR. SMOTHERS: And your -- as far as you're 10 concerned, was the security plan followed? 11 MR. BAILEY: I believe it was. In our 12 security plan, it does state that we will make the 13 attempt to separate parties and -- which we did do 14 that. 15 MR. SMOTHERS: How come you didn't hold the 16 young lady and get the information from her? 17 MR. BAILEY: I mean, MPD was talking to her 18 outside. It's -- you know, so, I mean, we really had 19 no need to hold her. Like, we let MPD deal with -- 20 deal with it first. I was dealing with also the other 21 incident that was going on and assisting MPD with that. 22 So when we came back from dealing with that, the young</p>
<p style="text-align: right;">79</p> <p>1 I went and spoke to one of the security 2 personnel members that were on the floor. He stated 3 that, you know, mayhem had occurred, that the woman was 4 -- security escorted the aggressors down to the detox 5 customer service area. The young lady who appeared to 6 be assaulted he asked to stay with -- stay with him. 7 She was upset and started proceeding down to the 8 stairs, which at that time, when she came downstairs, 9 that's when she was met by myself along with MPD. 10 And she had made a statement that she was 11 assaulted. We were dealing with, you know, mayhem that 12 was occurring at the time with MPD. And the young lady 13 was asked to stay here and just go -- "You know, we 14 identified the people who you were saying assaulted you 15 inside the club there. They're actually back in the 16 detox area, which you can identify as the people who 17 assaulted you. And MPD can basically take it from 18 there." 19 When we came back to where the young lady was 20 supposed to be, she had left the area. And we had no 21 contact information for her to have her come back. So 22 of course, the people that were brought down to the</p>	<p style="text-align: right;">81</p> <p>1 lady was gone. 2 MR. SMOTHERS: Okay. The security that 3 brought the alleged aggressors down to detox, what 4 happened to them? 5 MR. BAILEY: I mean, there's -- I mean, they 6 were -- you know, their information was taken down. I 7 mean, they were unaware that if anybody (inaudible) 8 they were just able to tell that these people were 9 being overly aggressive. There was a lot of pushing 10 and stuff going on. So they grabbed whoever appeared 11 to be an aggressor at that time and started taking 12 people down, you know, separating them, taking them 13 down different stairwells and taking them down to the 14 area which they are assigned to take people out. 15 MR. SMOTHERS: I understand. Did you speak 16 to the inspector in regards to this specific incident? 17 MR. BAILEY: No, he did not speak to me about 18 this. 19 MR. SMOTHERS: He did not speak to you in 20 regards to this -- 21 MR. BAILEY: No. 22 MR. SMOTHERS: -- incident?</p>

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<p style="text-align: right;">82</p> <p>1 MR. BAILEY: No. 2 MR. SMOTHERS: Was there any arrests made in 3 this incident? 4 MR. BAILEY: No, there were not. We are 5 unable -- MPD was unable to make the arrest because the 6 complainant never came back to identify the people 7 involved that apparently would have assaulted her. 8 MR. SMOTHERS: Was there a court case 9 involved in this? 10 MR. BAILEY: No, not in this one. No. 11 MR. SMOTHERS: Not in this case? 12 MR. BAILEY: No. 13 MR. SMOTHERS: So no arrests? 14 MR. BAILEY: No, no arrests in this one. 15 MR. SMOTHERS: Okay. There was another 16 incident involving handcuffs. Speak on that one. 17 MR. BAILEY: You don't want to go to the 18 other young lady who security (inaudible) tying it 19 together. 20 CHAIRPERSON MILLER: Could you all -- could 21 speak up? I'm having trouble hearing. There's a lot 22 of background noise or something.</p>	<p style="text-align: right;">84</p> <p>1 gentleman. Security, you know, surrounded him -- no 2 hands on him -- just telling him, "Man, you know, calm 3 down." The gentleman would not calm down. The 4 gentleman then -- as he kept trying to charge after the 5 gentleman, security grabbed him. He elbowed the 6 security personnel. 7 The other gentleman involved punched one of 8 the security personnel when he was trying to get over - 9 - they're trying to get to each other. I detained the 10 gentleman who punched the security. The other security 11 personnel detained the other gentleman by handcuffing 12 him because he refused to stop trying to, you know, 13 aggressively go after the other gentleman that he was 14 involved in the altercation with, which we later found 15 out they were apparently in-laws -- brother-in-laws. 16 MR. SMOTHERS: Were either of the gentlemen 17 21 or above? 18 MR. BAILEY: I believe they -- I believe both 19 gentlemen involved were 21. 20 MR. SMOTHERS: And -- 21 MR. BAILEY: I'm really not absolutely sure 22 of their age at this present time.</p>
<p style="text-align: right;">83</p> <p>1 MR. SMOTHERS: Okay. Yes. I'm referring to 2 the incident involving the handcuffs. Can you go -- 3 can you walk me through that? 4 MR. BAILEY: Okay. There were two gentlemen 5 caught on the first floor -- pardon me -- who were 6 involved, you know, physically in the altercation. 7 They were -- they were brought down to my detox 8 customer service area, which both parties were 9 separated on two different sides. Security, you know, 10 was trying to find out what was going on. The one 11 gentleman who was the complainant kept charging at the 12 other gentleman. 13 MR. SMOTHERS: That's -- can I ask you, where 14 did this take place? 15 MR. BAILEY: This happened down in the 16 customer service detox area. 17 MR. SMOTHERS: So it happened all in the 18 detox area? 19 MR. BAILEY: Right. 20 MR. SMOTHERS: Okay. 21 MR. BAILEY: So he -- because then he just 22 tried to keep, you know, going down to the other</p>	<p style="text-align: right;">85</p> <p>1 MR. SMOTHERS: Did either of the gentlemen 2 appear to be intoxicated? 3 MR. BAILEY: They did appear to be 4 intoxicated. 5 MR. SMOTHERS: What -- 6 MR. BAILEY: Because a gentleman was brought 7 outside -- one -- after he finally got -- the gentleman 8 that threw a punch -- okay -- he calmed down. He came 9 over and spoke to him and told him, you know, "Chill 10 out. Calm down now. You know, we can go home, you 11 know. Let's just go home." His -- also his sister or 12 somebody was back there as well. When we -- you know, 13 after he calmed down and we let them leave, he went to 14 the alley and just started calling out in the alley, 15 like, just acting overly dramatic. 16 MR. SMOTHERS: How many gentlemen were 17 handcuffed? 18 MR. BAILEY: One. 19 MR. SMOTHERS: One? 20 MR. BAILEY: One. 21 MR. SMOTHERS: Not two? 22 MR. BAILEY: Unh-unh. Just one.</p>

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<p style="text-align: right;">86</p> <p>1 MR. SMOTHERS: Okay. Were the police 2 notified? 3 MR. BAILEY: Yes. Police stayed, reviewed 4 the video footage, went down and then spoke with the 5 gentleman and his father. Because the gentleman, when 6 talking to MPD, the father said he didn't do anything. 7 MR. SMOTHERS: Uh-huh. 8 MR. BAILEY: But after watching the video, 9 the police officer instructed them that he witnessed 10 the gentleman coming down aggressive and then striking 11 with an elbow someone in security in his face and then 12 his counterpart also punching another security at the 13 same time. 14 MR. SMOTHERS: Okay. So he actually 15 assaulted Love personnel? 16 MR. BAILEY: Yes. 17 MR. SMOTHERS: Okay. Do you believe we acted 18 within the security -- in the rights of the security 19 plan? 20 MR. BAILEY: Yes, sir. 21 MR. SMOTHERS: Do you believe we violated any 22 parts of the security plan?</p>	<p style="text-align: right;">88</p> <p>1 the first incident. Is that the woman named Ms. Wyche 2 (ph)? Do you know? 3 MR. BAILEY: I'm sorry, I don't have the 4 report in my hands so I'm not aware of their -- 5 MR. STERN: Okay. 6 MR. SMOTHERS: Excuse me, Board. Maybe I can 7 use the restroom? 8 CHAIRPERSON MILLER: You need to use the 9 restroom? Oh, okay. Well, we're not going to continue 10 with that. 11 MR. SMOTHERS: Okay. No problem. No 12 problem. It can wait. 13 CHAIRPERSON MILLER: No. If it's an 14 emergency -- we can -- 15 MR. SMOTHERS: No. I -- 16 CHAIRPERSON MILLER: -- take two minutes if 17 it's an emergency. 18 (WHEREUPON, at 12:39 p.m., the hearing went 19 off record until 12:42 p.m.) 20 CHAIRPERSON MILLER: Okay. We're back on the 21 record. 22 MR. STERN: I think the pending question was</p>
<p style="text-align: right;">87</p> <p>1 MR. BAILEY: No, sir. 2 MR. SMOTHERS: Did you talk to the 3 investigator in regards to this incident? 4 MR. BAILEY: We did speak with him in regards 5 to this incident, yes. 6 MR. SMOTHERS: Was it -- was it the night of? 7 MR. BAILEY: I don't -- no. It was not the 8 night of. I believe -- I can't recall because I spoke 9 to him on probably, like, two different occasions. But 10 I believe it could have been later on that night or it 11 might have been another day. I can't exactly -- it was 12 not (inaudible) I spoke to him. 13 MR. SMOTHERS: Approximately how long was the 14 young man handcuffed? 15 MR. BAILEY: A few minutes until he actually, 16 you know, calmed down and we could actually take the 17 handcuffs off him without him trying to actually strike 18 somebody. 19 MR. SMOTHERS: Okay. Okay. That's all I 20 have right now. 21 CHAIRPERSON MILLER: Okay. Mr. Stern, cross? 22 MR. STERN: Yes, thank you. Let's start with</p>	<p style="text-align: right;">89</p> <p>1 whether or not that was the incident involving Ms. 2 Wyche? 3 MR. BAILEY: Yes, it is. 4 MR. STERN: Okay. Now, is there a -- 5 according to the security plan, is there a uniform for 6 security personnel? 7 MR. BAILEY: Yes, it's all black. 8 MR. STERN: And -- 9 MR. BAILEY: Black slacks, black shirts. 10 MR. STERN: And is that to make them 11 identifiable? 12 MR. BAILEY: Yes. 13 MR. STERN: Okay. And in fact, the uniform 14 consists of clean and pressed black-collared shirt; is 15 that right? 16 MR. BAILEY: That's correct. 17 MR. STERN: And clean and pressed black- 18 collared pants, black belt, black shoes, right? 19 MR. BAILEY: Yes. 20 MR. STERN: Black socks and then ear pieces; 21 is that right? 22 MR. BAILEY: Yes. If applicable, yes.</p>

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90	<p>1 MR. STERN: Okay. And company-issued lapel 2 name tag or ID? 3 MR. BAILEY: I think you might have our old 4 security plan, not here, not with ABRA. 5 MR. STERN: Security plan that I believe -- 6 MR. BAILEY: That is not the most recent 7 security plan that's submitted to ABRA. 8 MR. STERN: Okay. Is this the security plan 9 that was in effect on the day of the incident? 10 MR. BAILEY: No, it was not. 11 CHAIRPERSON MILLER: Could you -- could you 12 refer to what security plan -- 13 MR. STERN: Okay. I want to take you -- look 14 at Exhibit 6. 15 CHAIRPERSON MILLER: Okay. 16 MR. BAILEY: When -- but I submitted a 17 different security plan which took out the lapel pin. 18 MR. STERN: When is that? 19 MR. BAILEY: I can look it up on my email for 20 you. 21 CHAIRPERSON MILLER: Could you speak up, 22 please?</p>	92	<p>1 MR. BAILEY: It's just to identify what 2 security personnel would be wearing. 3 MR. STERN: Now, when Ms. Wyche came out, was 4 she bleeding? 5 MR. BAILEY: She appeared to have some -- 6 well, she had her shoe off. And, like, once again, 7 like I said, I'm dealing with her as well as another 8 young lady at the same time. So MPD immediately went 9 to her. I let MPD basically deal with that. I didn't 10 want to interfere with what they had to do. So I kind 11 of stepped back. 12 MR. STERN: And you don't know if she was 13 bleeding or not? 14 MR. BAILEY: I'm unaware if she was -- if she 15 was bleeding or not. She went immediately to the 16 police officers who were -- 17 MR. STERN: Okay. So when you came out, you 18 didn't even see whether or not she was bleeding? 19 MR. BAILEY: Yeah, we didn't really -- 20 MR. STERN: Okay. 21 MR. BAILEY: MPD attended to her immediately. 22 MR. STERN: Did you see what had occurred</p>
91	<p>1 MR. BAILEY: I can look up -- 2 MR. STERN: Well, we -- how would Mr. Shakoor 3 have gotten that security plan? 4 MR. BAILEY: Well, I submitted it to Martha 5 Jenkins. 6 MR. STERN: So how would Mr. Shakoor have 7 gotten that? 8 MR. BAILEY: This is the old -- probably the 9 old security plan that was on file here with ABRA. 10 MR. STERN: So at least on the day of the 11 incident, this is the security plan that was on file? 12 MR. BAILEY: No, it was not. No, it's not. 13 MR. STERN: Okay. A copy of the security 14 plan that you say you've changed? 15 MR. BAILEY: Not on me, sir. No. I 16 submitted it here to ABRA. 17 MR. STERN: Okay. 18 MR. BAILEY: As a matter of fact, it was 19 about a year ago. It was in November -- probably 20 November or December of last year. 21 MR. STERN: Okay. What's the purpose of 22 having the uniform in the security plan?</p>	93	<p>1 upstairs? 2 MR. BAILEY: No, I did not. I -- like I 3 said, at the time all this incident occurred, I went to 4 meet Investigator Shakoor. 5 MR. STERN: Now, there was another incident 6 involving some women; is that correct? 7 MR. BAILEY: This is correct. 8 MR. STERN: And there was -- that was an -- 9 also a physical altercation? 10 MR. BAILEY: Probably, yes. 11 MR. STERN: And those women came downstairs. 12 Did you see them? 13 MR. BAILEY: Yes, I did. 14 MR. STERN: Did you see that they were 15 injured? 16 MR. BAILEY: Yes. The one -- the one young 17 lady apparently had some sort of injury on her head. 18 MR. STERN: Were there also scratches and 19 bruises on the other patrons? 20 MR. BAILEY: No. There was only one young 21 lady that appeared to have to be -- 22 MR. STERN: Did they come outside themselves?</p>

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<p style="text-align: right;">94</p> <p>1 MR. BAILEY: Yes, they did. 2 MR. STERN: They weren't helped out by any 3 security guard? 4 MR. BAILEY: No, they were not. 5 MR. STERN: Okay. So no one intervened in 6 that instance? 7 MR. BAILEY: They actually did. They 8 actually took the aggressors once again down to detox. 9 But when questioned to the young lady, she stated that 10 it was security personnel which struck her. And I then 11 took MPD -- I said, "Which incident did you want to 12 deal with first?" He said, "Let's deal with this." I 13 took them upstairs, identified the security in the area 14 with the young lady. She -- her friend identified one 15 of my security personnel, Gary Matthews. 16 Then I instructed him to step out -- he 17 needed to step out and talk -- speak with MPD. 18 MR. STERN: Okay. Now, did Ms. Wyche -- the 19 people who were the aggressors in Ms. Wyche's incident, 20 they were other females? 21 MR. BAILEY: It was females and males in that 22 area. So they took whoever appeared to be an aggressor</p>	<p style="text-align: right;">96</p> <p>1 handcuffed? 2 MR. BAILEY: I'm going to tell you the reason 3 why it couldn't be two people handcuffed. The second 4 person I actually detained myself by grabbing and 5 holding him down after he punched the security 6 personnel. You can look at the video footage yourself. 7 MR. STERN: Okay. But you don't have the 8 video footage here, right? 9 MR. BAILEY: We gave that to investigation. 10 MR. STERN: Now -- 11 CHAIRPERSON MILLER: What was the question? 12 MR. STERN: You don't have the video footage 13 here? 14 CHAIRPERSON MILLER: Right, thank you. 15 MR. STERN: Now, I guess I didn't really get 16 an answer to my first question. Do you have any reason 17 why someone taking minute-by-minute notes and writing 18 down that someone was -- he saw someone handcuffed 19 could have been mistaken on that? 20 MR. BAILEY: I have no idea as to why 21 Investigator Shakoor would write that. But again, I 22 believe in the police report it also only states that</p>
<p style="text-align: right;">95</p> <p>1 at the time down to detox so we can find out exactly 2 what was going on. 3 MR. STERN: Okay. They didn't -- they didn't 4 pick out individuals that were actually involved in an 5 altercation at the time? 6 MR. BAILEY: They can -- they can see who -- 7 the people involved in the altercation. And they -- 8 and that's why they were taken out. Because of course 9 there was some pushing and things like that involved. 10 Anybody involved in any physical matter at that time 11 was taken out. 12 MR. STERN: Okay. And now, you say only one 13 person was handcuffed? 14 MR. BAILEY: Yes, sir. 15 MR. STERN: Where did you get that from? 16 MR. BAILEY: I was there. 17 MR. STERN: Okay. Did you look at the 18 surveillance footage? 19 MR. BAILEY: Yes, we did, along with MPD. 20 MR. STERN: Do you have any explanation why 21 Mr. Shakoor's notes on the surveillance footage 22 dictated by minutes indicate that there were two people</p>	<p style="text-align: right;">97</p> <p>1 only one person was handcuffed as well. 2 MR. STERN: Well, you don't know where the 3 information on the police report came from, right? 4 MR. BAILEY: Well, like I said, the police 5 officer and the complainant both came back. And I was 6 there as the -- as the gentleman made the complaint and 7 saying that he was the only one that was handcuffed. 8 And the second gentleman had left the area, which I 9 tried to identify to police officers the other 10 gentleman that was involved in the altercation. But of 11 course they left the area. 12 MR. STERN: Well, the police report doesn't 13 say he was the only one who was handcuffed. The police 14 report says he was handcuffed. 15 MR. BAILEY: Right. 16 MR. STERN: Okay. Just to be clear. Now, 17 does the security plan talk about the use of force? 18 MR. BAILEY: I believe it does. 19 MR. STERN: Does it allow you to use force to 20 keep people in the -- in the detox center? 21 MR. BAILEY: We're not allowed -- we're not 22 allowed to detain anyone against their will. But it</p>

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<p style="text-align: right;">98</p> <p>1 does allow us to use the necessary force to protect our 2 patrons. 3 MR. STERN: Okay. And does that allow you to 4 -- do you believe that allows you to restrain someone 5 whenever they become belligerent? 6 MR. BAILEY: I believe it allows us to, you 7 know, hold somebody down if they're -- if they're 8 trying to cause harm to a patron, which I believe the 9 Board would not want. 10 MR. STERN: Do you believe that allows you to 11 handcuff people? 12 MR. BAILEY: I mean, I'm -- if necessary, for 13 somebody to actually use handcuff -- but since then 14 I've told them to not use handcuffs, if possible just 15 to use their hands. But like I said, they used 16 handcuffs only because the gentleman became very 17 aggressive. And they did not want to do any more 18 physical -- you know, anything physical to the 19 gentleman, just try to get him to calm down. 20 MR. STERN: Can you explain why Mr. Shakoor 21 would have been told that it is against policy -- well, 22 to use handcuffs?</p>	<p style="text-align: right;">100</p> <p>1 them? 2 MR. BAILEY: I would. I would since -- if 3 they allowed me to. 4 MR. STERN: Okay. Would someone stay with 5 them if they attempted to move? 6 MR. BAILEY: Again, the call went out over 7 the radio when Ms. Wyche started heading downstairs and 8 somebody was heading down -- for somebody to intercept. 9 That's how I was able to intercept her as she came down 10 the steps with MPD. 11 MR. STERN: But you intercepted her for a 12 fraction of a second? 13 MR. BAILEY: Well, she -- my security 14 personnel was at the top of the steps. We tried to 15 have her stay there. She refused. She started to come 16 down the steps. Called over the radio for somebody to 17 meet her at the bottom of the steps to -- you know, to 18 -- 19 MR. STERN: So here is someone who reports 20 that she was beaten up by a group of girls while your 21 security guard looked on, went to your security guard 22 and informed him of that. He told her to stay there.</p>
<p style="text-align: right;">99</p> <p>1 MR. BAILEY: Because after that incident I 2 did inform -- I did inform the staff to not use any 3 handcuffs. So at that time it was -- now, it's against 4 the policy to for them to bring any handcuffs in at all 5 other than flashlights, anything that we have 6 pertaining to gloves, flashlight, things of that 7 nature. 8 MR. STERN: How close in time was that? 9 MR. BAILEY: It -- well, I immediately just 10 after that night -- that night after the incident 11 instructed my staff to no longer -- the SOPs to no 12 longer bring their handcuffs inside the establishment. 13 MR. STERN: Okay. Now, going back to that 14 first assault on the young woman -- 15 MR. BAILEY: Ms. Wyche -- Ms. Wyche? 16 MR. STERN: Right. Ms. Wyche. 17 MR. BAILEY: Okay. Uh-huh. 18 MR. STERN: Do you render assistance to 19 patrons who are injured? 20 MR. BAILEY: Yes, we do. She refused. 21 MR. STERN: And if someone was bleeding while 22 you were standing there, would you render assistance to</p>	<p style="text-align: right;">101</p> <p>1 She was then beaten up a second time while the security 2 guard looked on. And when she tries to go downstairs, 3 nobody follows her to render assistance? 4 MR. BAILEY: Well, that is -- actually that's 5 her statement but that's not what happened. 6 MR. STERN: Okay. When the security guards 7 broke up the two males, were they involved -- were they 8 -- they were yelling and screaming at the time, right? 9 MR. BAILEY: Yeah, kind of getting very 10 aggressive towards each other. 11 MR. STERN: Okay. But they didn't actually 12 get to the point where they were hitting each other, 13 right? 14 MR. BAILEY: No. Not at -- not at that time, 15 no. 16 MR. STERN: So no felony was being committed, 17 right? 18 MR. BAILEY: No. 19 MR. STERN: Okay. And merely yelling at -- I 20 mean, you have patrons yelling and screaming at each 21 other all the time, right? 22 MR. BAILEY: Right.</p>

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<p style="text-align: right;">102</p> <p>1 MR. STERN: I mean, it's not an unusual thing 2 in the club, right? 3 MR. BAILEY: Right. 4 MR. STERN: So merely yelling and screaming 5 at each other wouldn't be a cause of imminent harm to 6 another patron? 7 MR. BAILEY: Well, somebody yelling -- like, 8 the manner in which they were yelling and screaming at 9 each other appeared to be, to my security personnel at 10 that time, that they were getting ready to be involved 11 in a physical altercation. So they took the necessary 12 steps to ensure that the physical altercation did not 13 occur, which was taking them down to -- they can't 14 obviously talk to a patron as to what's going on, 15 what's the problem inside the club because you have 16 music playing. 17 So anytime somebody's involved in verbal 18 altercation where we fear it may escalate, they are 19 then moved to an area which was normally the detox 20 customer service area, speak to them as to what -- you 21 know, what's going on and made sure that this incident 22 is not going any further.</p>	<p style="text-align: right;">104</p> <p>1 MR. BAILEY: Okay. The very -- "Security 2 personnel bring male down to detox area, right hand 3 handcuffed." 4 MR. STERN: Thank you. 5 MR. BAILEY: I don't know as to how he could 6 see a handcuff. But in the second one, it says, 7 "Unhandcuffed." 8 MR. STERN: There was no question of that. 9 MR. BAILEY: Okay. 10 MR. STERN: I asked you if you could read 11 that. I believe you did. So the investigative report 12 actually does say that he was handcuffed, right? 13 MR. BAILEY: Right. But in the police report 14 it said he was handcuffed to a rail after he struck 15 security. 16 MR. STERN: Okay. In fact, the investigative 17 report says that a second male was handcuffed to the 18 rail; isn't that right? 19 MR. BAILEY: So I don't understand where we 20 are getting at with this because I don't understand 21 where in the video -- which he's watching -- where our 22 video can actually show him in handcuffs. They were</p>
<p style="text-align: right;">103</p> <p>1 MR. STERN: Okay. But they're not taken in 2 handcuffs down there, are they? 3 MR. BAILEY: No, he wasn't taken in handcuffs 4 as well. 5 MR. STERN: Despite -- 6 MR. BAILEY: No. He wasn't -- 7 MR. STERN: -- what the -- what the video 8 shows? 9 MR. BAILEY: Actually if you look at the 10 investigative report, it states that he was brought 11 down unhandcuffed into the detox area. 12 MR. STERN: Actually that's not accurate. If 13 you want to read the investigative report -- 14 MR. BAILEY: It says, "Unhandcuffed." 15 CHAIRPERSON MILLER: Mr. Stern, do you have a 16 question? 17 MR. STERN: I'm sorry. I want to show you 18 what's Page 4 of the investigative report, time marked 19 3:02:15 seconds a.m. Can you read to me what that 20 says? "Security personnel bring male" -- 21 MR. BAILEY: You say what, 3:02? 22 MR. STERN: The first line.</p>	<p style="text-align: right;">105</p> <p>1 both brought down arm in hand to make sure they 2 couldn't strike each other. 3 MR. STERN: Okay. 4 MR. BAILEY: That was the only thing. 5 MR. STERN: I'm sorry, that's not responsive 6 to my question. 7 MR. BAILEY: Well, no. They were not 8 handcuffed and brought down. 9 MR. STERN: Despite what the investigative 10 report says? 11 MR. BAILEY: Despite what Investigator 12 Shakoor thinks he saw. 13 MR. STERN: Thank you. Now, if I just may 14 have the Court's indulgence for a second? 15 CHAIRPERSON MILLER: Mr. Bailey, you refer to 16 a different security report -- different security plan 17 that was referenced in -- as Exhibit 6 to the 18 investigative report? 19 MR. BAILEY: Yes, ma'am. 20 CHAIRPERSON MILLER: And I -- for the record, 21 the -- and you said you had filed it -- 22 MR. BAILEY: I emailed it to Martha Jenkins.</p>

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<p style="text-align: right;">106</p> <p>1 CHAIRPERSON MILLER: -- with Martha Jenkins 2 at ABRA. So the staff did check the files for the most 3 recent security plan and there is a later one. And so 4 that was just given to Mr. Stern to take a look at -- 5 MR. BAILEY: Thank you. 6 CHAIRPERSON MILLER: -- And I believe Mr. 7 Smothers. 8 MR. STERN: And do you have a date on when 9 this took effect? November of 2011. 10 MR. ALBERTI: I was told but I forget the 11 month. 12 MR. BAILEY: I can actually -- I actually 13 have the email right here on my -- 14 MR. ALBERTI: Well, we'll -- 15 CHAIRPERSON MILLER: Okay. 16 MR. ALBERTI: I'll check with our staff and 17 find out. But if -- 18 CHAIRPERSON MILLER: But anyway, if you're -- 19 MR. ALBERTI: It was some time in 2011. 20 CHAIRPERSON MILLER: I thought -- I thought 21 that you may have -- somebody may have said December, 22 2011 but that could be verified later.</p>	<p style="text-align: right;">108</p> <p>1 saying that the plan still says SPs cannot legally use 2 force against a person unless in self-defense or 3 defense of others from imminent harm? 4 MR. BAILEY: That is correct. 5 MR. STERN: And imminent harm means immediate 6 harm? 7 MR. BAILEY: You mean, like, him getting 8 elbowed or security getting punched. 9 MR. STERN: The question was, imminent harm 10 means immediate harm? 11 MR. BAILEY: Yes. 12 MR. STERN: Okay. Thank you. I would move 13 into evidence the new security plan. 14 CHAIRPERSON MILLER: Okay. Are you -- okay. 15 So let me just say with respect to the evidence and -- 16 that you've already asked to be moved into the record, 17 one was the investigative report with all the exhibits; 18 is that correct? Is -- 19 MR. STERN: Yes. 20 CHAIRPERSON MILLER: And this -- the second 21 is the security plan, which we have judicial notice of 22 anyway. It's in our -- in our files. But it's in this</p>
<p style="text-align: right;">107</p> <p>1 MR. STERN: Okay. 2 CHAIRPERSON MILLER: Do you have a -- 3 MR. STERN: Just so we're clear -- 4 CHAIRPERSON MILLER: Wait a second. I'm 5 sorry. Do you have a definitive answer? 6 MR. ALBERTI: The date stamp on the new 7 security plan was December 23rd, 2011. 8 MR. STERN: Okay. Is this a copy of the 9 revised security plan? 10 MR. BAILEY: Yes. 11 MR. STERN: Okay. And just so that we are 12 clear, in Section 6 -- in Section 7 there is use for 13 and the customer care center the same in both plans? 14 MR. BAILEY: Yes. Which one? Then it should 15 be at least somewhat the same. 16 MR. STERN: Okay. Am I correct that Section 17 7 still provides that at no time is an SP allowed to 18 force a person to stay inside the customer care center 19 against their will unless a felony has been committed 20 or it is necessary to protect the patrons of the club? 21 MR. BAILEY: That is correct. 22 MR. STERN: Okay. And am I also correct in</p>	<p style="text-align: right;">109</p> <p>1 case now as a -- as government's Exhibit No. 2. As -- 2 are there any objections to these exhibits? 3 MR. STERN: Yes. 4 CHAIRPERSON MILLER: No. You have objections 5 to your own exhibits? 6 MR. STERN: No. 7 CHAIRPERSON MILLER: Okay. Okay. 8 MR. STERN: No. 9 CHAIRPERSON MILLER: Fine. All right. So 10 does that complete -- that completes your questioning, 11 right? 12 MR. STERN: That completes my questioning. 13 CHAIRPERSON MILLER: Okay. So this was 14 cross. Are there Board questions? No? It's their 15 witness. 16 MR. STERN: Oh, right. This was cross. I'm 17 sorry. 18 CHAIRPERSON MILLER: Okay. I know it's been 19 a -- 20 MR. STERN: Uh-huh. Yeah. 21 CHAIRPERSON MILLER: Okay. No Board 22 questions? I'm just going to double-check to see if I</p>

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<p style="text-align: right;">110</p> <p>1 do. I just want to clarify the procedure. When there 2 is trouble in the club on whatever floor, you take some 3 individuals into the care center? 4 MR. BAILEY: Yeah, we try -- we try to 5 separate them as much as possible. If there -- the 6 people that like -- that you can tell are not 7 aggressive that we know we're going to allow to kind of 8 stay in the club, we might -- if there's too many 9 people that we're worried about them trying to converge 10 again -- 11 CHAIRPERSON MILLER: Right. 12 MR. BAILEY: -- we allow those lesser -- the 13 people that -- you know, like, if they're just standing 14 there and somebody's coming over to their face and 15 they're -- kind of have their hands back like this, we 16 know they're not trying to cause any trouble. We just 17 say, "Here, we're getting ready to take this person 18 down." And -- 19 CHAIRPERSON MILLER: Do you take persons down 20 though who are fighting each other? 21 MR. BAILEY: Yes. We have people who are 22 fighting people each other. We --</p>	<p style="text-align: right;">112</p> <p>1 CHAIRPERSON MILLER: Okay, Mr. Alberti. 2 MR. ALBERTI: Excuse me, I'm sorry. I just 3 need to -- I apologize. Okay. The first instance with 4 Ms. Wyche -- 5 MR. BAILEY: Yes. 6 MR. ALBERTI: -- I think you said that, 7 according to you, she was told to stay where she was 8 and the aggressors were pulled away? 9 MR. BAILEY: Well, okay. It was two times 10 when she was told to actually kind of stay. 11 MR. ALBERTI: Okay. 12 MR. BAILEY: The first, when the actual 13 incident occurred and security personnel started taking 14 the -- everybody -- the aggressors away. The security 15 personnel was there and, you know, identified her as 16 the, you know, lesser -- the lesser aggressor, if you 17 want to -- 18 MR. ALBERTI: Okay. 19 MR. BAILEY: -- call it. And so I told her, 20 you know, "Stay here. You know, I'll get somebody to, 21 you know, come down, be -- you know, have somebody 22 there that would provide, like, medical attention and</p>
<p style="text-align: right;">111</p> <p>1 CHAIRPERSON MILLER: You take them to the 2 same room? 3 MR. BAILEY: No. We have -- it's -- we 4 typically try to -- it's, like, we bring them down. We 5 try to identify what's going on and then possibly 6 taking one to another room inside. Because it was, 7 like -- 8 CHAIRPERSON MILLER: Oh -- 9 MR. BAILEY: -- kind of, like, a loading dock 10 area and, like, take them -- take them through the -- 11 you know what I'm saying -- the double door. 12 CHAIRPERSON MILLER: It's a big area? 13 MR. BAILEY: That's right. 14 CHAIRPERSON MILLER: Okay. 15 MR. BAILEY: You know what I mean? So we 16 have to separate them across the room if that is the 17 only space available but just making sure that they -- 18 to make sure proper security's around, that they can't 19 converge again. 20 CHAIRPERSON MILLER: Okay. Okay. Any other 21 questions? 22 MR. ALBERTI: Yes.</p>	<p style="text-align: right;">113</p> <p>1 everything else." The young lady was upset and walked 2 off. That security personnel radio down to -- down to 3 the bottom of the stairs to inform them that, "We have 4 a young lady who was just involved in, you know, an 5 altercation, you know. Can somebody intercept her at 6 the bottom of the steps?" 7 That's where myself, along with, you know, 8 MPD proceeded to go upstairs as the young lady was 9 coming down. 10 MR. ALBERTI: MPD proceeded to go upstairs? 11 MR. BAILEY: Yeah, MPD was right with me at 12 the time. 13 MR. ALBERTI: So this was after or before Mr. 14 -- 15 MR. BAILEY: No, they were already there. 16 MPD was already there. 17 MR. ALBERTI: -- before Mr. Shakoor 18 encountered her? 19 MR. BAILEY: Right. We were -- every -- MPD, 20 myself and Investigator Shakoor, we were all kind of 21 right out front of the -- like, right there. 22 MR. ALBERTI: No, no, no, no. You said to me</p>

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<p style="text-align: right;">114</p> <p>1 that MPD was heading upstairs. 2 MR. BAILEY: Right. 3 MR. ALBERTI: Was that before or after Mr. 4 Shakoor encountered her? 5 MR. BAILEY: It was -- it was at the same 6 time. It was all at the same time. He arrived at -- 7 everything 8 MR. ALBERTI: Was it before -- let me -- let 9 me rephrase my question. Was it before or after Mr. 10 Shakoor notified the police? 11 MR. BAILEY: I don't -- I'm unaware Mr. 12 Shakoor had notified -- 13 MR. ALBERTI: Okay. Well, you're -- 14 MR. BAILEY: -- the police or -- 15 MR. ALBERTI: -- unaware that he notified -- 16 fine. 17 MR. BAILEY: The police was -- 18 MR. ALBERTI: Was it -- 19 MR. BAILEY: -- there. 20 MR. ALBERTI: So Mr. Shakoor was with MPD? 21 MR. BAILEY: MPD was at the establishment. 22 They were already --</p>	<p style="text-align: right;">116</p> <p>1 because how? 2 MR. BAILEY: Partially because of the calls 3 coming over the radio. Secondly, because I questioned 4 my staff in regards to the incident. 5 MR. ALBERTI: So you weren't there then? 6 MR. BAILEY: No. I was not -- 7 MR. ALBERTI: Okay. 8 MR. BAILEY: -- physically there. 9 MR. ALBERTI: Okay. 10 MR. BAILEY: I was not. 11 MR. ALBERTI: I thought I heard you earlier 12 say something -- what happened in the aggressors' party 13 -- aggressor party? Do you -- 14 MR. BAILEY: The aggressor party was taken 15 down to the detox customer service area. 16 MR. ALBERTI: Okay. Before or after the 17 police entered your establishment? 18 MR. BAILEY: This was right as the incident 19 had occurred with the young lady. They separated -- 20 MR. ALBERTI: Before or after the police 21 enter -- 22 MR. BAILEY: Before.</p>
<p style="text-align: right;">115</p> <p>1 MR. ALBERTI: They're inside the 2 establishment or outside? 3 MR. BAILEY: They were there right out front 4 of our main door. 5 MR. ALBERTI: Okay. So -- 6 MR. BAILEY: They were standing right there. 7 MR. ALBERTI: Right. When they were at the - 8 - when they were coming up the stairs to investigate, 9 were they with the young woman? 10 MR. BAILEY: No, they're not. The young 11 woman -- 12 MR. ALBERTI: Okay. Let me -- just answer my 13 questions, Mr. Bailey. 14 MR. BAILEY: Uh-huh. 15 MR. ALBERTI: Were they with the young woman? 16 MR. BAILEY: No. 17 MR. ALBERTI: Okay. Who was with them 18 besides you? 19 MR. BAILEY: Investigator Shakoor and my 20 other staff were all -- 21 MR. ALBERTI: Oh, okay. Good. Good. So 22 now, you know the details of the inside incident</p>	<p style="text-align: right;">117</p> <p>1 MR. ALBERTI: Before. Okay. Was -- to your 2 knowledge, was the woman visibly injured when she 3 approached the security guards? 4 MR. BAILEY: She appeared -- my immediate 5 attention was her clothing. I saw her clothing had 6 been but I didn't see any -- 7 MR. ALBERTI: Her clothing had been -- 8 MR. BAILEY: And I don't recall any of her 9 injuries. I do remember her -- 10 MR. ALBERTI: Her clothing had been what? 11 MR. BAILEY: -- clothing kind of looked like 12 it's been -- like she had been in a scuffle. 13 MR. ALBERTI: But you didn't see -- did she 14 have any visible injuries when you saw her? 15 MR. BAILEY: I said not to my -- not to my 16 recollection. She possibly could have but not to my 17 recollection. 18 MR. ALBERTI: Okay. So what was the intent - 19 - what was your staff's intent to do with the -- with 20 the aggressors? What were they going to do with the 21 aggressors? 22 MR. BAILEY: I mean, of course they get their</p>

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<p style="text-align: right;">118</p> <p>1 information if need be for the -- and we always ask the 2 person involved do they want to press charges, do we 3 need to bring MPD back to presses charges with them? 4 And that's what was supposed to have happened but the 5 young lady left. 6 MR. ALBERTI: So when do you -- when do you 7 call the police? I mean, what would trigger you 8 calling MPD and -- to deal with -- deal with an 9 incident? 10 MR. BAILEY: Like, if it's -- if it's 11 something that is, you know, major and somebody wants 12 to -- an individual wants to press charges or anything 13 like that. 14 MR. ALBERTI: So you rely on the individual 15 to tell you to press charges? If they're bleeding from 16 the head from a cut and they don't want to press 17 charges, you won't call MPD? 18 MR. BAILEY: I mean, we will take down -- we 19 will take down, you know, their information. And if it 20 -- if it is of that nature where somebody's head has 21 been busted open, of course I'm calling the police to 22 come back and --</p>	<p style="text-align: right;">120</p> <p>1 MR. BAILEY: Immediately. 2 MR. ALBERTI: Immediately when? After Mr. 3 Shakoor came in with the police officers or before? 4 MR. BAILEY: Before Investigator Shakoor came 5 in with the police officers. 6 MR. ALBERTI: You told that -- you told the 7 police officers that you had someone in detox? 8 MR. BAILEY: Yes. 9 MR. ALBERTI: So who would have done that? 10 MR. BAILEY: Who would have done what? 11 MR. ALBERTI: Who would have told the police? 12 MR. BAILEY: Any -- what do you mean, who 13 would have told the police? Who -- 14 MR. ALBERTI: Who would have informed the 15 police that you had someone in detox? 16 MR. BAILEY: Any staff member can do that. 17 MR. ALBERTI: Do you know who did it? 18 MR. BAILEY: I did that. 19 MR. ALBERTI: Do you know who did it on that 20 evening? 21 MR. BAILEY: I did. I just said that. 22 MR. ALBERTI: You did on that evening?</p>
<p style="text-align: right;">119</p> <p>1 MR. ALBERTI: And if they're -- 2 MR. BAILEY: -- deal with the person. 3 MR. ALBERTI: -- bleeding from the nose and 4 the mouth -- 5 MR. BAILEY: Yeah. 6 MR. ALBERTI: -- would you call MPD? 7 MR. BAILEY: Yes. I mean, if it's -- 8 MR. ALBERTI: You would? 9 MR. BAILEY: -- something of that very 10 physical and visible nature, yes, I would call MPD. 11 MR. ALBERTI: Did you call MPD to deal with 12 the aggressors that -- did you call MPD to come deal 13 with the aggressors or did your staff? 14 MR. BAILEY: MPD was -- MPD was already -- 15 MR. ALBERTI: Yeah, did you or your staff 16 have MPD deal with the aggressors that -- 17 MR. BAILEY: I did -- I did tell MPD about 18 the aggressors that were in detox, yes. 19 MR. ALBERTI: When did you tell them? 20 MR. BAILEY: At the same -- at -- all when 21 this incident occurred, as every -- 22 MR. ALBERTI: When did you tell them?</p>	<p style="text-align: right;">121</p> <p>1 MR. BAILEY: Yes, I did. 2 MR. ALBERTI: Okay. How did you inform them? 3 MR. BAILEY: Face-to-face. We have people 4 that were possibly involved in this altercation back in 5 the detox room. 6 MR. ALBERTI: So you -- and you did this 7 before Mr. Shakoor came in? 8 MR. BAILEY: Yes, sir. 9 MR. ALBERTI: All right. So did you come 10 outside to the police officers? 11 MR. BAILEY: I was -- 12 MR. ALBERTI: Because there was -- they were 13 -- the police officers weren't inside, right? 14 MR. BAILEY: No. 15 MR. ALBERTI: Yes or no? 16 MR. BAILEY: No. 17 MR. ALBERTI: So did you come outside to see 18 the police officers? 19 MR. BAILEY: I was already outside with the 20 police. 21 MR. ALBERTI: And where were the police 22 officers when you told them about this?</p>

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<p style="text-align: right;">122</p> <p>1 MR. BAILEY: Directly in front of the 2 establishment. 3 MR. ALBERTI: They -- were they in their car 4 or outside the car? 5 MR. BAILEY: Standing outside of their 6 vehicle directly in front of the establishment. 7 MR. ALBERTI: Okay. And was Mr. Shakoor 8 there -- 9 MR. BAILEY: Shakoor was there as well. 10 MR. ALBERTI: -- Shakoor there at that time? 11 MR. BAILEY: Yes, he was. 12 MR. ALBERTI: He was there at that time? 13 14 MR. BAILEY: Yes, he was. 15 MR. ALBERTI: Okay. What were the police 16 doing at that time when you told them? 17 MR. BAILEY: When the police were -- first we 18 were just all on deck and -- 19 MR. ALBERTI: When you approached the police 20 to tell them, what were they doing? 21 MR. BAILEY: They -- I mean, they -- well, 22 one of the officers was dealing with the patron. I was</p>	<p style="text-align: right;">124</p> <p>1 was he handcuffed? 2 MR. BAILEY: After he elbowed security in his 3 -- 4 MR. ALBERTI: And where did -- where did that 5 occur? 6 MR. BAILEY: Right in the customer care area. 7 MR. ALBERTI: In the customer care area. And 8 he was handcuffed to what? 9 MR. BAILEY: A rail. 10 MR. ALBERTI: To a rail? 11 MR. BAILEY: A rail right there. 12 MR. ALBERTI: All right. Who else was in 13 that area -- in that detox area? 14 MR. BAILEY: Myself as well -- along with 15 other security personnel. 16 MR. ALBERTI: Was there another individual 17 that wasn't part of your staff in that room? 18 MR. BAILEY: Right. The gentleman who he was 19 initially involved in the altercation with. 20 MR. ALBERTI: And why were they both taken to 21 the detox area at the same time? 22 MR. BAILEY: I mean -- I mean, they were --</p>
<p style="text-align: right;">123</p> <p>1 talking to another officer about it but we were also 2 dealing with the second incident that came up all at 3 the same time. 4 MR. ALBERTI: Oh, okay. Okay. 5 MR. BAILEY: So -- 6 MR. ALBERTI: So they were dealing with Ms. 7 Wyche? 8 MR. BAILEY: Right. 9 MR. ALBERTI: Okay. So you told the police 10 about the people in detox after you became aware of the 11 -- Ms. -- that MPD were investigating Ms. Wyche's 12 injuries? 13 MR. BAILEY: Right. And I called -- I called 14 over the radio and I found out where -- 15 MR. ALBERTI: Okay. 16 MR. BAILEY: -- to find out where they were. 17 MR. ALBERTI: All right. Okay. Let's talk 18 about the handcuffed person. Who -- what was the 19 handcuffed person -- you're saying there's only one? 20 MR. BAILEY: There was only one person that 21 was handcuffed and he was handcuffed -- 22 MR. ALBERTI: At what -- but at what point</p>	<p style="text-align: right;">125</p> <p>1 they were escorted but separated from each other in the 2 detox area to find out what was going on. It was only, 3 like I -- as I stated at the time -- 4 MR. ALBERTI: They were escort -- wait, wait. 5 Let's step back. They were escorted together to the 6 detox area? 7 MR. BAILEY: By two different parts of -- two 8 different -- like, two different sets of security. 9 MR. ALBERTI: So they're both in the detox 10 area at one time? 11 MR. BAILEY: Right. 12 MR. ALBERTI: Why if they were aggressors, if 13 they were fighting? 14 MR. BAILEY: If they're only -- 15 MR. ALBERTI: I assume -- I assume that these 16 two people were having -- were having a physical 17 altercation. Is that -- 18 MR. BAILEY: No, a verbal altercation. 19 MR. ALBERTI: They were having a verbal 20 altercation? 21 MR. BAILEY: Yes. 22 MR. ALBERTI: And that caused you to take</p>

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<p style="text-align: right;">126</p> <p>1 them to the detox area? 2 MR. BAILEY: Yeah, which is -- like I was 3 stating before, is quieter that we can ask them and 4 find out what's going on. 5 MR. ALBERTI: Okay. 6 MR. BAILEY: So that's why they took them 7 down there initially, to -- just to speak with them as 8 to what was going on. 9 MR. ALBERTI: Okay. So the verbal 10 altercation was of such a nature that it concerned you; 11 is that correct? 12 MR. BAILEY: Yes. It caused big concern. 13 MR. ALBERTI: Okay. So you -- so you 14 escorted them both down to the detox area together? 15 MR. BAILEY: Yes. 16 MR. ALBERTI: Together? 17 MR. BAILEY: Well, separate but -- and detox, 18 like I stated, is a very large area. So you have -- 19 MR. ALBERTI: How large? 20 MR. BAILEY: The size of this room. 21 MR. ALBERTI: Okay. 22 MR. BAILEY: So the one gentleman was on this</p>	<p style="text-align: right;">128</p> <p>1 MR. ALBERTI: For what? 2 MR. BAILEY: For striking -- for punching the 3 security personnel member. 4 MR. ALBERTI: Oh, he struck a security 5 personnel? 6 MR. BAILEY: Both of them struck a security 7 personnel. 8 MR. ALBERTI: So why wasn't he handcuffed? 9 MR. BAILEY: I detained him physically 10 myself. He was the -- he was actually the least 11 aggressive amongst -- 12 MR. ALBERTI: Okay. 13 MR. BAILEY: -- total, you know, between the 14 two. 15 MR. ALBERTI: So then what happened? 16 MR. BAILEY: The gentleman who I -- you know, 17 when -- because like I said, it was two young ladies 18 that were down there. One apparently was the 19 complainant's sister, like -- and I guess the 20 complainant's girlfriend. 21 MR. ALBERTI: Complainant's girlfriend? 22 Complainant in what incident?</p>
<p style="text-align: right;">127</p> <p>1 side. The other gentleman was on that side. 2 MR. ALBERTI: Okay. And what was the other 3 gentleman, not the -- according to you, the one who 4 wasn't handcuffed to the railing, what was he doing? 5 MR. BAILEY: At first he was, you know, kind 6 of calm. He was -- he was basically the least 7 aggressor that -- involved. He was, you know, just 8 talking, you know, about what was going on. I mean, he 9 was kind of upset but he was still, you know, just 10 verbally talking. The other gentleman was the one who 11 was, like, constantly trying to physically come at him. 12 So he had more security personnel around him 13 just blocking him so he could not come after the other 14 gentleman. 15 MR. ALBERTI: So -- okay. So you have these 16 two guys. You know, one's handcuffed to the railing 17 and one is not. What happens next? 18 MR. BAILEY: As we -- the other one that 19 wasn't -- after I -- you know, I grabbed him. He's, 20 like, man -- he apologized to me. He said, you know, 21 "I'm sorry, man." You know, basically he was very 22 apologetic.</p>	<p style="text-align: right;">129</p> <p>1 MR. BAILEY: In the handcuff incident. 2 MR. ALBERTI: Okay. 3 MR. BAILEY: Stated that -- you know, they 4 were, like, the -- you know, "That's my brother-in- 5 law." So brother-in-law, you know, she'd be doing -- 6 talking to them, like, "Man, calm down, man. Let's 7 just go home and we'll deal with this later on, you 8 know." So, you know, his sister -- you know, they was, 9 like, "Man, we'll take them out." So he finally calmed 10 down where we can actually approach him and take them 11 handcuffs off of him. 12 He then took both, you know -- they hugged 13 each other and we walked both -- you know, security 14 walked them all outside, you know, to their vehicle. 15 MR. ALBERTI: Well, why did you walk them 16 outside? 17 MR. BAILEY: It's just -- we just followed 18 them just to make sure no further incident occurs. 19 MR. ALBERTI: Well, why didn't you just walk 20 them outside initially rather than take them into 21 detox? 22 MR. BAILEY: Because they were trying to come</p>

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130	<p>1 at each other. Like, I mean, we wouldn't put them 2 outside and have them come on again. We -- you know, 3 they were only in a verbal altercation. So we only 4 brought them down to find out, you know, what's going 5 on and, you know -- 6 MR. ALBERTI: Why did you hand them off to 7 MPD who's out there? 8 MR. BAILEY: I mean, they were only in a 9 verbal altercation. It wasn't a need for -- need to 10 deal with it. We was just trying to find out -- 11 MR. ALBERTI: Yeah, but once they got 12 aggressive towards you, why did you just take them out? 13 MR. BAILEY: What, when -- 14 MR. ALBERTI: When they became aggressive 15 towards you and the other security officers, why didn't 16 you just take them out -- 17 MR. BAILEY: Because I -- as I stated -- 18 MR. ALBERTI: -- and hand them over to MPD? 19 MR. BAILEY: No one -- I deal with 20 intoxicated patrons all the time who become very 21 aggressive because they have alcohol in them. Like I 22 said, when I -- once I detained the gentleman who</p>	132	<p>1 people couldn't get the other guy under control. 2 MR. BAILEY: Because he was the one being the 3 most aggressive. He was the one still trying to charge 4 after people. He elbow and trying to fight the 5 security themselves. And so they ended up -- you know, 6 like I said, he was a -- the gentleman who handcuffed 7 him was a licensed SPO who's certified in the handcuff 8 -- to handcuff them. So -- 9 MR. ALBERTI: Okay. So the gentleman who 10 handcuffed him, was he working as -- was he under 11 contract as an SPO? 12 MR. BAILEY: No, he was not. 13 MR. ALBERTI: Was he working for his company 14 that night? 15 MR. BAILEY: No, he was not. 16 MR. ALBERTI: Okay. Who is -- who was 17 security that night? Who was providing security that 18 night? 19 MR. BAILEY: It's in-house security. 20 MR. ALBERTI: Okay. I have no further 21 question. 22 CHAIRPERSON MILLER: Okay. Board questions?</p>
131	<p>1 punched the security personnel and he calmed down, you 2 know, and was willing to cooperate, I felt no need -- 3 my security personnel was, like, he did -- I want to 4 press charges against him. I'm, like, "Listen, these 5 gentlemen" -- 6 MR. ALBERTI: So I'm still confused why your 7 other -- why your -- how many security personnel were 8 there? 9 MR. BAILEY: Approximately I want to say 10 probably about 70 to 80 security personnel. 11 MR. ALBERTI: Seven to eight? 12 MR. BAILEY: Seventy to eighty. 13 MR. ALBERTI: No. How many were there in the 14 detox room? 15 MR. BAILEY: Oh, in the detox area probably 16 about 10-12. 17 MR. ALBERTI: And you had the one guy under 18 control? 19 MR. BAILEY: Right. Me and another security 20 personnel. 21 MR. ALBERTI: So I'm still unclear what the 22 need for the handcuffs was, why the other security</p>	133	<p>1 No. Okay. Redirect based on the Board's questions. 2 MR. SMOTHERS: Mr. Bailey? 3 MR. BAILEY: Yes. 4 MR. SMOTHERS: What qualifies you to be in 5 security at Love Nightclub? 6 MR. BAILEY: My -- I currently -- since 2005 7 I've done licensed security. I currently now am a 8 corporate officer in my own security company. And I've 9 had the experience here as an investigator with ABRA, 10 five years. 11 MR. SMOTHERS: All right. In your 12 recollection of events that night, did you, as well as 13 the security staff, act in accordance with the security 14 plan? 15 MR. BAILEY: Yes, sir. 16 MR. SMOTHERS: In regards to the handcuffing 17 incident, when the fight broke out, why wouldn't you 18 put the fight outside as opposed to keeping it inside? 19 MR. BAILEY: Because as stated before and 20 while we were here last November, it was because of 21 letting people go outside and then fight again outside. 22 So as we stated in our security plan, we would bring</p>

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<p style="text-align: right;">134</p> <p>1 them down, you know, try to deal with the situation 2 there before letting them out. And what we do 3 normally, if there is an altercation, we let one party 4 go out first. 5 The security will follow them to the car and 6 make sure they leave the area and then have the second 7 party leave out, walk them to their car and make sure 8 that they leave the area. 9 MR. SMOTHERS: How many Love personnel got 10 struck by this gentleman that was cuffed? 11 MR. BAILEY: At least one was visibly struck 12 on video. 13 MR. SMOTHERS: So in your opinion, do you 14 believe it'd be better to restrain him as opposed to 15 continue taking blows? 16 MR. BAILEY: Right. They tried to physically 17 restrain him and he kept, you know, throwing elbow. 18 That's how -- that's how he initially struck security. 19 Because they were -- they were restraining him and he 20 elbowed the security trying to restrain him. 21 MR. SMOTHERS: I understand. And there seems 22 to be some disagreements in regards to this report.</p>	<p style="text-align: right;">136</p> <p>1 What -- he was handcuffed in the customer care area? 2 MR. BAILEY: Yeah, handcuffs were only used 3 on him once he -- after he struck the security 4 personnel inside of the customer care area. 5 CHAIRPERSON MILLER: Thank you. Okay. Thank 6 you. 7 MR. SMOTHERS: And what's Love's policy when 8 a -- when an altercation occurs? What do you do with 9 the two parties? 10 MR. BAILEY: An altercation occurs, we take 11 them -- you know, we try to -- I said we attempt to 12 identify the parties involved. 13 MR. SMOTHERS: Right. 14 MR. BAILEY: We then attempt to separate the 15 parties as, you know, as best -- as best as we can. 16 Then, you know -- oh, of course if a different 17 situation arises, we got to deal with the situation 18 different, according to where we can put people at 19 where they can't, you know, continue. We then identify 20 what's going on by either talking to the security that, 21 you know, saw what was going on or actually talking to 22 the patrons involved.</p>
<p style="text-align: right;">135</p> <p>1 How many gentlemen were handcuffed, do you know? 2 MR. BAILEY: There's only -- there's only one 3 gentleman that was handcuffed and he was handcuffed 4 after he elbowed security and then handcuffed to the 5 railing, which was -- I admitted to MPD and -- because 6 then MPD came to watch the video with me. 7 CHAIRPERSON MILLER: But -- I'm sorry. Your 8 voice drops a little bit. 9 MR. BAILEY: I'm sorry. 10 CHAIRPERSON MILLER: And I think this is an 11 important point. 12 MR. BAILEY: I'm sorry. 13 CHAIRPERSON MILLER: The one person that was 14 handcuffed was handcuffed -- 15 MR. BAILEY: Was actually the complainant. 16 CHAIRPERSON MILLER: When the -- 17 MR. BAILEY: Was the complainant. He was 18 handcuffed after elbowing security, after they tried to 19 physically restrain him. He was -- he was then 20 handcuffed to the rail and that was it. 21 CHAIRPERSON MILLER: I'm sorry, I just want 22 to make sure that I understand this answer though.</p>	<p style="text-align: right;">137</p> <p>1 We then -- we would take a report down, try 2 to -- if they provide us with their information, we 3 will write their information down. If not, we just 4 document in our own report as to what happened and let 5 them know they refused to give their -- you know, their 6 information. At that time, depending on the situation, 7 either call MPD, either call the ambulance, take those 8 measures. If not, those people are, you know, escorted 9 out of the establishment separately. 10 MR. SMOTHERS: What do you do with patrons 11 that are injured at Love Nightclub? 12 MR. BAILEY: We immediately, you know, call 13 for them our medical attention and then, you know, ask 14 them would they like an ambulance called. If the 15 extent is as far as feel like an ambulance needs to be 16 called, of course, we're going to call them ourselves. 17 But -- 18 MR. SMOTHERS: And is it -- is it Love 19 protocol to allow the people just to leave injured? 20 MR. BAILEY: No. We don't -- we don't allow 21 -- we don't -- well, we don't allow them to leave but 22 we can't hold them if they don't want our attention.</p>

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<p style="text-align: right;">138</p> <p>1 MR. SMOTHERS: Okay. With regards to the 2 handcuffing issue, when you first made contact with the 3 two gentlemen having words, when you first walked up on 4 the scene -- or security first walked up on the scene, 5 was it physical again? 6 MR. BAILEY: No. They were -- it was just 7 very aggressively verbal. 8 MR. SMOTHERS: Okay. At what point did it 9 get physical? 10 MR. BAILEY: It got physical once they -- 11 once they got down to the customer care area. 12 MR. SMOTHERS: I understand. Do you believe 13 you acted in the best interest of patrons and public 14 safety -- 15 MR. BAILEY: Yes, sir. 16 MR. SMOTHERS: -- by restraining that young 17 man? 18 MR. BAILEY: Yes, sir. 19 MR. SMOTHERS: Do you believe he was harm -- 20 he was in a physical state to harm Love security or 21 himself? 22 MR. BAILEY: Love security, himself, as well</p>	<p style="text-align: right;">140</p> <p>1 issue? 2 MR. SMOTHERS: Yes. 3 CHAIRPERSON MILLER: Is there a statement in 4 the investigative report in particular that you want to 5 point to? 6 MR. SMOTHERS: That two gentlemen were 7 handcuffed. 8 MR. BAILEY: Right. 9 CHAIRPERSON MILLER: Did he -- 10 MR. SMOTHERS: Is that correct? 11 CHAIRPERSON MILLER: He's already -- I think 12 he has already testified. Did you already testify that 13 there was only one handcuffed -- 14 MR. BAILEY: There was only one person 15 handcuffed on the floor. 16 CHAIRPERSON MILLER: Okay. Because it's 17 getting late. So I don't -- I don't think we should do 18 anything more that's redundant, you know, that has 19 already been asked and answered. 20 MR. SMOTHERS: Okay. That's all I have right 21 now. 22 CHAIRPERSON MILLER: Okay.</p>
<p style="text-align: right;">139</p> <p>1 as the other patrons involved. 2 MR. SMOTHERS: Okay. Do you believe that 3 there's any incorrect statements in this? 4 MR. STERN: Objection. 5 CHAIRPERSON MILLER: What's your objection? 6 He -- well, let him ask the question. Then we'll hear 7 the objection. What's the question? 8 MR. SMOTHERS: If the report that's wrote up, 9 dated February the 19th -- 10 CHAIRPERSON MILLER: You're asking him if 11 there's any incorrect statements in the investigative 12 report that's government's Exhibit No. 1. And your 13 objection, Mr. Stern? 14 MR. STERN: He's asking a witness who already 15 admitted that he wasn't there or saw any of this, 16 whether his hearsay contradicts other hearsay. Here 17 he's already testified to what his contradictions are. 18 And to do that is asking a witness to testify on the 19 veracity of another witness, which isn't permitted. 20 MR. SMOTHERS: That's incorrect. I'm asking 21 in regards to the handcuffing issue. 22 CHAIRPERSON MILLER: Just the handcuffing</p>	<p style="text-align: right;">141</p> <p>1 MR. STERN: I have just one very -- 2 CHAIRPERSON MILLER: Oh, okay. 3 MR. STERN: -- brief -- one or two very brief 4 questions. And this is to really help me understand a 5 little bit better. We heard about a second floor. We 6 heard about a first floor and then we heard down to 7 detox. Is detox on the first floor? 8 MR. BAILEY: No. Detox is right off the 9 first floor. There's -- oh, there's about eight steps. 10 You go down about eight steps down from the first 11 floor. 12 MR. STERN: Okay. So when you come in the 13 front door, you -- 14 MR. BAILEY: And it's on the first floor as 15 well. It's a -- it's a loading dock area basically. 16 So it's -- one level of it is on the first floor but 17 the -- you know, like, a loading dock. It's got a 18 bottom level to it as well. 19 MR. STERN: Okay. And so if you came in the 20 front door, you'd have to go down to the detox level? 21 MR. BAILEY: If you came in the -- 22 MR. STERN: Yes, in the front door? Okay.</p>

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<p style="text-align: right;">142</p> <p>1 MR. BAILEY: Right. 2 MR. STERN: Can you tell me, if you told the 3 police outside that the perpetrators were downstairs, 4 why did the police go upstairs to investigate? 5 MR. BAILEY: Well, as I said -- that's why 6 I'm saying there was two incidents that had occurred. 7 They went upstairs because the young lady stated that 8 security had assaulted her. So we went -- I said, 9 "Which incident do you want to deal with first?" They 10 said, "Let's deal with the security incident." I said, 11 "Well, come on." 12 I took them upstairs, the young lady as well 13 as MPD. I walked them through to the area which the 14 young lady said it had occurred, you know, to identify 15 parties involved. So we identified the parties 16 involved. MPD walked the young ladies out. I asked 17 the gentlemen -- the security personnel to step out to 18 deal with MPD at that time. 19 MR. STERN: So to your recollection, both the 20 young woman who was the less aggressor, bleeding, and 21 these other group of young ladies who had the knot to 22 their heads were -- came out at the same time?</p>	<p style="text-align: right;">144</p> <p>1 going to -- because we would have went to detox if she 2 said it was a patron involved. She said it was 3 security involved. So I took her up to where the 4 security was, you know, asked MPD what they wanted to 5 do. That's what they wanted to do. That's what I did. 6 MR. STERN: Did you then take MPD downstairs 7 to the customer care center? 8 MR. BAILEY: Well, we went back outside to 9 the young lady after they dealt with -- they were 10 dealing with the security personnel member as to what 11 happened with that incident, then went back to the 12 front where the young lady was supposed to have been, 13 Ms. Wyche, but she had left. Then -- 14 MR. STERN: So in all this time, even though 15 you had told MPD that the aggressors were downstairs, 16 no one bothered to go downstairs to speak to them? 17 MR. BAILEY: No. 18 MR. STERN: Okay. 19 CHAIRPERSON MILLER: Okay. I just want to 20 ask you one clarification based on your testimony right 21 then. Was it your testimony that no security personnel 22 attacked any of the women upstairs, that it was a</p>
<p style="text-align: right;">143</p> <p>1 MR. BAILEY: It was one young lady with a 2 knot on her head. But, yes, they came -- they came out 3 verbally around the -- this all happened all, like -- 4 the one, Ms. Wyche, I believe, came out first. And 5 then immediately following was the other set of young 6 ladies. 7 MR. STERN: If these both happened relatively 8 at the same time, why didn't the security personnel 9 take the aggressors in the second incident downstairs 10 as well? 11 MR. BAILEY: They did. All aggressors that 12 were put -- this happened at the front of the stage. 13 Those aggressors, those few aggressors that were 14 involved in there and that were brought down to detox 15 there -- but of course the young -- 16 MR. STERN: If all the aggressors were 17 brought downstairs, why did the police -- why -- and 18 you told them that, why would they have gone upstairs? 19 MR. BAILEY: Because the young lady stated 20 that a security personnel member up there had assaulted 21 her. So I followed -- took MPD upstairs for the young 22 lady to identify who assaulted her. So instead of</p>	<p style="text-align: right;">145</p> <p>1 patron who she mistook for a security personnel? 2 MR. STERN: That is it. 3 CHAIRPERSON MILLER: Is that your testimony? 4 MR. STERN: Yes. 5 CHAIRPERSON MILLER: Okay. 6 MR. STERN: Went to court and everything. 7 CHAIRPERSON MILLER: All right. I thought 8 you said that before. So I just wanted to make sure 9 that that was your testimony. Okay. I think you can 10 be excused now. Thank you very much. Is there closing 11 that you all want to do? 12 MR. STERN: Yes. 13 CHAIRPERSON MILLER: Okay. 14 MR. STERN: The District believes that we 15 have proven violations that we have charged. The 16 evidence here is diverse and it is a question, not 17 simply of recollection, but really a question of 18 credibility. On one hand, we have an investigator who 19 took notes by the minute of what he saw on a video. On 20 the other, we have a paid employee, the chief of 21 security, who has a stake in the outcome. And they 22 testify to two completely different events.</p>

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<p style="text-align: right;">146</p> <p>1 Further, there is really no counter-testimony 2 to what Ms. Wyche, the first victim, said occurred. So 3 of the two incidences, there's really no counter- 4 testimony to the other. The -- Ms. Wyche said what 5 occurred on that night is she was attacked. She saw a 6 security guard. How do we know that she didn't mistake 7 him for somebody else? She went up and spoke to him 8 afterwards. 9 The security guard, by respondent's own 10 testimony, told her to stay there. We know it was a 11 security guard. It was the person who told her to stay 12 there. Ms. Wyche, after she spoke to the security 13 guard, got attacked a second time. And the security 14 guard did nothing to break it up. That is the 15 quintessential allowing your establishment to be used 16 for a disorderly purpose or unlawful purpose on this 17 case, assault being an unlawful purpose. 18 What is doubly concerning is that not only 19 did that happen, but again, in contravention to their 20 own policies, no assistance whatsoever was provided to 21 the victim. She wasn't taken anywhere, even though she 22 was bleeding. She wasn't even followed. The police</p>	<p style="text-align: right;">148</p> <p>1 Well, it's the girl bleeding and the girl with the knot 2 in her head, both of them clearly victims at the time, 3 one of them quite upset and excited. Then there's the 4 incident with the handcuffs. The security plan clearly 5 states that you cannot restrain people by using force. 6 You can't keep people by using force unless they are an 7 imminent threat or they're committing a felony. 8 An imminent threat, as we've heard the 9 respondent agree, is an immediate threat. When they 10 took these gentlemen off the -- off the floor, one of 11 them in handcuffs, restrained, they were not an 12 imminent threat. By nobody's stretch of the 13 imagination were they imminent threat. There was 14 yelling going on. That's all. In fact, the testimony 15 from the respondent was no one threw a punch until 16 after they had been restrained. 17 It is the very actions of the security 18 personnel in restraining them that led to this 19 instance, that led to physicality. That was a 20 violation of the security plan. Not giving comfort to 21 the -- not giving -- not preventing the second attack 22 on the -- on the -- on Ms. Wyche was a violation of the</p>
<p style="text-align: right;">147</p> <p>1 were not called until she was outside already. And it 2 wasn't until Mr. Shakoor notified the police, even 3 though apparently, the head of security was standing 4 right there, that the police came in. 5 Then we have the incident -- there is still 6 the incident though -- I don't think this is quite 7 frankly a separate violation -- just disturbing about - 8 - and relevant to how they ran their business and 9 whether they allowed an unlawful or disorderly purpose 10 is the second incidence with the girls -- the women, 11 excuse me. 12 The women were involved in an altercation. 13 There was an attack there. They said it was a security 14 guard. That's what they told the police and what they 15 told Mr. Shakoor. What occurred later, whether or not 16 the case went forward or not, is completely irrelevant. 17 And anybody saying that it wasn't a security guard 18 involved -- merely secondhand hearsay, even further 19 removed than the interview with the -- with the women 20 themselves. 21 And how do we know -- what is the verifying 22 factor of the hearsay that Mr. Shakoor presented?</p>	<p style="text-align: right;">149</p> <p>1 security plan. 2 In sum, all three of these incidents the 3 government has proven that they allowed the 4 establishment to be used for an unlawful purpose, that 5 they violated their security plan in not breaking up 6 and giving assistance to the young lady, and that they 7 violated the security plan in handcuffing the gentlemen 8 when they brought -- not even getting into the 9 gentleman who was handcuffed to the railing. They 10 handcuffed the gentleman when they brought him in off 11 the floor, when there was no imminent threat. 12 For those reasons, we ask that the Board find 13 the respondents responsible for all three violations 14 and we would ask that a penalty be imposed commensurate 15 with the gravity of the situation. We would note that 16 there is one prior primary style violation that the 17 respondent was convicted of within the last two years. 18 So the range in the penalty would be \$2000-\$4000 and 19 whatever suspension the Board thinks fit. 20 CHAIRPERSON MILLER: Thank you very much. 21 Mr. Smothers, do you have a closing? 22 MR. SMOTHERS: Yes. I just want to say --</p>

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<p style="text-align: right;">150</p> <p>1 CHAIRPERSON MILLER: Okay. 2 MR. SMOTHERS: -- you know, in response that 3 this report does look kind of ugly as far as violations 4 are concerned. But in response to them, it was a 5 pretty good night for us as far as the amount of people 6 we had. We had ample security. As a matter of fact, 7 we were considering sending about 20 of them home 8 because we had too many security. 9 Sometimes things happen and to try to narrow 10 things down to a time line. And, "What were you doing 11 at 10:01 and 10:02," sometimes gets to be a little 12 confusing when you have three or four incidents going 13 on at the same time. In a club of this size, which is 14 one of the largest on the East Coast, it's not unusual 15 to have a, you know, pushing, shoving, shouting match 16 going on two or three floors at the same time, which in 17 this case occurred. 18 Police were on the scene. They were in 19 contact with our management. We knew they were there. 20 And we, as usual, was operating within our security 21 plan. The first incident, the young lady that walked 22 out of the door, was instructed to wait right here with</p>	<p style="text-align: right;">152</p> <p>1 responding here, there and everywhere. At the same 2 time, you've got people dealing with the first 3 incident, not knowing if it's the first incident or the 4 second one. They're taking -- you've got a response 5 team taking the first group of people down to be 6 identified by the young lady who just went out the 7 front door against our instructions. 8 The second incident -- and you just heard the 9 investigator say two or three things about the security 10 staff. "Yeah, I can identify them. No, I can't 11 identify them." Well, the fact of the matter is, it's 12 right there on the videotape. You looked at the 13 videotape. You did not see a Love personnel strike 14 this young lady or anybody in her immediate vicinity. 15 But now, because you can't identify it, you -- because 16 you can't identify Love personnel, it's, "Let's think 17 up some other stuff." 18 The fact of the matter is, no one from Love - 19 - and they -- our head of security, Mr. Bailey, brought 20 the police up to the second floor, not knowing the 21 first or second. They -- the young lady was gone from 22 the first incident so they responded to the second</p>
<p style="text-align: right;">151</p> <p>1 the security staff. He stayed with her to ensure that 2 she wasn't assaulted again while they went to get the 3 alleged perpetrators. 4 They grabbed the guys that they -- that they 5 felt were the perpetrators and took them down. Now, 6 she was instructed to, "Let's go down. We need to 7 identify these guys." Because as Mr. Bailey said, it 8 gets kind of -- a little -- a little difficult to do 9 things in the middle of the club. You have lights and 10 music. So you try to take people away from the music 11 and, you know, get some kind of sound -- I mean, it's a 12 little less quiet -- I mean, less noisy. 13 She chose to do otherwise and security chose 14 not to try to restrain her and make her stay up on the 15 second floor. She came out of the -- out of the 16 building, went out through the in door, when she ran 17 into Investigator Shakoor, the investigator who was 18 there on a noise violation. At the same time, they get 19 a call coming over the air about another incident. So 20 let the franticness begin. 21 So he's -- you've got the police coming up. 22 You've got calls going over the air. You've got people</p>	<p style="text-align: right;">153</p> <p>1 incident, which they couldn't point out the security 2 which by the way are stationed. They can't leave. If 3 they leave, they're fired. 4 So the security that was there is the same 5 security that was there. No, that's not the guy. 6 They're dressed in black. And on that night I'm pretty 7 sure there was more than one person dressed in black 8 that wasn't on our staff. She could not identify the 9 security staff that's allegedly struck her. And she 10 was welcome -- we came down. We got her information to 11 take a report. And in that case, they went further. I 12 think it was -- it went to court or something. And she 13 just basically said, no, nobody hit her from Love 14 Nightclub. So that was settled. 15 As far as the handcuffing incidence, it is in 16 our right and it is in our security plan to restrain 17 personnel but in the -- that are in the mind state of 18 hurting themselves or others, which this guy obviously 19 did. He'd struck two people and that was before he was 20 handcuffed. He wasn't handcuffed and then restrained. 21 He hit people and then he was restrained. Police knew 22 that he was restrained. And our pros are saying, no,</p>

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<p style="text-align: right;">154</p> <p>1 there were no arrests of anybody from Love Nightclub on 2 that crazy night. We did act within our security plan. 3 We did act in the best interest of the patrons and 4 everybody around and employees as well. 5 We didn't allow the fight that started in the 6 detox to spill outside because we'd rather have it in a 7 controlled area as opposed to having it outside. It 8 gets a little crazy outside. So we maintained it and 9 contained it within the detox area. Once the gentlemen 10 calmed down, we let them go and that was the end of the 11 night. And that's all I have to say about that. 12 CHAIRPERSON MILLER: Thank you. Okay. And 13 at this point I'm going to close the record. What's in 14 the record is all your testimony today and the 15 investigative report with the exhibits and the later 16 security plan that's in effect now and that was in 17 effect at the time of the incidents at issue. Okay. 18 Parties have the opportunity to file Proposed 19 Findings of Fact and Conclusions of Law or you can 20 waive your right to do so. It's not that common to do 21 this but it -- I'm offer -- you have that right under 22 the law. So, Mr. Stern, what?</p>	<p style="text-align: right;">156</p> <p>1 Is there a second? 2 MR. BROOKS: Second. 3 CHAIRPERSON MILLER: Mr. Brooks seconded. 4 Okay. Mr. Brooks seconded the motion. I'll now take a 5 roll call vote on the motion. Mr. Brooks? 6 MR. BROOKS: I agree. 7 CHAIRPERSON MILLER: Mr. Alberti? 8 MR. ALBERTI: I agree. 9 CHAIRPERSON MILLER: Ms. Miller agrees. Mr. 10 Silverstein? 11 MR. SILVERSTEIN: I agree. 12 CHAIRPERSON MILLER: Okay. As it appears the 13 motion has passed by a 4-0-0 vote of the members that 14 heard this case, I will give notice that the ABC Board 15 will hold a closed meeting in the ABC Board conference 16 room today pursuant to the Open Meetings Amendment Act 17 of 2010 and issue an order within 90 days. 18 So that concludes this case and the morning's 19 calendar. And now, I would suggest that the Board 20 recess and take a lunch break. 21 Okay. So the Board needs to take a lunch 22 break and reenergize for the afternoon cases. So, I'm</p>
<p style="text-align: right;">155</p> <p>1 MR. STERN: The government will waive. 2 CHAIRPERSON MILLER: The government's 3 waiving. 4 MR. SMOTHERS: We waive. 5 CHAIRPERSON MILLER: Okay. Fine. And all 6 that's left is I'm going to read the instructions, 7 which go to the fact that we are going to deliberate 8 this case, take it under advisement, and we'll be 9 deliberating it at a later time. And then we will 10 issue an order within 60 -- within 90 days. So 11 MR. STERN: Thank you. 12 CHAIRPERSON MILLER: Thank you. Okay. As 13 Chairperson of the Alcoholic Beverage Control Board for 14 the District of Columbia and in accordance with Section 15 405 of the Open Meetings Amendment Act of 2010, I move 16 that the ABC Board hold a closed meeting for the 17 purpose of seeking legal advice from our counsel on 18 Case No. 12-CMP-00112 [sic], per Section 405(b)(4) of 19 the Open Meetings Amendment Act of 2010 and 20 deliberating upon this case for the reasons cited in 21 Section 405(b)(13) of the Open Meetings Amendment Act 22 of 2010.</p>	<p style="text-align: right;">157</p> <p>1 sorry, we're running a little bit late because of the - 2 - of the previous case. So we have two cases scheduled 3 for this afternoon. And we'll -- we have a fact 4 finding hearing, Edward's Bar & Grill scheduled for 5 1:30 p.m. That'll now be 2:30 p.m. And we have a 6 protest hearing, Three Way Liquors, scheduled for 2:00 7 and that'll be 3:00. 8 Okay. So anyone who's here on those cases 9 are free to go and come back at the times that I have 10 just stated. Okay. We'll see you all later. Thank 11 you. 12 (WHEREUPON, at 1:43 p.m., the hearing was 13 concluded.) 14 15 16 17 18 19 20 21 22</p>

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1 CERTIFICATE OF REPORTER

2
3 I, ERICK MCNAIR, the officer before whom the
4 foregoing hearing was taken, do hereby certify that
5 the testimony appearing in the foregoing pages was
6 recorded by me and thereafter reduced to typewriting
7 under my direction; that said transcription is a true
8 record of the testimony given by said parties; that I
9 am neither counsel for, related to, nor employed by
10 any of the parties to the action in which this hearing
11 was taken; and, further, that I am not a relative or
12 employee of any counsel or attorney employed by the
13 parties hereto, nor financially or otherwise
14 interested in the outcome of this action.

15
16
17
18
19 ERICK MCNAIR
Court Reporter

20
21
22

159

1 CERTIFICATE OF TRANSCRIPTION

2
3 I, MIRANDA PENNACHI, hereby certify that I am not
4 the Court Reporter who reported the following
5 proceeding and that I have typed the transcript of this
6 proceeding using the Court Reporter's notes and
7 recordings. The foregoing/attached transcript is a
8 true, correct and complete transcription of said
9 proceeding.

10
11
12

13 _____
Date MIRANDA PENNACHI
14 Transcriptionist

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