

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE REGULATION  
ADMINISTRATION BOARD

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IN THE MATTER OF:      :
                        :
ARM, LLC                : Summary Suspension
t/a Lux                 :      Hearing
649 New York Avenue, NW :
License No. 71743      :
Retailer CN             :
                        :
Case No. 14-251-00192  :
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Friday,  
July 11, 2014

ABRA Hearing Room  
400 South  
Reeves Municipal Center  
2000 14th Street, N.W.  
Washington, D.C. 20009

The above-entitled matter convened at 10:35 a.m. before the District of Columbia Alcoholic Beverages Regulation Administration Board, Ruthanne Miller, Chairperson, presiding.

PRESENT:

RUTHANNE MILLER	Chairperson
NICK ALBERTI	Board Member
HECTOR RODRIGUEZ	Board Member

APPEARANCES

On Behalf of the D.C. Office of the Attorney  
General:

LOUISE PHILLIPS, ESQ.  
KAUWAN SANKAR, ESQ.  
Assistant Attorney General  
Office of the Attorney General  
for the District of Columbia  
441 4th street, N.W., 6th Floor  
Washington, D.C. 20001  
(202) 727-0874 (Ms. Phillips)

On Behalf of the Respondent, Lux (ARM LLC):

ANDREW J. KLINE, ESQ.  
SCOTT ROME, ESQ.  
Veritas Law  
1225 19th Street, NW, Suite 320  
Washington, D.C. 20036  
(202) 686-75600

Also Present:

HENOCK ANDARGIE  
Owner, ARM, LLC (Lux)  
649 New York Avenue, NW  
Washington, D.C. 20001  
(202) 537-3609

## C-O-N-T-E-N-T-S

	Page
Introductions and Case outline	4
Preliminary Matters Offer-in-Compromise	8
Summary of OIC and reading of Nos.	1-7 10
Exhibits 1 - 5:	
1. Revised Security Plan	10
2. Location of Cameras	14
3. Training Sessions, Sexton	14
4. Incidents witnessed by employees	14
5. TIPS Training	15
Questions from the Board	19
Testimony of ABRA Investigator Peru and questions from the Board	44
Testimony of John Sexton and questions from the Board	57
Recap of OIC, Mr. Rome - agreement and comments	70
Status set for August 13th	82
Vote to Approve OIC & lift suspension	84
Adjourn	

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

2 10:35 a.m.

3 CHAIRPERSON MILLER: Good

4 morning. Welcome to the special summary

5 suspension hearing today before the District

6 of Columbia Alcoholic Beverage Control Board.

7 Today is July 11, 2014. My name is Ruthanne

8 Miller, I'm the Chairperson. Joining me

9 today on my far right is Mr. Nick Alberti and

10 to my immediate right is Mr. Hector

11 Rodriguez.

12 We have three members in

13 attendance today and a quorum is convened.

14 Copies of today's hearing calendar

15 and agenda are available at the

16 receptionist's desk. This is the only

17 hearing scheduled for today.

18 Proceedings are being recorded by

19 a court reporter so I must ask you to refrain

20 from any disruptive noises or actions in the

21 hearing room. If you have any electronic

22 devices, pagers, cell phones and such, please

1 make certain they're turned off to avoid any  
2 interruption of the proceedings.

3           The Open Meetings Act advise that  
4 the public hearing on the case be open to the  
5 public consistent with Section 405(b) of the  
6 Open Meetings Act and to a closed meeting  
7 during or after the public hearings on a case  
8 to consult with an attorney, to obtain legal  
9 advise, discuss settlement agreements or  
10 deliberate upon a decision in an adjudication  
11 proceeding.

12           As I stated, we have only one case  
13 before us today. It is the summary suspension  
14 hearing for Lux which has a CN license and is  
15 located at 649 New York Avenue, N.W. This is  
16 Case No. 14-251-00192.

17           As a result of an incident on June  
18 28, 2014, the Chief of Police, Cathy Lanier,  
19 closed the establishment pursuant to  
20 authority under D.C. Official Code Section  
21 25-827.

22           Chief Lanier submitted a letter to

1 ABRA dated June 28, 2014 seeking revocation  
2 of the establishment's ABC licence. The  
3 Board voted 6-0 on July 2, 2014 to continue  
4 the suspension of the establishment's  
5 licence. The respondent requested a hearing  
6 on July 8, 2014 under D.C. Official Code  
7 Section 25-826(b).

8 Today the Board will be hearing  
9 testimony from the Office of the Attorney  
10 General; the respondent, and the respective  
11 witnesses.

12 The purpose of the hearing is so  
13 that the Board can determine under D.C.  
14 Official Code Section 25-826 whether the  
15 operation presents an imminent danger to the  
16 health and safety of the public.

17 The Board will be announcing its  
18 decision at the conclusion of today's  
19 hearing. The Board asks that the parties  
20 stick to the facts and issues related to the  
21 incident. The facts and issues are those  
22 contained in the summary suspension notice

1 dated July 2, 2014 and the investigative  
2 report, Case No. 14-251-00192. The Board is  
3 only interested in hearing about those  
4 matters that can be used to establish whether  
5 the establishment is an imminent danger to  
6 the health and safety of the public.

7           The Board will begin the case by  
8 hearing the opening statement from the  
9 government, represented by Assistant Attorney  
10 General Louise Phillips, followed by the  
11 opening statement of Andrew Kline, counsel  
12 for the respondent. But before we get into  
13 that I want to ask the parties to introduce  
14 themselves and then let us know if there are  
15 any procedural matters the parties would like  
16 to bring to the Board's attention. Thank  
17 you.

18           MS. PHILLIPS: Good morning,  
19 Madam Chair. Louise Phillips, assistant  
20 attorney general for the District of  
21 Columbia; with me is Kawaun Sankar, special  
22 attorney general with the Office of

1 Corporation Counsel. I think you've seen him  
2 before in other matters.

3 CHAIRPERSON MILLER: Right. Thank  
4 you.

5 MR. KLINE: Good morning, Madam  
6 Chairman and Members of the Board. Andrew  
7 Kline on behalf of the licensee.

8 MR. ROME: Scott Rome, also on  
9 behalf of the licensee.

10 MR. ANDARGIE: Henock Andargie,  
11 owner of Lux.

12 CHAIRPERSON MILLER: Okay. Thank  
13 you.

14 MS. PHILLIPS: Madam Chair, there  
15 is a preliminary matter that we would like to  
16 address. The parties have come up with an  
17 offer-in-compromise that we believe would  
18 satisfy the test which is imminent danger and  
19 it would be that imminent danger would no  
20 longer exist with these things.

21 And what I'm going to do is, I  
22 have one copy, we tinkered it with a little

1 this morning and I'm going to read it but  
2 there will be a copy for you to have after I  
3 read it so you don't have to take prolific  
4 notes. I don't know why we don't have more  
5 copies, we did some tinkering this morning.

6 MR. KLINE: We actually have  
7 copies of the offer-in-compromise.

8 (conversation among parties)

9 BOARD MEMBER ALBERTI: Can I make  
10 a suggestion? If we could proceed with us  
11 having the old copies and I can just take  
12 notes on those. I mean that's fine. And  
13 then you could give us clean copies.

14 MS. PHILLIPS: There were two  
15 minor changes that were made this morning and  
16 I don't know why we didn't have multiple  
17 copies. Probably all my fault. But when it's  
18 complicated I hate for the Board to have to  
19 take notes and you can write it down and go  
20 over it.

21 CHAIRPERSON MILLER: I can't tell  
22 you how much easier and helpful to us if we

1 have it in front of us because then we can  
2 just mark it and look at it and at times come  
3 back to it.

4 MS. PHILLIPS: Now basically what  
5 I'm going to do is I'm going to summarize it.  
6 It has a heading and I'm not going to read  
7 that, and it has an introductory paragraph  
8 that says it's an offer-in-compromise and I'm  
9 not going to read that.

10 What I'm going to read are the  
11 terms starting with No. 1. Is that  
12 acceptable to the Board?

13 CHAIRPERSON MILLER: Yes.

14 MS. PHILLIPS: All right. No. 1  
15 is submission of a revised security plan  
16 which is in full compliance with all  
17 applicable laws, including all requirements  
18 for a security plan under Title 25 D.C.  
19 Official Code, see revised plan attached as  
20 Exhibit 1. That was forwarded to the Office  
21 is my understanding last night but you may  
22 not have been able to see it. I assume Mr.

1 Kline has copies of it.

2 MR. KLINE: I do.

3 MS. PHILLIPS: No. 2, are you  
4 ready?

5 CHAIRPERSON MILLER: Yes.

6 MS. PHILLIPS: All right.

7 Confirmation that all cameras in the  
8 establishment, including the camera on the  
9 exterior front of the premises, this is the  
10 one that was not operable on the night in  
11 question, and all digital video-recorders  
12 attached to such cameras are in proper  
13 working condition and reveal no substantial  
14 blind spots.

15 ABRA investigator Jason Peru shall  
16 provide such confirmation prior to the  
17 suspension hearing. My understand is he went  
18 out on Wednesday night. He has told me, but  
19 if you wish to hear from him that these  
20 cameras do as it says in No. 2, if you wish  
21 to hear from him.

22 CHAIRPERSON MILLER: Okay. I

1 understand and I believe Mr. Peru is here.

2 MS. PHILLIPS: He is in the back  
3 I saw him.

4 CHAIRPERSON MILLER: So we can  
5 hear from him. Okay.

6 MS. PHILLIPS: If you wish to  
7 hear from him. Because all I can say is what  
8 people tell me, as you know.

9 CHAIRPERSON MILLER: Okay.

10 MR. KLINE: Madam Chair, not to  
11 be rude but I would like to interrupt if I  
12 may just to clarify.

13 CHAIRPERSON MILLER: Okay.

14 MR. KLINE: Paragraph 2 is one of  
15 the sections which was changed this morning  
16 and it's different from what you have in  
17 front of you. And the change would be an  
18 addition of language that says that the  
19 password to the video surveillance system  
20 shall be on the premises and available during  
21 all hours of operation.

22 CHAIRPERSON MILLER: Right.

1 MS. PHILLIPS: And since I hadn't  
2 finished reading the entire paragraph No. 2  
3 I hadn't gotten to that part.

4 MR. KLINE: Oh I'm sorry. My  
5 apologies.

6 MS. PHILLIPS: But it's there.  
7 All right. Where was I? "In the future,  
8 video-recording shall be available for review  
9 immediately upon the request by MPD or ABRA  
10 investigators and copies will be given to  
11 ABRA investigators or MPD as soon as  
12 reasonably practicable.

13 "The password to the video  
14 surveillance system shall be on the premises"  
15 -- and this is the part that's new -- "and  
16 available during all hours of operation."  
17 And as you may be aware, that was an issue in  
18 this case with concern for both MPD and ABRA  
19 investigations.

20 "All such videos shall be  
21 maintained for at least 30 days.

22 "No. 3. Submission of a full

1 diagram of the premises, including the  
2 location of all cameras and reviewing angles  
3 of vision for all such cameras -- see diagram  
4 attached hereto as Exhibit 2.

5 "4. Completion" let's insert of  
6 "of a training session with Sexton Executive  
7 Security. This course shall include a  
8 training of all security for the  
9 establishment by John Sexton personally and  
10 will have occurred by the date of the  
11 hearing. See confirmation of the completion  
12 of such training sessions by all security  
13 personnel attached hereto as Exhibit 3.  
14 Licensee shall also have a full training  
15 session performed by Host Security Training  
16 within 30 days of the date of the hearing."

17 So my understanding is the Sexton  
18 Executive Security was completed last night.

19 "No. 5. Submission of a full list  
20 of all employees who witnessed any incidents  
21 on the date at issue including the name of  
22 the employee, the role of the employee, the

1 events witnessed. See document attached  
2 hereto as Exhibit 4. Such a document shall  
3 be provided upon the request of the ABRA  
4 investigator in any future incident being  
5 investigated by ABRA investigators or MPD.

6 "6. Completion of TIPS training  
7 for all employees who serve alcohol and TIPS  
8 training for any new employee before the  
9 commencement of work, completed prior to the  
10 date of the hearing." I believe we have  
11 certificates for those. Yes. Attached  
12 hereto as Exhibit 5.

13 "No. 7. Agreement to provide  
14 reimbursable detail from 12 a.m. to 30  
15 minutes after closing during any time and any  
16 dates the establishment is open and  
17 operating." We put 30 minutes after closing  
18 because, as Mr. Kline pointed out to me,  
19 there are different closing dates on  
20 different days so the RDU unit will be there  
21 when the establishment is closed and I guess  
22 do what RDU units do, make sure that the

1 crowd disperses without causing harm to the  
2 public, which is what they usually do.

3           And I have the signed copy by the  
4 licensee and the attorney for the licensee  
5 and it is dated.

6           MR. KLINE:    And just to clarify,  
7 you'll see that No. 7 is changed from what  
8 you have in front of you.  You'll see that  
9 it's 30 minutes after closing rather than a  
10 fixed a.m. to deal with a situation if it's  
11 a Thursday or a Wednesday or what have you,  
12 it will be 30 minutes after closing whatever  
13 the closing.

14           CHAIRPERSON MILLER:    Okay.

15           MS. PHILLIPS:    And one of the  
16 important points in the security plan that I  
17 discussed with Mr. Kline is that all security  
18 employees will be trained so if new one comes  
19 on, they'll be trained.  So it's all will be  
20 -- they won't work without training.

21           MR. KLINE:    And if I could just  
22 speak --

1                   CHAIRPERSON MILLER:    I'm sorry,  
2    I can't hear you.

3                   MS. PHILLIPS:    It's not in the  
4    OIC, it's in the security plan but I knew you  
5    would have questions on it.  That's where  
6    you'll see it.  Right.  That's where you'll  
7    see it, that's why I referenced it because I  
8    know it's a typical question of the Board on  
9    such cases.

10                  MR. KLINE:    And if I could just  
11    add a couple of points on training.  We do  
12    have John Sexton with us today.  He's the  
13    gentleman that conducted the training last  
14    night and we have his CV if the Board wants  
15    to see that.  He has extensive experience and  
16    is a former police officer and has quite a  
17    varied background in terms of security  
18    executive protection, working with other  
19    hospitality establishments and he's here if  
20    the Board wants to hear from him.

21                  In addition, the establishment has  
22    arranged for training by Host Security which

1 is run by Robert Smith who I believe is  
2 familiar to the Board. Mr. Rodriguez as the  
3 newest Board member may or may not be  
4 familiar with him but we do have some  
5 information on Mr. Smith and the Host  
6 Security Training as well.

7           The thought was instead of doing  
8 one training, we would do two so we'd have  
9 two perspectives in terms of how to deal with  
10 incidents such as the one at issue before you  
11 today. So training by Mr. Sexton has been  
12 completed and the other training will be  
13 completed within 30 days which will be the  
14 follow-up and reinforcement of what Mr.  
15 Sexton has already completed.

16           CHAIRPERSON MILLER: Okay. Good.  
17 All right. Do we go to Board, do have  
18 questions or do you all have anything else  
19 you want to add?

20           MS. PHILLIPS: That concludes my  
21 comments and I always ask Mr. Kline to make  
22 any enlightening comments about the OIC

1 before you ask questions and he seems to have  
2 done that so as far as I'm--

3 CHAIRPERSON MILLER: Any  
4 enlightening questions?

5 MR. KLINE: I think the Board is  
6 sufficiently enlightened.

7 MS. PHILLIPS: And if I could get  
8 Ms. Jenkins to make the copy because I don't  
9 want to hold this in my position any longer,  
10 it's the only signed copy and I don't want  
11 anything to happen to it.

12 CHAIRPERSON MILLER: Thank you,  
13 Ms. Jenkins. Okay. So Board questions?

14 BOARD MEMBER ALBERTI: I guess  
15 I'll start. Maybe I'll start with the  
16 toughest one. One of the things that  
17 concerned me about this incident was the  
18 timing. This establishment has soft closing  
19 and, while still allegations, the reports  
20 that we're hearing from what was happening  
21 after 3 o'clock are troubling. And so I'm  
22 not sure what I see in this agreement. And

1 let me ask the licensee. When do you stop  
2 admitting patrons on a night where you're  
3 open till 4 o'clock?

4 MR. ANDARGIE: Usually at 2:30.

5 BOARD MEMBER ALBERTI: 2:30? I'd  
6 be more comfortable if I saw something about  
7 that but that concerns me greatly.

8 The other thing which is vague  
9 here is it doesn't talk about who is going to  
10 be trained, or maybe I'm missing that. But  
11 I've read it closely enough that it doesn't  
12 talk about who's going to get security  
13 training. Is it going to be the guy who  
14 buses glasses at the end of the evening, as  
15 well as the bartender? Or the security  
16 staff?

17 MR. KLINE: The security staff.

18 BOARD MEMBER ALBERTI: Just the  
19 security staff?

20 MR. KLINE: The security staff.

21 BOARD MEMBER ALBERTI: Okay.

22 That's fine. I'm comfortable with that. But

1 I would be more comfortable if we had a list  
2 of all the employees on the security staff  
3 and their positions on the security staff,  
4 whether they're security managers or if  
5 there's different positions on the security  
6 staff, so that we can be assured that we have  
7 certificates for all of them.

8           And we have some certificates of  
9 training here and I would love to be able to  
10 validate that we have a list of all those  
11 employees and that we have certificates for  
12 all of them.

13           MR. KLINE: All right. Just so  
14 we're clear from a factual basis in terms of  
15 what you have, the training certificates that  
16 you have are for alcohol awareness training  
17 and those are beyond security staff, that's  
18 the servers.

19           BOARD MEMBER ALBERTI: Okay.

20           MR. KLINE: And then you have a  
21 list of certification signed by Mr. Sexton  
22 who as I indicated is here this morning,

1 which reflects again sir everyone that was  
2 trained last night.

3 BOARD MEMBER ALBERTI: Okay. So  
4 I have a list of 23 people who were trained  
5 last night?

6 MR. KLINE: That's right.

7 BOARD MEMBER ALBERTI: Can I have  
8 a list of employees, all of your security  
9 employees?

10 MR. KLINE: We can certainly --  
11 I do not have that but we can certainly  
12 provide that very quickly.

13 BOARD MEMBER ALBERTI: Okay.

14 MR. KLINE: And I'm advised off  
15 line that that represents all of the security  
16 employees, the 23 that are there.

17 BOARD MEMBER ALBERTI: Well, I'd  
18 like to know what their positions are. I mean  
19 managers, whatever.

20 MR. KLINE: Sure.

21 MS. PHILLIPS: Just for the  
22 record, I have a two-page document that--

1 BOARD MEMBER ALBERTI: Yes, 26.

2 I didn't go onto the second page. Thank you.

3 My mistake, it's 25 was security. Okay.

4 With respect to Mr. Sexton's  
5 document here, and I may be treading on  
6 proprietary information, but I'd be curious  
7 to see what that written test looked like  
8 that everyone was given.

9 MR. KLINE: Okay.

10 BOARD MEMBER ALBERTI: And if Mr.  
11 Sexton is willing to give that up that would  
12 be great. I don't know if it's proprietary  
13 information.

14 MR. KLINE: He doesn't have that  
15 with him but we certainly have no problem  
16 providing it.

17 BOARD MEMBER ALBERTI: Okay.  
18 Thanks. That would be wonderful.

19 MR. KLINE: And Mr. Alberti, not  
20 to cut you off, but your first point, stop  
21 admitting patrons at a specified hour at  
22 2:30, we're agreeable in observing that if

1 that were added to the OIC. I've checked  
2 with my clients who are sitting here and we  
3 would be willing to have that ceiling.

4 BOARD MEMBER ALBERTI: Okay. Thank  
5 you.

6 MS. PHILLIPS: That's fine.

7 BOARD MEMBER ALBERTI: Thank you,  
8 I appreciate that. The other thing that's  
9 a little vague and I'm always the stickler  
10 here, I'm always the doubter. I'm always  
11 looking for loopholes. And when you say the  
12 password will be available, you know, what  
13 happens if the room is locked?

14 What I would like the language to  
15 say, what I would be more comfortable with  
16 this if I had assurances that the video was  
17 available like within 24 hours upon request  
18 or something like that. I mean you know if  
19 everybody had a password no more excuses.

20 MR. KLINE: Mr. Alberti, the  
21 addition of the password I thought was  
22 somewhat -- but it was requested this morning

1 and we had no problem with it. If you look  
2 at the language it says that video recordings  
3 should be available for review immediately  
4 upon request by MPD or ABRA and the addition  
5 of the password language was something that  
6 was added.

7 BOARD MEMBER ALBERTI: Okay. So my  
8 concern is what followed that. You say copies  
9 will be available to MPD and investigators as  
10 soon as reasonably practical. Too vague for  
11 me.

12 MR. KLINE: Two issues. There  
13 are two steps. One is review in terms of  
14 coming in and it's here we have it. And then  
15 the second issue is providing a copy. So the  
16 "as soon as practicable" relates to providing  
17 a copy. If the Board is comfortable with  
18 some fixed deadline I think as long as it's  
19 reasonable we can certainly deal with that.

20 BOARD MEMBER ALBERTI: So what do  
21 you think is reasonable?

22 MR. KLINE: 48 hours.

1 BOARD MEMBER ALBERTI: I'll

2 discuss that with--

3 MR. KLINE: 24 hours?

4 BOARD MEMBER ALBERTI: I would be  
5 more comfortable with 24 hours.

6 MR. KLINE: That's fine.

7 BOARD MEMBER ALBERTI: Okay. I  
8 know that some of my other board members may  
9 want to chime in here because I'm going to go  
10 on with this. The outdoor camera. Actually,  
11 I don't know what this club looks like  
12 outside. You've got one camera outside.

13 MR. ANDARGIE: Two.

14 MR. KLINE: There's actually two.

15 BOARD MEMBER ALBERTI: Oh, it  
16 says outside camera here.

17 MR. ROME: And that double angle  
18 of the camera that's outside is actually one  
19 camera pointing in each direction.

20 BOARD MEMBER ALBERTI: So you  
21 have two cameras really?

22 MR. ANDARGIE: Yes, there's one

1 facing towards the alley and then the one  
2 that records the front exterior.

3 BOARD MEMBER ALBERTI: I think  
4 there's going to be some questions, I suspect  
5 there's going to be some questions about the  
6 sufficiency of coverage inside and outside of  
7 the cameras which I'm going to be curious  
8 about but I'm going to let, since we may have  
9 to ask others, I'm going to let the Chair if  
10 she would.

11 CHAIRPERSON MILLER: Okay.

12 BOARD MEMBER ALBERTI: Okay.  
13 That's all I have for now.

14 MR. KLINE: Mr. Alberti, just so  
15 you know we did request, and Investigator  
16 Peru was kind enough to make time to come out  
17 and look at the system and look at what was  
18 there so the Board may want to ask questions  
19 of Investigator Peru in terms of the  
20 sufficiency of what's there.

21 BOARD MEMBER ALBERTI: Great.  
22 Okay. Thank you.

1 MS. PHILLIPS: Does the Board  
2 have the pictures--

3 BOARD MEMBER ALBERTI: We have  
4 that, yes.

5 CHAIRPERSON MILLER: Does that  
6 complete--

7 BOARD MEMBER ALBERTI: I'm done  
8 yes. Thank you.

9 CHAIRPERSON MILLER: Okay. Well,  
10 I had some other questions but well let me  
11 start with my other questions. I think that  
12 the camera coverage has been more or less a  
13 concern to all of us but we'll leave that to  
14 rest.

15 So when I look at No. 1,  
16 submission of a revised security plan which  
17 is in full compliance with all applicable  
18 laws, has the Office of the Attorney General  
19 reviewed the security plan and determines  
20 that it's in compliance?

21 MS. PHILLIPS: I usually look at  
22 security plans and look at the code and if

1 the things that are mentioned in the code are  
2 mentioned in the security plan that's all I  
3 can go by because I have to follow the law.  
4 I am not a security expert so that's what I  
5 look at. If it mentions conflict resolution,  
6 it says you're supposed to mention, I have  
7 the law here, but you know the items that  
8 they list. That's what I look for.

9           If I make suggestions that are  
10 outside what the code lists, then you know  
11 nobody has to include them. So that's all I  
12 do. Do they mention security training? Do  
13 they mention conflict resolution? Do they  
14 mention all the other things? That's what I  
15 look for.

16           I don't determine whether within  
17 that paragraph it's sufficient because the  
18 law doesn't speak to that. So that's what  
19 the OAG looks at and I can only say that's  
20 what this attorney for this case and other  
21 cases looks at -- what the law requires.

22           Other than that I would have to

1 get a security expert to look at it and make  
2 a determination based on what you ask me, and  
3 that's why I'm clarifying this.

4 MR. KLINE: And Madam Chair, if  
5 I may, two points. One is yes, I think we've  
6 both looked at it for legal sufficiency, but  
7 I would also add that I think Ms. Phillips  
8 sells herself a bit short because although  
9 she may not be security plan expert, she's  
10 been involved in enough of these cases -- as  
11 have I -- to make constructive suggestions  
12 about what should be in the plan and she  
13 certainly did that and there was a lot of  
14 back and forth in terms of what was in the  
15 plan.

16 So I want the Board to be aware it  
17 wasn't a question of either of us looking at  
18 it and simply determining whether it complied  
19 with the simple mandates of the statute. We  
20 went much, much further to use common sense  
21 and use our experience in these cases to try  
22 to put in the plan things that we thought

1 would be helpful and would ameliorate any  
2 future situation like this.

3 CHAIRPERSON MILLER: Okay. And  
4 my understanding is that it was not in  
5 compliance, the previous plan was not in  
6 compliance, so I'm wondering if you paid  
7 attention to certain areas that you could say  
8 okay the previous plan didn't have this and  
9 it's been revised and it now has this and  
10 therefore in compliance where it wasn't  
11 before.

12 MR. KLINE: We did a complete  
13 overhaul so it's not as if we can take the  
14 old plan and put them side by side. We  
15 started from scratch and tried to use the bet  
16 product.

17 CHAIRPERSON MILLER: Okay.

18 MR. KLINE: But I can say from my  
19 office's standpoint, we have three sets of  
20 eyes on it, that it complies with the  
21 statute. And Ms. Phillips we talked about  
22 revisions in the statute. So I'm confident

1 that it does comply with the provisions of  
2 the statute. I can't speak for the old plan.

3 CHAIRPERSON MILLER: Okay. All  
4 right. We're obviously going to take a look  
5 at it as well but I just wanted to know when  
6 you made that statement what it was based on.

7 MS. PHILLIPS: When I was told  
8 that the security plan was completely  
9 overhauled I didn't look at the old plan. I  
10 had skimmed the old plan and it did not seem  
11 in compliance to me but I just skimmed it for  
12 the purposes of writing a notice. And when  
13 they overhauled it, I just didn't look at it  
14 again.

15 CHAIRPERSON MILLER: Okay. Okay.  
16 Good. I'm going to skip to 3 and get back to  
17 that. The training sessions. I'm not sure  
18 if Mr. Alberti asked you for this so I don't  
19 want to be totally redundant, but I think  
20 speaking for myself I'm not that familiar  
21 with Sexton Executive Security so whatever  
22 information as a supplement, you know, that

1 we can have on record as to you know who it  
2 is, who is it made up of. You know,  
3 anything--

4 MR. KLINE: We have a CD and I'm  
5 also happy to put him on the stand if the  
6 Board would prefer so they can hear who is,  
7 what he's done, what he did last night. I  
8 mean we certainly would do that if the Board  
9 prefers that we do that.

10 CHAIRPERSON MILLER: Okay. Do  
11 you have the training materials with you too  
12 or not? If there are some? I don't know.

13 MR. KLINE: We do not have those,  
14 we do not have the training materials but he  
15 can certainly describe what he did and talk  
16 about the thing.

17 CHAIRPERSON MILLER: Well, I'm  
18 going to get to my other questions and then  
19 we can see whether the Board wants to hear  
20 from him. So you're providing me just the --  
21 you have right there the CD?

22 MR. KLINE: His bio.

1 CHAIRPERSON MILLER: Okay.

2 Great.

3 MS. PHILLIPS: May I have one,  
4 too?

5 MR. KLINE: Oh absolutely. Sorry  
6 about that. I apologize.

7 CHAIRPERSON MILLER: The TIPS  
8 training, I'm just wondering what's been the  
9 practice. Is this different? No. 6 you're  
10 saying there's going to be TIPS training for  
11 all employees who serve alcohol and for any  
12 new employees before the commencement of  
13 work.

14 MR. KLINE: Yes. As the Board is  
15 aware, the statute requires that licensed  
16 managers be trained. It's a requirement that  
17 obviously goes much further than that.

18 CHAIRPERSON MILLER: So that was  
19 being done before? Okay.

20 MR. KLINE: I don't think  
21 everyone -- everyone was not TIPS trained.  
22 But they will be and they have been as you

1 see from the certificates that you have  
2 there. That's already been completed.

3 CHAIRPERSON MILLER: Okay. Yes.  
4 Thank you. All right. And I think my last  
5 question before we go to the cameras, goes to  
6 this incident and as I recall one of the  
7 incidents that took place in the  
8 establishment involved someone hitting  
9 someone on the head with a bottle. Correct?

10 MR. KLINE: Correct.

11 CHAIRPERSON MILLER: And I'm  
12 wondering what actions you contemplate, or if  
13 this is related, that would prevent that from  
14 happening in future?

15 MR. KLINE: We have given that  
16 some thought and we've talked about that and  
17 what we've talked about is a couple of  
18 things. One is removing empty bottles from  
19 the tables as soon as they're completed. No.  
20 2, is bottle service takes place in a roped-  
21 off area, is that correct?

22 MR. ANDARGIE: Yes.

1                   MR. KLINE:    In a roped-off area  
2 and a security person would be stationed to  
3 monitor that area to make sure that no  
4 bottles leave the area, actually two security  
5 people.

6                   MR. ROME:    One at the rope and  
7 one inside.

8                   MR. KLINE:    One at the rope and  
9 one inside would be stationed to make sure  
10 No. 1 that there aren't any empty bottles and  
11 No. 2 that no bottles leave that area. So we  
12 actually have given that some thought and  
13 that evolved over the last 24 hours.

14                  CHAIRPERSON MILLER:    So what's  
15 the difference between the roped-off area and  
16 the other area, other than you can have the  
17 bottles in the roped-off area? I mean what's  
18 going on in that area? What kind of area is  
19 it?

20                  MR. KLINE:    Madam Chair, there's  
21 not really much difference. As the Board  
22 probably knows, a lot of these nightclub

1 establishments are about placement and real  
2 estate and reserving certain areas and there  
3 is a reservation that's required for the  
4 roped-off area. So those would be the  
5 differences.

6           In terms of what goes on, it's  
7 really the same, it's just that there's been  
8 a business practice that's developed in the  
9 District and probably in other cities as well  
10 in nightclubs where you reserve a table, you  
11 have your own area and those would be the  
12 areas where things like bottle service and so  
13 on would go on. And it's reserved for your  
14 guests so you have a place for your guests.

15           But in terms of the activities,  
16 it's no different than the rest of the  
17 establishment.

18           CHAIRPERSON MILLER: I mean I  
19 assume the other possibility is not to leave  
20 bottles with the patrons but I don't know if  
21 that's realistic.

22           MR. KLINE: I mean that would

1 severely undermine their ability to compete  
2 in the marketplace given what goes on in a  
3 nightclub.

4 CHAIRPERSON MILLER: Just to say  
5 we did have a case where there was a stabbing  
6 with a glass in a nightclub -- and I'm not  
7 saying you should do this -- and they  
8 switched to plastic to avoid that.

9 I don't know if it's the clientele  
10 but the bottle was the weapon so I think if  
11 you do have some kind of improvement in that  
12 area, that would make me feel better that  
13 it's safer.

14 MR. KLINE: The establishment,  
15 just so the Board knows, does not use beer  
16 bottles and I don't know the other incident  
17 that the Board is referring to, so the only  
18 bottles would be the bottle service. And  
19 we're confident, given that these are  
20 controlled areas and will be more controlled  
21 based upon the security personnel, is that  
22 should assure the safety of patrons in the

1 establishment.

2           We have two people that are there  
3 making sure that No. 1 the empties are off  
4 the table. It's less likely, given what I  
5 mean the prices for bottles in these  
6 establishments for bottle service to me, and  
7 I'm old, is astounding. So if there's  
8 alcohol in it, it's certainly less likely  
9 that they'll pick one off the table.

10           CHAIRPERSON MILLER: Okay.

11           MR. KLINE: And so it does go a  
12 long way in terms of making sure that the  
13 empties are promptly removed from the tables  
14 because it would seem that they would be much  
15 more likely if someone wanted to use them in  
16 some way to be picked up and used, whereas a  
17 bottle of alcohol and what it costs, it would  
18 be less likely that that would happen.

19           CHAIRPERSON MILLER: Okay. So is  
20 that something you would ask about--

21           MR. KLINE: Yes, we'd certainly  
22 be willing to ask that. Depending on the

1 Board's preference we can put it in the  
2 security plan of in the OIC, whatever is more  
3 acceptable.

4 CHAIRPERSON MILLER: Okay. How  
5 do you feel about that?

6 MS. PHILLIPS: I have no  
7 preference. I know that bottle service is  
8 discussed in the security plan and one thing  
9 that hasn't been mentioned, that I remember,  
10 is that they offer server service so that  
11 when they have bottles in these private areas  
12 and the only place they allow them, that they  
13 have servers there which to me sort of  
14 alleviates some of the problems that the  
15 Chair has outlined you know because when you  
16 have somebody pouring for you, they take it  
17 right away when it's empty. And that's in  
18 the security plan.

19 CHAIRPERSON MILLER: That's not  
20 what you've been doing though is it, that the  
21 establishment's been leaving them?

22 MR. ANDARGIE: No, I think the

1 main issue was that there was an issue with  
2 the clean-up of the tables at a quicker pace.  
3 That's the only issue. I think when there's  
4 more people cleaning the tables quicker and  
5 faster, then this shouldn't be the situation.

6 CHAIRPERSON MILLER: Okay. It  
7 sounds to me -- well the Board can talk about  
8 and it may be adequate to put it in the OIC  
9 -- you said there's already a mention of it  
10 and maybe elaborate on that more  
11 specifically. But we'll talk about this.  
12 All right.

13 MS. PHILLIPS: Whatever you add  
14 about bottles, if you want to put it in the  
15 OIC that's perfectly acceptable. I know that  
16 all of the incidents were discussed and how  
17 to manage it so that we could assure the  
18 Board and ourselves that we had taken care of  
19 the imminent danger, which is the test for  
20 this hearing. Other things come in show  
21 cause--

22 CHAIRPERSON MILLER: Right.

1 Okay. Mr. Rodriguez?

2 BOARD MEMBER RODRIGUEZ: Yes.

3 Having worked in nightclubs before as a  
4 musician, I have seen bottles as missiles go  
5 right by you and smashing when there's some  
6 melee. And so the sooner you get rid of  
7 those bottles after they're used, the less  
8 objects that will be available for weapons.

9 A bottle can be a very lethal weapon as well  
10 all know, you can smash it and hurt somebody  
11 with it, etc. We all know that. No need to  
12 go longer into that.

13 But I agree with the Chair that  
14 that is something that maybe should be  
15 considered here.

16 CHAIRPERSON MILLER: Yes?

17 BOARD MEMBER ALBERTI: Are you--

18 CHAIRPERSON MILLER: Am I ready  
19 to go to cameras? I'm ready to go to  
20 cameras.

21 BOARD MEMBER ALBERTI: And then  
22 I'm going to have a couple of quick questions

1 after that unrelated to cameras.

2 CHAIRPERSON MILLER: Okay. Well  
3 why don't we start with the cameras. Some of  
4 our concerns are some incidents happened  
5 outside your establishment, and we're not  
6 clear whether -- I think we heard that you  
7 have one camera outside and so we're not  
8 clear as to--

9 MR. ANDARGIE: Two.

10 CHAIRPERSON MILLER: Two outside?

11 MR. ROME: It looks like one on  
12 the diagram and it does say outside camera  
13 but from what I understand that's two  
14 different cameras, that's two viewing angles.

15 CHAIRPERSON MILLER: Okay. Can  
16 you -- let me see.

17 BOARD MEMBER RODRIGUEZ: Let's  
18 just go right to Investigator Peru and ask  
19 him what he saw because he was out there.

20 CHAIRPERSON MILLER: All right.

21 Actually, we wanted to invite Mr. Peru up to  
22 the table since he inspected all these

1 cameras and I think Mr. Kline you mentioned  
2 him earlier. And you all don't have any  
3 objection do you?

4 MR. KLINE: Not at all.

5 CHAIRPERSON MILLER: Okay. We're  
6 just trying to make certain that-- you want  
7 to pull up a chair?

8 MR. PERU: Sure.

9 CHAIRPERSON MILLER: That all the  
10 areas that should be covered for safety  
11 reasons are covered. Did you want Mr. Peru  
12 to address--

13 BOARD MEMBER RODRIGUEZ: Yes. Why  
14 doesn't he just give an overview of what he  
15 found and then we can ask questions. Maybe  
16 that would work best.

17 MR. PERU: Sure. There was quite  
18 a bit of improvements from the first night,  
19 the night in question of the incident. I  
20 went back on Wednesday and met with the owner  
21 and the exterior camera that keeps coming up,  
22 it's from outside, it's one pod at the corner

1 that houses two cameras so one is shooting  
2 actually down the alley which is clear on the  
3 TV screen that I saw, and one is covering now  
4 the entire wide-angle of the sidewalk and  
5 entrance.

6           So what I can see, and I can tell  
7 you from my investigation, that camera would  
8 have been helpful to me in operating the  
9 night of the incident, and to the police  
10 department as well.

11           But that camera gives you a good  
12 shot of who's coming in and out, security,  
13 the sidewalk and whatnot on the exterior.

14           On the interior layout, the  
15 cameras that they had in the interior  
16 specifically in my opinion improve the area  
17 of coverage of the dance floor area, the VIP  
18 area and whatnot. Areas that were missing  
19 from the first night which didn't allow me to  
20 see some of the incidents, like the bottle  
21 incident, the female hit on the head on the  
22 dance floor. That was not picked up on the

1 cameras from the one camera on that floor and  
2 that angle, although the new cameras seem  
3 able to provide a better coverage of those  
4 floors and areas.

5 CHAIRPERSON MILLER: So there are  
6 new cameras not just the old cameras?

7 MR. PERU: Correct. It looks  
8 like, and I asked them to repair some  
9 existing that were not working, like the  
10 exterior camera, and they added a couple of  
11 new ones. And they also added two new DVR  
12 systems, recording device systems, and two  
13 new monitors.

14 So the numbers of the cameras  
15 changed from our report because they added  
16 new cameras but everything seems to be in  
17 compliance with what you guys are asking for,  
18 what you see in that security--

19 CHAIRPERSON MILLER: Okay.

20 BOARD MEMBER ALBERTI:  
21 Investigator Peru, how long have you been  
22 with ABRA?

1 MR. PERU: A little over a year.

2 BOARD MEMBER ALBERTI: Okay.

3 That's quite a bit of experience, I know how  
4 often you guys work. So given your  
5 experience, are you reasonably comfortable  
6 that they've covered the customer areas  
7 adequately with their camera system?

8 MR. PERU: Yes. I believe now,  
9 yes. I believe now that there is sufficient  
10 coverage of the areas, yes.

11 BOARD MEMBER ALBERTI: Okay. How  
12 would these cameras operate in low light?  
13 Were you able to assess that?

14 MR. PERU: Yes, well the club  
15 was closed when I went in. It's like a  
16 black-and-white type image that you see. But  
17 it appeared to be clear. The newer cameras  
18 obviously have a better image because they're  
19 brand new than the one that I used existing  
20 for the investigation. But they're operating  
21 I guess as best as can be in the light.

22 BOARD MEMBER ALBERTI: All

1 right. So the images from them would be  
2 useful in an investigation?

3 MR. PERU: Yes. Yes sir.

4 BOARD MEMBER ALBERTI: Okay. Now  
5 are you familiar with this club at all?

6 MR. PERU: From my investigation  
7 mainly yes.

8 BOARD MEMBER ALBERTI: Well,  
9 prior to this at all?

10 MR. PERU: Prior, I was there on  
11 a handful of occasions for other things or  
12 just for--

13 BOARD MEMBER ALBERTI: Have you  
14 ever been there late at night, say three in  
15 the morning or four in the morning?

16 MR. PERU: Yes.

17 BOARD MEMBER ALBERTI: Okay. Do  
18 you have any experience that tells you how  
19 the crowds congregate around this  
20 establishment outside? And I'm asking this  
21 in terms of you know the camera coverage that  
22 you saw outside, is that going to cover any

1 problem areas that you know about outside?

2 MR. PERU: It covers the front of  
3 the establishment, the sidewalk area from the  
4 building to the sidewalk directly in front,  
5 it's not designed to cover up the street. It  
6 looks like it's designed mainly to cover the  
7 immediate area in front of the establishment.  
8 So it wouldn't be covering the parking lot  
9 next door or the street as well, so when the  
10 crowd is dispersing it will show them  
11 outside, it would have been helpful to see  
12 them coming out. And if something occurred  
13 on the sidewalk in front of the  
14 establishment, that camera will in fact show  
15 that.

16 Anything outside of that, you  
17 know, up the street, in the parking lot,  
18 across the street is not going to be seen.

19 BOARD MEMBER ALBERTI: So what's  
20 this coverage of the alley that you spoke of?

21 MR. PERU: There's an alley  
22 between the establishment's building and

1 there's a building next door which is a  
2 Living Social and all that. The alleyway, I  
3 think there's two exits maybe from the  
4 establishment because I went out one of them  
5 that night in question. And that camera  
6 covers that entire alley. So from the corner  
7 back. So anything in that alley would be  
8 clearly covered.

9 BOARD MEMBER ALBERTI: Do you  
10 know if the establishment uses those exits  
11 for customers?

12 MR. PERU: I can testify to the  
13 night that I was there and we exited the  
14 alley to make the phone call there were four  
15 or five females out in that alley, looked  
16 like counseling or one female was crying or  
17 whatever it was. No one was injured, just  
18 talking amongst each other.

19 So to answer your question I guess  
20 I was used by them obviously but I'm not sure  
21 what else it's used for.

22 BOARD MEMBER ALBERTI: Okay.

1 Thank you. That's helpful.

2 CHAIRPERSON MILLER: Any  
3 questions?

4 BOARD MEMBER RODRIGUEZ: One small  
5 question now. So we have one camera outside  
6 and it has what, you said one camera with two  
7 lenses or two cameras?

8 MR. KLINE: Two cameras and one  
9 housing. You should have this diagram and one  
10 points in front of the place and the other  
11 points down the alley.

12 BOARD MEMBER RODRIGUEZ: So it's  
13 Saturday night and the camera should be  
14 working. What if it's Saturday night and  
15 the security director checks and the camera  
16 is not working? What back up do you have?

17 MR. KLINE: Well, we think the  
18 most important back up that we're going to  
19 have is that there's going to be four  
20 reimbursable detail officers out there which  
21 we've committed to do in the offer-in-  
22 compromise. So cameras are great but from a

1 safety standpoint we believe the reimbursable  
2 details are even more important than the  
3 cameras. The cameras are certainly great for  
4 catching perpetrators but we think that the  
5 existence of four police officers out there  
6 will significantly decrease the likelihood  
7 that--

8 MS. PHILLIPS: Just a point of  
9 clarification, Mr. Rodriguez, sorry to  
10 interrupt but my copy of the final OIC does  
11 not list four RDU units. So if we want to  
12 add that--

13 BOARD MEMBER ALBERTI: Yes, I'm  
14 checking on that.

15 MS. PHILLIPS: My understanding  
16 from previous hearings is that one of the  
17 things that MPD reserves the right to is to  
18 make a determination about what they believe  
19 is necessary. So that's why when we  
20 discussed it I didn't put a number in there  
21 because I don't want it to be limited. If MPD  
22 believes that whatever event they're

1 providing officers for needs six, I want  
2 MPD's experience to control the number of  
3 officers assigned. I don't want -- I  
4 certainly don't want me who knows nothing  
5 about policing other than defending in these  
6 situations, to be the one making a decision  
7 when MPD might think they need six.

8           And Mr. Kline and I both know that  
9 that's how RDU units work so if you want to  
10 put in four, I just want the understanding  
11 that that will be for the purposes of this  
12 OIC but if MPD believes that this event needs  
13 six, I'm not willing to put my name on an OIC  
14 that limits the number of RDU units,  
15 personnel.

16           MR. KLINE: No, that's not in the  
17 agreement and that is my experience, MPD will  
18 decide and has decided and in my experience  
19 when they assign officers and they agree to  
20 provide reimbursable detail, they'll tell the  
21 establishment how many they need. And we're  
22 happy to put in at least four but we can

1 leave it out and MPD will do it.

2 MS. PHILLIPS: We could say  
3 minimum. Minimum.

4 BOARD MEMBER ALBERTI: Thank you,  
5 you read my mind.

6 MR. KLINE: Right. We're fine  
7 with that. I've got it telegraphed across my  
8 forehead.

9 BOARD MEMBER RODRIGUEZ: Well  
10 that's good to know that the additional RDUs  
11 would be there acting as eyes and ears for  
12 ensuring the security. I was just curious to  
13 see if, you know, still what backup for the  
14 cameras there would be.

15 I mean I understand that the  
16 personnel are always a good backup and  
17 actually they should be there in the first  
18 place as far as I'm concerned. But the  
19 cameras can record a lot of things that  
20 sometimes people miss. That's why we have  
21 cameras.

22 And so I'm putting that there as

1 something to consider. What do you do in  
2 backup? As a former military man you always  
3 have a backup in case something doesn't work.

4 So as I see, you know, a lot of  
5 the action was outside. A lot of action was  
6 outside and a lot of serious stuff took place  
7 outside and certainly the camera situation is  
8 something that is of concern to us as you can  
9 see by our questions because it does protect  
10 the public, it protects your employees and  
11 also it's good evidence.

12 MR. KLINE: Board Member  
13 Rodriguez, the licensee is willing to amend  
14 the drawing that you have to locate and  
15 install an additional camera the opposite end  
16 of the building, so that there would be  
17 coverage in the opposite direction as a fail-  
18 safe.

19 So that way if one of the cameras  
20 were out, then you'd have a shot this way and  
21 then you'd have a shot that way, and I hope  
22 that that addresses--

1                   BOARD MEMBER RODRIGUEZ:    I would  
2    feel a lot more confident after this hearing  
3    knowing that you're going to have that extra  
4    camera there.

5                   MR. KLINE:    I just asked the  
6    owner and he's committed to doing that.

7                   BOARD MEMBER RODRIGUEZ:    Thank  
8    you.

9                   CHAIRPERSON MILLER:    Okay.

10                  BOARD MEMBER ALBERTI:    May I--  
11    just real quick.  My expectation from the  
12    statement that the cameras will be operable,  
13    my expectation is that there are going to be  
14    some periodic checks on their operability.  
15    I'll just put that out there.

16                  MR. KLINE:    We understand--

17                  BOARD MEMBER ALBERTI:    I don't  
18    want excuses in the future.

19                  MR. KLINE:    We understand.

20                  CHAIRPERSON MILLER:    Okay.  
21    Anything else?  I think it would be a good  
22    idea if we could hear from Mr. Sexton to get

1 an idea of briefly the kind of training we  
2 have so we can feel confident that--

3 MS. PHILLIPS: Is Mr. Peru  
4 excused?

5 CHAIRPERSON MILLER: Oh, is there  
6 anything else you want to add?

7 MR. PERU: No. If there are any  
8 other questions let me know.

9 CHAIRPERSON MILLER: Okay. Thank  
10 you.

11 CHAIRPERSON MILLER: Good  
12 morning. Could you state your name for the  
13 record?

14 MR. SEXTON: Good morning. John  
15 Sexton.

16 CHAIRPERSON MILLER: Okay. So as  
17 far as the this OIC, your company has trained  
18 the security employees who are there now. So  
19 I'm interested in hearing briefly, this isn't  
20 a full show cause hearing, but we just want  
21 to evaluate you know what you taught them so  
22 that we can have confidence that the place

1 will be operating in a safer way maybe look  
2 at it before so we can see the difference  
3 like what they know now from your training  
4 that will make it safer place.

5 MR. SEXTON: Sure. It would be  
6 difficult for me to know exactly what they  
7 didn't know before but in my over three  
8 decades of experience in the security field,  
9 and in training especially, most security  
10 people don't know an awful lot about subjects  
11 that are very important.

12 What we focused on last night was  
13 a mind-set, getting their mind-set prepared  
14 for conflict resolution. We went over  
15 various categories. Some of them were able to  
16 contribute, they did have some knowledge  
17 before.

18 We talked about the importance of  
19 behavioral studies, they're observers.  
20 Explained to them that body language nowadays  
21 accounts for between 80 and 90 percent of  
22 what's recognized as communications, so it's

1 very important not only for them to watch how  
2 a customer is behaving in their body language  
3 and what maybe perhaps might come next but  
4 also themselves and how they portray  
5 themselves as security professionals.

6           We talked about things like  
7 empathy, described how empathy did not mean  
8 sympathy but it meant trying to feel what the  
9 other person is going through should they  
10 have a difficulty that they're dealing with,  
11 that they're handling.

12           We talked about them getting  
13 themselves prepared and ready before they  
14 even go in to work. As they're going into  
15 work in order to remain professionals they  
16 must always have a very calm demeanor. They  
17 can't afford to be having a bad day.

18           We went over what their duties  
19 were to the public, to the clientele, and to  
20 be aware at all times that they're under the  
21 eye, people are watching them and to behave  
22 in a completely totally neutral disinterested

1 way as opposed to uninterested, and to treat  
2 everybody the same.

3 We went over -- I'm trying to  
4 remember if it was last night and I drew up  
5 an exam and everything and I was on the  
6 computer this morning and if I had it in  
7 front of me it would be much easier.

8 CHAIRPERSON MILLER: That's okay,  
9 We just want to get a general idea.

10 MR. SEXTON: We talked about  
11 threat assessments. I gave them some real  
12 life stories that have happened to police  
13 officers in the past being injured from not  
14 being able to do an the spot, conduct an on  
15 the spot threat assessment, which is  
16 extremely important.

17 I reinforced that they are the  
18 person on the spot, you know, they have to  
19 make decisions. They have to be all the time  
20 in the game, there can be no complacency and  
21 they can't afford ever to let their guard  
22 down so to speak but not in a more softer

1 feeling. And we reiterated those things  
2 throughout the presentation.

3 I utilized 33 PowerPoint slides,  
4 projection. Went over it, asked questions  
5 during it to make sure and at the end I gave  
6 them a test which I drafted up myself based  
7 on the training. And some people scored 100  
8 percent and other people didn't, some people  
9 got it wrong.

10 We reviewed the problems that  
11 arose, why they answered as they did and  
12 that's one of the things that my school does.  
13 We're government certified and we do give  
14 certificates at the conclusion of the  
15 training and testing.

16 CHAIRPERSON MILLER: Okay. Thank  
17 you. Questions?

18 BOARD MEMBER ALBERTI: Yes. Mr.  
19 Sexton, what I didn't hear, and maybe this  
20 wasn't your role, but I mean any training on  
21 okay what do you do after you've assessed the  
22 threat? Do you go in solo? Do you call for

1 back up? How do you coordinate, would you  
2 call in security people. When do you realize  
3 that you need to call RDU in? Was that  
4 touched upon?

5 MR. SEXTON: It was touched upon,  
6 yes it was. It was touched upon. Also I  
7 failed to mention and I apologize, but it was  
8 mentioned to them that you know whoever make  
9 the decision, to bring it to your  
10 supervisor's attention because I don't know  
11 the breakdown of supervisors/managers as  
12 opposed to security staff so I'm training all  
13 our security personnel.

14 But it was explained to them that  
15 if a situation is something that is possibly  
16 going to get out of control and can't be  
17 handled, a person can pro-actively change  
18 their mind to get them to do what they need  
19 to do. They need to be able to realize that  
20 it's time to call MPD, call in the police  
21 whose job it is will be to establish law and  
22 order if that's the case.

1                   But I found out that they are  
2 working in areas such as there's so many  
3 assigned to the bottle area and that kind of  
4 thing.

5                   We talked about the importance of  
6 all of them being on the same sheet of music  
7 and being able to pass on and also to be very  
8 receptive through the way they behave, be  
9 very receptive to invite people in the club,  
10 this happens in real life, people in the club  
11 it's like a community police officer, people  
12 coming up and passing on information that  
13 something's wrong or something might happen.  
14 And I did give them real life examples of  
15 that too. I quoted other security trainers  
16 and officers who've corroborated that  
17 evidence.

18                   BOARD MEMBER ALBERTI:    Have you  
19 talked to the managers about how the staff is  
20 organized and their general procedures? Like  
21 do they have radios, do they not? Who  
22 contacts who? When is that done? Am I

1 making sense? Because it's one thing to talk  
2 to the individuals, the guy on the floor and  
3 what his behavior is, but then there's the  
4 other element of how does he fit in, how they  
5 organize their security and how it operates?

6 MR. SEXTON: No, I do not have a  
7 breakdown of the structure. Some managers  
8 were in attendance, I believe about a half  
9 dozen, but I do not know the structure of  
10 reporting because we didn't get a chance to  
11 get over that.

12 BOARD MEMBER ALBERTI: Okay. I  
13 don't know where we stand on that but I'd  
14 encourage the licensee to maybe take  
15 advantage of Mr. Sexton's knowledge and think  
16 about the overall organization of their  
17 security team and how it operates because  
18 that's as important as the guy on the floor,  
19 the personnel on the floor. That's all I  
20 have. Thank you.

21 CHAIRPERSON MILLER: Yes?

22 BOARD MEMBER RODRIGUEZ: Just

1 looking at your resume, very impressive,  
2 particularly United Nations Special  
3 Investigations Unit in conflict zones. So  
4 you've been there.

5 MR. SEXTON: I grew up on the  
6 border of Northern Ireland so I lived 30  
7 years with non-stop conflict.

8 BOARD MEMBER RODRIGUEZ: Yes, I  
9 detected and looking at the Balkans and all  
10 that and I appreciate security very much as  
11 a former officer in the military I can  
12 appreciate that.

13 So in your threat assessment of  
14 this establishment, in general what were some  
15 of the initial threat assessments that you  
16 saw? In terms of your threat assessment as  
17 far as the establishment, what were some of  
18 the areas that you right away saw that could  
19 have been improved?

20 MR. SEXTON: Well, mind you I  
21 wasn't tasked to do a threat assessment of  
22 the establishment and having seen it empty

1 with 26 security personnel it's a completely  
2 different view of what I would have if there  
3 was a thousand people in it.

4           So last night was very tame, you  
5 know, there was no blockages, adequate  
6 lighting, very much freedom of movement. So  
7 I would really need to see it at its heyday  
8 so to speak to get a good feeling for what it  
9 would be like in a crowded situation.

10           BOARD MEMBER RODRIGUEZ:    Okay.

11   Well thank you so much sir.

12           MR. SEXTON: You're welcome.

13           CHAIRPERSON MILLER:    Okay.  I  
14 have the impression that Mr. Sexton is a kind  
15 of general trainee with a general idea and  
16 that Host is going to do the more specific  
17 training with a security plan, or is that not  
18 correct?

19           MR. KLINE:    Yes, Mr. Sexton will  
20 be available to follow up.  It's my  
21 understanding he also reviewed crowd control  
22 and things such as that as well.

1 MR. SEXTON: Yes.

2 CHAIRPERSON MILLER: Also more  
3 specific areas related to the plan.

4 MR. KLINE: Right. And then I  
5 think the Board is familiar with Mr. Smith  
6 and he'll be coming in to do a 10-hour?

7 MR. ANDARGIE: Ten-hour.

8 MR. KLINE: Ten-hour training, we  
9 have a contract, over two days that will  
10 further enhance security and their  
11 understanding.

12 CHAIRPERSON MILLER: How many  
13 hours was the training last night?

14 MR. SEXTON: It was approximately  
15 6:30 p.m. to 9:30 p.m.

16 CHAIRPERSON MILLER: Three hours?  
17 Okay. Good. Any other questions? All  
18 right. Thank you.

19 MR. SEXTON: You're welcome.  
20 Thanks.

21 CHAIRPERSON MILLER: Okay. So I  
22 think that's all of our questions and I don't

1 know if you have anything else to add. But  
2 my only other question is are you going to  
3 submit a couple of language changes?

4 MR. KLINE: Yes, we can do that.  
5 If the Board were inclined to accept the  
6 agreement I think that colleague, Mr. Rome,  
7 and Ms. Phillips and I could go into the  
8 conference room in the back and hammer out  
9 the rest of it pretty quickly.

10 MS. PHILLIPS: I like the  
11 predicate that Mr. Kline -- if the Board is  
12 inclined to accept it. What I want to know  
13 for the purposes of I have three MPD  
14 personnel sitting in the back of the room, at  
15 least I did have three, and I don't like to  
16 keep them away from their tasks any longer  
17 than necessary and this has been a long  
18 discussion and it's been a very important  
19 discussion and I told them this was going to  
20 happen.

21 But we can make the tiny detail  
22 changes so that you will have it, but it's

1 the concept and the sort of notes you've  
2 taken from the question. We'll add all the  
3 things we discussed but I would like for you  
4 to decide if that's what you want to do so  
5 that we can release the police officers.

6 I have a captain and two  
7 lieutenants or somebody back there so I have  
8 some significant deficits in the police  
9 department at large because they're sitting  
10 in this hearing room. Is that an appropriate  
11 request?

12 CHAIRPERSON MILLER: Yes, that  
13 is.

14 (BOARD CONFERS)

15 Board members, you don't have to  
16 hush so we can hear your discussion. I don't  
17 care whether you hear or not.

18 BOARD MEMBER ALBERTI: What I'm  
19 asking is that what I would like before we  
20 say okay yeah we're inclined to do that, is  
21 to get a recap from you of where you think we  
22 are. Just so I'm comfortable that we

1 haven't left them with them--

2 MR. KLINE: No, I agree.

3 BOARD MEMBER ALBERTI: And I  
4 don't think that's going to take very much  
5 time. You guys are bright and quick and  
6 I've got all the confidence in you all.

7 MR. KLINE: So if we may, Mr.  
8 Rome can certainly recount.

9 BOARD MEMBER RODRIGUEZ:  
10 Absolutely.

11 MR. ROME: Okay. So from each of  
12 the questions and each of the responses  
13 whenever there was something that says why  
14 don't you add that, we said we'll put that  
15 in. And I've got a list of those things that  
16 I can read back now to make sure that we're  
17 all on the same page.

18 CHAIRPERSON MILLER: Right.

19 MR. ROME: The first being that  
20 it will be put into the agreement that we  
21 will stop admitting patrons or that the  
22 establishment will stop admitting patrons at

1 2:30.

2 BOARD MEMBER ALBERTI: Okay.

3 MR. ROME: The next being that  
4 on the list of employees, their positions  
5 will be added to that list so that you will  
6 know who is the manager, who is merely a  
7 security personnel and the rest.

8 BOARD MEMBER ALBERTI: Well, on  
9 that -- yes. All right. But just give me an  
10 independent list of all the security  
11 employees.

12 MR. ROME: Well, I think that 25  
13 person list is--

14 BOARD MEMBER ALBERTI: Okay. So  
15 we have your commitment that that's all the  
16 employees?

17 MR. ROME: Those are the security  
18 employees. That's not all the--

19 BOARD MEMBER ALBERTI: Right.  
20 Right. The security employees. Okay.

21 MR. KLINE: And we'll give you  
22 titles which I think is--

1                   MR. ROME:     And we can regularly  
2     update that list and keep it on the premises  
3     and if new security employees are hired they  
4     will be added to that list and it will be  
5     kept in the office at the establishment.

6                   BOARD MEMBER ALBERTI:     That would  
7     be helpful, yes.

8                   MR. ROME:     We will provide you at  
9     some point the written test that was  
10    administered at the security training  
11    procedures, we don't have it on us but it  
12    will come to you.

13                  BOARD MEMBER ALBERTI:     Within  
14    seven days?

15                  MR. ROME:     Yes.    Within seven  
16    days.    On the language in the OIC regarding  
17    the password, well actually regarding the  
18    video, that not only will it be immediately  
19    available for the investigator and MPD to  
20    view, but within 24 hours copies will be made  
21    available.

22                  CHAIRPERSON MILLER:     Okay.   All

1 right.

2 MR. ROME: As far as the bottle  
3 service area, the establishment will work to  
4 ensure that bottles are promptly removed as  
5 soon as they are empty and that there will  
6 now be two security people stationed at the  
7 bottle service area at all times, one at the  
8 rope and one inside of the rope in the bottle  
9 service area.

10 MR. KLINE: And just so we're  
11 clear we're going to put that in the security  
12 plan.

13 CHAIRPERSON MILLER: Okay. All  
14 right.

15 MR. ROME: Okay. That will be in.  
16 Okay. We will agree to at least four  
17 reimbursable detail officers, that's a  
18 minimum depending on if MPD recommends more.

19 BOARD MEMBER ALBERTI: Okay.

20 MR. ROME: There will be an extra  
21 camera installed on what was the top right of  
22 the page but looks to be the alley area on

1 this side of this--

2 BOARD MEMBER ALBERTI: That was  
3 an exterior.

4 MR. ROME: On the exterior.

5 MR. KLINE: Within ten days.

6 CHAIRPERSON MILLER: Okay.

7 MR. ROME: And I believe that's  
8 all the specific changes that we made.

9 MS. PHILLIPS: I have two  
10 comments on the comments and I missed some.  
11 One is that they said they would stop  
12 admitting patrons at 2:30, that makes sense  
13 on the nights when they're open to four but  
14 less sense on the nights when they're open to  
15 three. That's just a clarification. Stop  
16 admitting patrons is something that I heard  
17 mentioned.

18 BOARD MEMBER ALBERTI: I know  
19 it's a little illogical but I'm worried about  
20 after-hours sales and servers of alcohol, so  
21 2:30 on a night they close at three I'm okay  
22 with because that's customary.

1                   But if you really are having this  
2 open from 3 to 4, I don't want customers  
3 coming in with the expectation they're going  
4 to be able to party, meaning drinks, after  
5 three. So I think I'm okay with 2:30.

6                   MS. PHILLIPS: The license says  
7 that they can't serve after 3 o'clock. And  
8 whether that's what happened in this  
9 particular circumstance. But Mr. Kline and I  
10 discussed that and those hours were added to  
11 the security plan which said hours of  
12 operation and I said let's add hours of  
13 service because I think that's an important  
14 distinction as you have raised a number of  
15 times.

16                   BOARD MEMBER ALBERTI: I'm just  
17 saying that's why I'm comfortable with going  
18 with 2:30.

19                   MS. PHILLIPS: But that's for  
20 patrons entering?

21                   BOARD MEMBER ALBERTI: Yes.

22                   MS. PHILLIPS: Okay.

1                   MR. KLINE:     And Mr. Alberti,  
2 perhaps to make it clearer, that we do half  
3 an hour before the end of legal service which  
4 would be if they-- that just gives a  
5 flexibility and it gives you the comfort that  
6 you need.

7                   BOARD MEMBER ALBERTI:     It  
8 accomplishes the same thing.

9                   MR. KLINE:     Exactly.

10                  MS. PHILLIPS:     Right.  And then  
11 my other question about what I was hearing,  
12 and it's only because we're doing this on the  
13 fly, is the position of the other camera.  I  
14 thought they said it was to look at the  
15 alleyway.  I thought it was just at the other  
16 end of the front, so it wouldn't go into the  
17 alleyway but it would show the other way of  
18 the street.  The language may have not been  
19 correct, the placement might be correct.

20                  MR. ROME:  I mis-spoke.  It's not  
21 the alleyway, that's the street.

22                  MS. PHILLIPS:     Okay.  Fine.  When

1 things don't make sense for me I like to  
2 clarify the record. Those are my comments  
3 based on the comments.

4 Okay. Is the Board satisfied that  
5 we've gotten the clarifications so that you  
6 can do what next is necessary?

7 BOARD MEMBER ALBERTI: I am.

8 BOARD MEMBER RODRIGUEZ: I am.

9 CHAIRPERSON MILLER: Okay. So  
10 we're confident that you're presenting to us  
11 that offer-in-compromise that we can approve  
12 so there won't be a hearing today and your  
13 witnesses can be excused.

14 MR. KLINE: Thank you.

15 CHAIRPERSON MILLER: All right.

16 And then I wanted to just nail down the  
17 process now. Are you going to be putting --  
18 when are you going to be putting these in  
19 writing?

20 MR. KLINE: Now.

21 CHAIRPERSON MILLER: Now. And  
22 then we'll review, the Board will review it

1 all in writing so there won't be any--

2 CHAIRPERSON MILLER: If we can  
3 get a time frame, not a big deal, but I  
4 assume you're going to give us the language  
5 today that's going to be in the security  
6 agreement with respect to the bottle service,  
7 right. But when you you're putting it in the  
8 security plan are you going to give us a  
9 revised security plan with that language  
10 today?

11 MR. KLINE: We're going to give  
12 you everything. We're going to give you a  
13 revised security plan and a revised OIC  
14 within an hour. I can't imagine it would  
15 take--

16 MR. ROME: The OIC, I don't know  
17 if we can revise the security plan. I have it  
18 as a PDF. The changes to the security plan we  
19 can have to you by tomorrow but the changes  
20 to the OIC we can make.

21 CHAIRPERSON MILLER: Okay. If you  
22 would give us today though at least the

1 language and the context that it's it going  
2 to be in.

3 MR. ROME: Sure. Yes.

4 CHAIRPERSON MILLER: Okay. That  
5 page or something.

6 MR. KLINE: Yes, we can give you  
7 the one-page in terms of that and then the  
8 security plan to complete this and complete  
9 that. Yes, we can do that. That's probably  
10 the easiest way to do it.

11 CHAIRPERSON MILLER: Okay.

12 MS. PHILLIPS: Procedurally,  
13 Madam Chair, do you want us to present it  
14 again in front of you or are we just to hand  
15 it to Ms. Jenkins and she will hand it to  
16 you?

17 CHAIRPERSON MILLER: Right. And  
18 then we'll review it and then we'll give you  
19 a final okay.

20 MS. PHILLIPS: So after we're  
21 finished revising it, we're excused. Is that  
22 what you're saying?

1                   CHAIRPERSON MILLER:    No, that's  
2 not what I'm saying.

3                   MS. PHILLIPS:     Okay. I just want  
4 the procedure.    Do you want us to come back  
5 and re-present it?

6                   CHAIRPERSON MILLER:    No. I don't  
7 want you to re-present it. What I'm saying  
8 is give it to Ms. Jenkins, she'll give it to  
9 us to review.    We might have a question or  
10 one more concern or whatever so I don't want  
11 you to leave until we're here on the record  
12 saying final approved and everybody--

13                   MR. KLINE:     So we'll recess.  
14 We'll do this work and then we'll come back  
15 in and hopefully if we've done it right we  
16 won't be here very long.

17                   BOARD MEMBER ALBERTI:    We'll all  
18 return and read it into the record.

19                   MR. ROME:     And I'll email it to  
20 Ms. Jenkins. I obviously don't have access to  
21 your printer so I'll type it on my computer  
22 back in the room, I'll email it to Ms.

1 Jenkins, then you guys can print it out and  
2 have it read.

3 CHAIRPERSON MILLER: Perfect. If  
4 you have any other questions in that hour  
5 feel free to ask--

6 MS. PHILLIPS: So we will  
7 reappear? That's what I thought you wanted  
8 us to do.

9 CHAIRPERSON MILLER: After  
10 though. After we review it.

11 MR. KLINE: Right.

12 MS. PHILLIPS: Right. I just  
13 don't want to leave and you still need me  
14 here.

15 CHAIRPERSON MILLER: No, you're  
16 excused for that -- I'm sure Mr. Kline needs  
17 you to--

18 MS. PHILLIPS: All right. Thank you  
19 very much.

20 CHAIRPERSON MILLER: Okay.

21 MR. KLINE: Thank you.

22 CHAIRPERSON MILLER: And I'll

1 talk to you in an hour.

2 (A RECESS WAS TAKEN)

3 CHAIRPERSON MILLER: We're back  
4 on the record for the Lux summary suspension  
5 case. And the parties have provided us with  
6 an amended, a revised offer-in-compromise,  
7 based on the discussion that we had earlier.

8 So the Board is satisfied with  
9 this offer-in-compromise and we're going to  
10 vote on it momentarily. So the suspension  
11 will be lifted today and we are going to send  
12 the matter to OAG for show cause.

13 And the last thing we're going to  
14 do is set just a status for August 13th to  
15 see how everything's going in this case and  
16 make sure that the licensee is operating in  
17 compliance with that OIC. Yes? Are you  
18 going to be away?

19 MS. PHILLIPS: No. Is that at  
20 9:30?

21 CHAIRPERSON MILLER: 9:30.

22 MS. PHILLIPS: Okay. I didn't

1 know if you were setting it at a different  
2 time because it was a different matter.

3 CHAIRPERSON MILLER: Right. We  
4 don't expect this to be a long hearing so  
5 that's why we're putting it in with the  
6 status.

7 MS. PHILLIPS: So it's August  
8 13th at 9:30?

9 CHAIRPERSON MILLER: Yes.

10 MS. PHILLIPS: Thank you, ma'am.

11 CHAIRPERSON MILLER: Okay. So if  
12 there aren't any questions I'm going to move  
13 at this time then to approve the offer-in-  
14 compromise for Lux in this case and to send  
15 this matter to OAG for show cause and to lift  
16 the suspension upon the signing of this OIC.  
17 And we'll have a status on August 13th. Do  
18 I have a second?

19 BOARD MEMBER RODRIGUEZ: Second.

20 CHAIRPERSON MILLER: Mr.  
21 Rodriguez has seconded the motion. All those  
22 in favor say aye. All those opposed? All

1 those abstaining?

2 [vote taken]

3 The motion is passes 3-0-0. Okay.

4 Anything else?

5 MR. KLINE: Thank you.

6 CHAIRPERSON MILLER: All right.

7 Thank you very much.

8 (Whereupon, the Summary Suspension

9 Hearing in the above-entitled matter having

10 been concluded, went off the record at 1:04

11 p.m.)

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**A**

**a.m** 1:17 4:2 15:14  
16:10  
**ABC** 6:2  
**ability** 38:1  
**able** 10:22 21:9  
46:3 47:13 58:15  
60:14 62:19 63:7  
75:4  
**above-entitled** 1:16  
84:9  
**ABRA** 1:13 3:10  
6:1 11:15 13:9,11  
13:18 15:3,5 25:4  
46:22  
**absolutely** 34:5  
70:10  
**abstaining** 84:1  
**accept** 68:5,12  
**acceptable** 10:12  
40:3 41:15  
**access** 80:20  
**accomplishes** 76:8  
**accounts** 58:21  
**Act** 5:3,6  
**acting** 54:11  
**action** 55:5,5  
**actions** 4:20 35:12  
**activities** 37:15  
**add** 17:11 18:19  
30:7 41:13 52:12  
57:6 68:1 69:2  
70:14 75:12  
**added** 24:1 25:6  
46:10,11,15 71:5  
72:4 75:10  
**addition** 12:18  
17:21 24:21 25:4  
**additional** 54:10  
55:15  
**address** 8:16 44:12  
**addresses** 55:22  
**adequate** 41:8 66:5  
**adequately** 47:7  
**Adjourn** 3:17  
**adjudication** 5:10  
**administered** 72:10  
**Administration** 1:3  
1:17

**admitting** 20:2  
23:21 70:21,22  
74:12,16  
**advantage** 64:15  
**advise** 5:3,9  
**advised** 22:14  
**afford** 59:17 60:21  
**after-hours** 74:20  
**agenda** 4:15  
**agree** 42:13 53:19  
70:2 73:16  
**agreeable** 23:22  
**agreement** 3:13  
15:13 19:22 53:17  
68:6 70:20 78:6  
**agreements** 5:9  
**Alberti** 1:21 4:9 9:9  
19:14 20:5,18,21  
21:19 22:3,7,13  
22:17 23:1,10,17  
23:19 24:4,7,20  
25:7,20 26:1,4,7  
26:15,20 27:3,12  
27:14,21 28:3,7  
32:18 42:17,21  
46:20 47:2,11,22  
48:4,8,13,17  
49:19 50:9,22  
52:13 54:4 56:10  
56:17 61:18 63:18  
64:12 69:18 70:3  
71:2,8,14,19 72:6  
72:13 73:19 74:2  
74:18 75:16,21  
76:1,7 77:7 80:17  
**alcohol** 15:7 21:16  
34:11 39:8,17  
74:20  
**Alcoholic** 1:3,17  
4:6  
**allegations** 19:19  
**alleviates** 40:14  
**alley** 27:1 45:2  
49:20,21 50:6,7  
50:14,15 51:11  
73:22  
**alleyway** 50:2  
76:15,17,21  
**allow** 40:12 45:19

**ameliorate** 31:1  
**amend** 55:13  
**amended** 82:6  
**Andargie** 2:13 8:10  
8:10 20:4 26:13  
26:22 35:22 40:22  
43:9 67:7  
**Andrew** 2:9 7:11  
8:6  
**angle** 26:17 46:2  
**angles** 14:2 43:14  
**announcing** 6:17  
**answer** 50:19  
**answered** 61:11  
**apologies** 13:5  
**apologize** 34:6 62:7  
**APPEARANCES**  
2:1  
**appeared** 47:17  
**applicable** 10:17  
28:17  
**appreciate** 24:8  
65:10,12  
**appropriate** 69:10  
**approve** 3:16 77:11  
83:13  
**approved** 80:12  
**approximately**  
67:14  
**area** 35:21 36:1,3,4  
36:11,15,16,17,18  
36:18 37:4,11  
38:12 45:16,17,18  
49:3,7 63:3 73:3,7  
73:9,22  
**areas** 31:7 37:2,12  
38:20 40:11 44:10  
45:18 46:4 47:6  
47:10 49:1 63:2  
65:18 67:3  
**ARM** 1:7 2:8,14  
**arose** 61:11  
**arranged** 17:22  
**asked** 32:18 46:8  
56:5 61:4  
**asking** 46:17 48:20  
69:19  
**asks** 6:19  
**assess** 47:13

**assessed** 61:21  
**assessment** 60:15  
65:13,16,21  
**assessments** 60:11  
65:15  
**assign** 53:19  
**assigned** 53:3 63:3  
**assistant** 2:4 7:9,19  
**assume** 10:22 37:19  
78:4  
**assurances** 24:16  
**assure** 38:22 41:17  
**assured** 21:6  
**astounding** 39:7  
**attached** 10:19  
11:12 14:4,13  
15:1,11  
**attendance** 4:13  
64:8  
**attention** 7:16 31:7  
62:10  
**attorney** 2:2,4,5 5:8  
6:9 7:9,20,22 16:4  
28:18 29:20  
**August** 3:15 82:14  
83:7,17  
**authority** 5:20  
**available** 4:15  
12:20 13:8,16  
24:12,17 25:3,9  
42:8 66:20 72:19  
72:21  
**Avenue** 1:8 2:14  
5:15  
**avoid** 5:1 38:8  
**aware** 13:17 30:16  
34:15 59:20  
**awareness** 21:16  
**awful** 58:10  
**aye** 83:22

**B**

**back** 10:3 12:2  
30:14 32:16 44:20  
50:7 51:16,18  
62:1 68:8,14 69:7  
70:16 80:4,14,22  
82:3  
**background** 17:17

**backup** 54:13,16  
55:2,3  
**bad** 59:17  
**Balkans** 65:9  
**bartender** 20:15  
**based** 30:2 32:6  
38:21 61:6 77:3  
82:7  
**basically** 10:4  
**basis** 21:14  
**beer** 38:15  
**behalf** 2:2,8 8:7,9  
**behave** 59:21 63:8  
**behaving** 59:2  
**behavior** 64:3  
**behavioral** 58:19  
**believe** 8:17 12:1  
15:10 18:1 47:8,9  
52:1,18 64:8 74:7  
**believes** 52:22  
53:12  
**best** 44:16 47:21  
**bet** 31:15  
**better** 38:12 46:3  
47:18  
**Beverage** 1:3 4:6  
**Beverages** 1:17  
**beyond** 21:17  
**big** 78:3  
**bio** 33:22  
**bit** 30:8 44:18 47:3  
**black-and-white**  
47:16  
**blind** 11:14  
**blockages** 66:5  
**board** 1:3,18,21,21  
3:9,11,12 4:6 6:3  
6:8,13,17,19 7:2,7  
8:6 9:9,18 10:12  
17:8,14,20 18:2,3  
18:17 19:5,13,14  
20:5,18,21 21:19  
22:3,7,13,17 23:1  
23:10,17 24:4,7  
25:7,17,20 26:1,4  
26:7,8,15,20 27:3  
27:12,18,21 28:1  
28:3,7 30:16 33:6  
33:8,19 34:14

36:21 38:15,17 41:7,18 42:2,17 42:21 43:17 44:13 46:20 47:2,11,22 48:4,8,13,17 49:19 50:9,22 51:4,12 52:13 54:4,9 55:12 56:1 56:7,10,17 61:18 63:18 64:12,22 65:8 66:10 67:5 68:5,11 69:14,15 69:18 70:3,9 71:2 71:8,14,19 72:6 72:13 73:19 74:2 74:18 75:16,21 76:7 77:4,7,8,22 80:17 82:8 83:19 <b>Board's</b> 7:16 40:1 <b>body</b> 58:20 59:2 <b>border</b> 65:6 <b>bottle</b> 35:9,20 37:12 38:10,18 39:6,17 40:7 42:9 45:20 63:3 73:2,7 73:8 78:6 <b>bottles</b> 35:18 36:4 36:10,11,17 37:20 38:16,18 39:5 40:11 41:14 42:4 42:7 73:4 <b>brand</b> 47:19 <b>breakdown</b> 62:11 64:7 <b>briefly</b> 57:1,19 <b>bright</b> 70:5 <b>bring</b> 7:16 62:9 <b>building</b> 49:4,22 50:1 55:16 <b>buses</b> 20:14 <b>business</b> 37:8	<b>camera</b> 11:8 26:10 26:12,16,18,19 28:12 43:7,12 44:21 45:7,11 46:1,10 47:7 48:21 49:14 50:5 51:5,6,13,15 55:7 55:15 56:4 73:21 76:13 <b>cameras</b> 3:7 11:7 11:12,20 14:2,3 26:21 27:7 35:5 42:19,20 43:1,3 43:14 44:1 45:1 45:15 46:1,2,6,6 46:14,16 47:12,17 51:7,8,22 52:3,3 54:14,19,21 55:19 56:12 <b>captain</b> 69:6 <b>care</b> 41:18 69:17 <b>case</b> 1:10 3:3 5:4,7 5:12,16 7:2,7 13:18 29:20 38:5 55:3 62:22 82:5 82:15 83:14 <b>cases</b> 17:9 29:21 30:10,21 <b>catching</b> 52:4 <b>categories</b> 58:15 <b>Cathy</b> 5:18 <b>cause</b> 41:21 57:20 82:12 83:15 <b>causing</b> 16:1 <b>CD</b> 33:4,21 <b>ceiling</b> 24:3 <b>cell</b> 4:22 <b>Center</b> 1:14 <b>certain</b> 5:1 31:7 37:2 44:6 <b>certainly</b> 22:10,11 23:15 25:19 30:13 33:8,15 39:8,21 52:3 53:4 55:7 70:8 <b>certificates</b> 15:11 21:7,8,11,15 35:1 61:14 <b>certification</b> 21:21	<b>certified</b> 61:13 <b>chair</b> 7:19 8:14 12:10 27:9 30:4 36:20 40:15 42:13 44:7 79:13 <b>Chairman</b> 8:6 <b>Chairperson</b> 1:18 1:20 4:3,8 8:3,12 9:21 10:13 11:5 11:22 12:4,9,13 12:22 16:14 17:1 18:16 19:3,12 27:11 28:5,9 31:3 31:17 32:3,15 33:10,17 34:1,7 34:18 35:3,11 36:14 37:18 38:4 39:10,19 40:4,19 41:6,22 42:16,18 43:2,10,15,20 44:5,9 46:5,19 51:2 56:9,20 57:5 57:9,11,16 60:8 61:16 64:21 66:13 67:2,12,16,21 69:12 70:18 72:22 73:13 74:6 77:9 77:15,21 78:2,21 79:4,11,17 80:1,6 81:3,9,15,20,22 82:3,21 83:3,9,11 83:20 84:6 <b>chance</b> 64:10 <b>change</b> 12:17 62:17 <b>changed</b> 12:15 16:7 46:15 <b>changes</b> 9:15 68:3 68:22 74:8 78:18 78:19 <b>checked</b> 24:1 <b>checking</b> 52:14 <b>checks</b> 51:15 56:14 <b>Chief</b> 5:18,22 <b>chime</b> 26:9 <b>circumstance</b> 75:9 <b>cities</b> 37:9 <b>clarification</b> 52:9 74:15 <b>clarifications</b> 77:5	<b>clarify</b> 12:12 16:6 77:2 <b>clarifying</b> 30:3 <b>clean</b> 9:13 <b>clean-up</b> 41:2 <b>cleaning</b> 41:4 <b>clear</b> 21:14 43:6,8 45:2 47:17 73:11 <b>clearer</b> 76:2 <b>clearly</b> 50:8 <b>clienteles</b> 38:9 59:19 <b>clients</b> 24:2 <b>close</b> 74:21 <b>closed</b> 5:6,19 15:21 47:15 <b>closely</b> 20:11 <b>closing</b> 15:15,17,19 16:9,12,13 19:18 <b>club</b> 26:11 47:14 48:5 63:9,10 <b>CN</b> 1:9 5:14 <b>code</b> 5:20 6:6,14 10:19 28:22 29:1 29:10 <b>colleague</b> 68:6 <b>Columbia</b> 1:1,17 2:5 4:6 7:21 <b>come</b> 8:16 10:2 27:16 41:20 59:3 72:12 80:4,14 <b>comes</b> 16:18 <b>comfort</b> 76:5 <b>comfortable</b> 20:6 20:22 21:1 24:15 25:17 26:5 47:5 69:22 75:17 <b>coming</b> 25:14 44:21 45:12 49:12 63:12 67:6 75:3 <b>commencement</b> 15:9 34:12 <b>comments</b> 3:14 18:21,22 74:10,10 77:2,3 <b>commitment</b> 71:15 <b>committed</b> 51:21 56:6 <b>common</b> 30:20 <b>communications</b>	58:22 <b>community</b> 63:11 <b>company</b> 57:17 <b>compete</b> 38:1 <b>complacency</b> 60:20 <b>complete</b> 28:6 31:12 79:8,8 <b>completed</b> 14:18 15:9 18:12,13,15 35:2,19 <b>completely</b> 32:8 59:22 66:1 <b>completion</b> 14:5,11 15:6 <b>compliance</b> 10:16 28:17,20 31:5,6 31:10 32:11 46:17 82:17 <b>complicated</b> 9:18 <b>complied</b> 30:18 <b>complies</b> 31:20 <b>comply</b> 32:1 <b>compromise</b> 51:22 83:14 <b>computer</b> 60:6 80:21 <b>concept</b> 69:1 <b>concern</b> 13:18 25:8 28:13 55:8 80:10 <b>concerned</b> 19:17 54:18 <b>concerns</b> 20:7 43:4 <b>concluded</b> 84:10 <b>concludes</b> 18:20 <b>conclusion</b> 6:18 61:14 <b>condition</b> 11:13 <b>conduct</b> 60:14 <b>conducted</b> 17:13 <b>conference</b> 68:8 <b>CONFERS</b> 69:14 <b>confidence</b> 57:22 70:6 <b>confident</b> 31:22 38:19 56:2 57:2 77:10 <b>confirmation</b> 11:7 11:16 14:11 <b>conflict</b> 29:5,13
<hr/> <b>C</b> <hr/> <b>C-O-N-T-E-N-T-S</b> 3:1 <b>calendar</b> 4:14 <b>call</b> 50:14 61:22 62:2,3,20,20 <b>calm</b> 59:16				

58:14 65:3,7  
**congregate** 48:19  
**consider** 55:1  
**considered** 42:15  
**consistent** 5:5  
**constructive** 30:11  
**consult** 5:8  
**contacts** 63:22  
**contained** 6:22  
**contemplate** 35:12  
**context** 79:1  
**continue** 6:3  
**contract** 67:9  
**contribute** 58:16  
**control** 4:6 53:2  
 62:16 66:21  
**controlled** 38:20,20  
**convened** 1:16 4:13  
**conversation** 9:8  
**coordinate** 62:1  
**copies** 4:14 9:5,7,11  
 9:13,17 11:1  
 13:10 25:8 72:20  
**copy** 8:22 9:2 16:3  
 19:8,10 25:15,17  
 52:10  
**corner** 44:22 50:6  
**Corporation** 8:1  
**correct** 35:9,10,21  
 46:7 66:18 76:19  
 76:19  
**corroborated** 63:16  
**costs** 39:17  
**counsel** 7:11 8:1  
**counseling** 50:16  
**couple** 17:11 35:17  
 42:22 46:10 68:3  
**course** 14:7  
**court** 4:19  
**cover** 48:22 49:5,6  
**coverage** 27:6  
 28:12 45:17 46:3  
 47:10 48:21 49:20  
 55:17  
**covered** 44:10,11  
 47:6 50:8  
**covering** 45:3 49:8  
**covers** 49:2 50:6  
**crowd** 16:1 49:10

66:21  
**crowded** 66:9  
**crowds** 48:19  
**crying** 50:16  
**curious** 23:6 27:7  
 54:12  
**customary** 74:22  
**customer** 47:6 59:2  
**customers** 50:11  
 75:2  
**cut** 23:20  
**CV** 17:14

---

**D**


---

**D.C** 1:15 2:2,6,11  
 2:15 5:20 6:6,13  
 10:18  
**dance** 45:17,22  
**danger** 6:15 7:5  
 8:18,19 41:19  
**date** 14:10,16,21  
 15:10  
**dated** 6:1 7:1 16:5  
**dates** 15:16,19  
**day** 59:17  
**days** 13:21 14:16  
 15:20 18:13 67:9  
 72:14,16 74:5  
**deadline** 25:18  
**deal** 16:10 18:9  
 25:19 78:3  
**dealing** 59:10  
**decades** 58:8  
**decide** 53:18 69:4  
**decided** 53:18  
**decision** 5:10 6:18  
 53:6 62:9  
**decisions** 60:19  
**decrease** 52:6  
**defending** 53:5  
**deficits** 69:8  
**deliberate** 5:10  
**demeanor** 59:16  
**department** 45:10  
 69:9  
**depending** 39:22  
 73:18  
**describe** 33:15  
**described** 59:7

**designed** 49:5,6  
**desk** 4:16  
**detail** 15:14 51:20  
 53:20 68:21 73:17  
**details** 52:2  
**detected** 65:9  
**determination** 30:2  
 52:18  
**determine** 6:13  
 29:16  
**determines** 28:19  
**determining** 30:18  
**developed** 37:8  
**device** 46:12  
**devices** 4:22  
**diagram** 14:1,3  
 43:12 51:9  
**difference** 36:15,21  
 58:2  
**differences** 37:5  
**different** 12:16  
 15:19,20 21:5  
 34:9 37:16 43:14  
 66:2 83:1,2  
**difficult** 58:6  
**difficulty** 59:10  
**digital** 11:11  
**direction** 26:19  
 55:17  
**directly** 49:4  
**director** 51:15  
**discuss** 5:9 26:2  
**discussed** 16:17  
 40:8 41:16 52:20  
 69:3 75:10  
**discussion** 68:18,19  
 69:16 82:7  
**disinterested** 59:22  
**disperses** 16:1  
**dispersing** 49:10  
**disruptive** 4:20  
**distinction** 75:14  
**District** 1:1,17 2:5  
 4:5 7:20 37:9  
**document** 15:1,2  
 22:22 23:5  
**doing** 18:7 40:20  
 56:6 76:12  
**door** 49:9 50:1

**double** 26:17  
**doubter** 24:10  
**dozen** 64:9  
**drafted** 61:6  
**drawing** 55:14  
**drew** 60:4  
**drinks** 75:4  
**duties** 59:18  
**DVR** 46:11

---

**E**

---

**earlier** 44:2 82:7  
**ears** 54:11  
**easier** 9:22 60:7  
**easiest** 79:10  
**either** 30:17  
**elaborate** 41:10  
**electronic** 4:21  
**element** 64:4  
**email** 80:19,22  
**empathy** 59:7,7  
**employee** 14:22,22  
 15:8  
**employees** 3:8  
 14:20 15:7 16:18  
 21:2,11 22:8,9,16  
 34:11,12 55:10  
 57:18 71:4,11,16  
 71:18,20 72:3  
**empties** 39:3,13  
**empty** 35:18 36:10  
 40:17 65:22 73:5  
**encourage** 64:14  
**enhance** 67:10  
**enlightened** 19:6  
**enlightening** 18:22  
 19:4  
**ensure** 73:4  
**ensuring** 54:12  
**entering** 75:20  
**entire** 13:2 45:4  
 50:6  
**entrance** 45:5  
**especially** 58:9  
**ESQ** 2:3,4,9,9  
**establish** 7:4 62:21  
**establishment** 5:19  
 7:5 11:8 14:9  
 15:16,21 17:21

19:18 35:8 37:17  
 38:14 39:1 43:5  
 48:20 49:3,7,14  
 50:4,10 53:21  
 65:14,17,22 70:22  
 72:5 73:3  
**establishment's** 6:2  
 6:4 40:21 49:22  
**establishments**  
 17:19 37:1 39:6  
**estate** 37:2  
**evaluate** 57:21  
**evening** 20:14  
**event** 52:22 53:12  
**events** 15:1  
**everybody** 24:19  
 60:2 80:12  
**everything's** 82:15  
**evidence** 55:11  
 63:17  
**evolved** 36:13  
**exactly** 58:6 76:9  
**exam** 60:5  
**examples** 63:14  
**excused** 57:4 77:13  
 79:21 81:16  
**excuses** 24:19  
 56:18  
**executive** 14:6,18  
 17:18 32:21  
**Exhibit** 10:20 14:4  
 14:13 15:2,12  
**Exhibits** 3:6  
**exist** 8:20  
**existence** 52:5  
**existing** 46:9 47:19  
**exited** 50:13  
**exits** 50:3,10  
**expect** 83:4  
**expectation** 56:11  
 56:13 75:3  
**experience** 17:15  
 30:21 47:3,5  
 48:18 53:2,17,18  
 58:8  
**expert** 29:4 30:1,9  
**explained** 58:20  
 62:14  
**extensive** 17:15

**exterior** 11:9 27:2  
44:21 45:13 46:10  
74:3,4  
**extra** 56:3 73:20  
**extremely** 60:16  
**eye** 59:21  
**eyes** 31:20 54:11

---

**F**


---

**facing** 27:1  
**fact** 49:14  
**facts** 6:20,21  
**factual** 21:14  
**fail** 55:17  
**failed** 62:7  
**familiar** 18:2,4  
32:20 48:5 67:5  
**far** 4:9 19:2 54:18  
57:17 65:17 73:2  
**faster** 41:5  
**fault** 9:17  
**favor** 83:22  
**feel** 38:12 40:5 56:2  
57:2 59:8 81:5  
**feeling** 61:1 66:8  
**female** 45:21 50:16  
**females** 50:15  
**field** 58:8  
**final** 52:10 79:19  
80:12  
**fine** 9:12 20:22  
24:6 26:6 54:6  
76:22  
**finished** 13:2 79:21  
**first** 23:20 44:18  
45:19 54:17 70:19  
**fit** 64:4  
**five** 50:15  
**fixed** 16:10 25:18  
**flexibility** 76:5  
**floor** 2:6 45:17,22  
46:1 64:2,18,19  
**floors** 46:4  
**fly** 76:13  
**focused** 58:12  
**follow** 29:3 66:20  
**follow-up** 18:14  
**followed** 7:10 25:8  
**forehead** 54:8

**former** 17:16 55:2  
65:11  
**forth** 30:14  
**forwarded** 10:20  
**found** 44:15 63:1  
**four** 48:15 50:14  
51:19 52:5,11  
53:10,22 73:16  
74:13  
**frame** 78:3  
**free** 81:5  
**freedom** 66:6  
**Friday** 1:12  
**front** 10:1 11:9  
12:17 16:8 27:2  
49:2,4,7,13 51:10  
60:7 76:16 79:14  
**full** 10:16 13:22  
14:14,19 28:17  
57:20  
**further** 30:20 34:17  
67:10  
**future** 13:7 15:4  
31:2 35:14 56:18

---

**G**


---

**game** 60:20  
**general** 2:2,4,5  
6:10 7:10,20,22  
28:18 60:9 63:20  
65:14 66:15,15  
**gentleman** 17:13  
**getting** 58:13 59:12  
**give** 9:13 23:11  
44:14 61:13 63:14  
71:9,21 78:4,8,11  
78:12,22 79:6,18  
80:8,8  
**given** 13:10 23:8  
35:15 36:12 38:2  
38:19 39:4 47:4  
**gives** 45:11 76:4,5  
**glass** 38:6  
**glasses** 20:14  
**go** 9:19 18:17 23:2  
26:9 29:3 35:5  
37:13 39:11 42:4  
42:12,19,19 43:18  
59:14 61:22 68:7

76:16  
**goes** 34:17 35:5  
37:6 38:2  
**going** 8:21 9:1 10:5  
10:5,6,9,10 20:9  
20:12,13 26:9  
27:4,5,7,8,9 32:4  
32:16 33:18 34:10  
36:18 42:22 48:22  
49:18 51:18,19  
56:3,13 59:9,14  
62:16 66:16 68:2  
68:19 70:4 73:11  
75:3,17 77:17,18  
78:4,5,8,11,12  
79:1 82:9,11,13  
82:15,18 83:12  
**good** 4:3 7:18 8:5  
18:16 32:16 45:11  
54:10,16 55:11  
56:21 57:11,14  
66:8 67:17  
**gotten** 13:3 77:5  
**government** 1:1 7:9  
61:13  
**great** 23:12 27:21  
34:2 51:22 52:3  
**greatly** 20:7  
**grew** 65:5  
**guard** 60:21  
**guess** 15:21 19:14  
47:21 50:19  
**guests** 37:14,14  
**guy** 20:13 64:2,18  
**guys** 46:17 47:4  
70:5 81:1

---

**H**


---

**half** 64:8 76:2  
**hammer** 68:8  
**hand** 79:14,15  
**handful** 48:11  
**handled** 62:17  
**handling** 59:11  
**happen** 19:11  
39:18 63:13 68:20  
**happened** 43:4  
60:12 75:8  
**happening** 19:20

35:14  
**happens** 24:13  
63:10  
**happy** 33:5 53:22  
**harm** 16:1  
**hate** 9:18  
**he'll** 67:6  
**head** 35:9 45:21  
**heading** 10:6  
**health** 6:16 7:6  
**hear** 11:19,21 12:5  
12:7 17:2,20 33:6  
33:19 56:22 61:19  
69:16,17  
**heard** 43:6 74:16  
**hearing** 1:8,13 4:5  
4:14,17,21 5:4,14  
6:5,8,12,19 7:3,8  
11:17 14:11,16  
15:10 19:20 41:20  
56:2 57:19,20  
69:10 76:11 77:12  
83:4 84:9  
**hearings** 5:7 52:16  
**Hector** 1:21 4:10  
**helpful** 9:22 31:1  
45:8 49:11 51:1  
72:7  
**Henock** 2:13 8:10  
**hereto** 14:4,13 15:2  
15:12  
**heyday** 66:7  
**hired** 72:3  
**hit** 45:21  
**hitting** 35:8  
**hold** 19:9  
**hope** 55:21  
**hopefully** 80:15  
**hospitality** 17:19  
**Host** 14:15 17:22  
18:5 66:16  
**hour** 23:21 76:3  
78:14 81:4 82:1  
**hours** 12:21 13:16  
24:17 25:22 26:3  
26:5 36:13 67:13  
67:16 72:20 75:10  
75:11,12  
**houses** 45:1

**housing** 51:9  
**hurt** 42:10  
**hush** 69:16

---

**I**


---

**id** 10:5  
**idea** 56:22 57:1  
60:9 66:15  
**illogical** 74:19  
**image** 47:16,18  
**images** 48:1  
**imagine** 78:14  
**immediate** 4:10  
49:7  
**immediately** 13:9  
25:3 72:18  
**imminent** 6:15 7:5  
8:18,19 41:19  
**importance** 58:18  
63:5  
**important** 16:16  
51:18 52:2 58:11  
59:1 60:16 64:18  
68:18 75:13  
**impression** 66:14  
**impressive** 65:1  
**improve** 45:16  
**improved** 65:19  
**improvement**  
38:11  
**improvements**  
44:18  
**incident** 5:17 6:21  
15:4 19:17 35:6  
38:16 44:19 45:9  
45:21  
**incidents** 3:8 14:20  
18:10 35:7 41:16  
43:4 45:20  
**inclined** 68:5,12  
69:20  
**include** 14:7 29:11  
**including** 10:17  
11:8 14:1,21  
**independent** 71:10  
**indicated** 21:22  
**individuals** 64:2  
**information** 18:5  
23:6,13 32:22

63:12  
**initial** 65:15  
**injured** 50:17  
 60:13  
**insert** 14:5  
**inside** 27:6 36:7,9  
 73:8  
**inspected** 43:22  
**install** 55:15  
**installed** 73:21  
**interested** 7:3  
 57:19  
**interior** 45:14,15  
**interrupt** 12:11  
 52:10  
**interruption** 5:2  
**introduce** 7:13  
**Introductions** 3:3  
**introductory** 10:7  
**investigated** 15:5  
**investigation** 45:7  
 47:20 48:2,6  
**investigations**  
 13:19 65:3  
**investigative** 7:1  
**investigator** 3:10  
 11:15 15:4 27:15  
 27:19 43:18 46:21  
 72:19  
**investigators** 13:10  
 13:11 15:5 25:9  
**invite** 43:21 63:9  
**involved** 30:10 35:8  
**Ireland** 65:6  
**issue** 13:17 14:21  
 18:10 25:15 41:1  
 41:1,3  
**issues** 6:20,21  
 25:12  
**items** 29:7

---

**J**


---

**J** 2:9  
**Jason** 11:15  
**Jenkins** 19:8,13  
 79:15 80:8,20  
 81:1  
**job** 62:21  
**John** 3:12 14:9

17:12 57:14  
**Joining** 4:8  
**July** 1:12 4:7 6:3,6  
 7:1  
**June** 5:17 6:1

---

**K**


---

**KAUWAN** 2:4  
**Kawaun** 7:21  
**keep** 68:16 72:2  
**keeps** 44:21  
**kept** 72:5  
**kind** 27:16 36:18  
 38:11 57:1 63:3  
 66:14  
**Kline** 2:9 7:11 8:5,7  
 9:6 11:1,2 12:10  
 12:14 13:4 15:18  
 16:6,17,21 17:10  
 18:21 19:5 20:17  
 20:20 21:13,20  
 22:6,10,14,20  
 23:9,14,19 24:20  
 25:12,22 26:3,6  
 26:14 27:14 30:4  
 31:12,18 33:4,13  
 33:22 34:5,14,20  
 35:10,15 36:1,8  
 36:20 37:22 38:14  
 39:11,21 44:1,4  
 51:8,17 53:8,16  
 54:6 55:12 56:5  
 56:16,19 66:19  
 67:4,8 68:4,11  
 70:2,7 71:21  
 73:10 74:5 75:9  
 76:1,9 77:14,20  
 78:11 79:6 80:13  
 81:11,16,21 84:5  
**knew** 17:4  
**know** 7:14 9:4,16  
 12:8 17:8 22:18  
 23:12 24:12,18  
 26:8,11 27:15  
 29:7,10 32:5,22  
 33:1,2,12 37:20  
 38:9,16 40:7,15  
 41:15 42:10,11  
 47:3 48:21 49:1

49:17 50:10 53:8  
 54:10,13 55:4  
 57:8,21 58:3,6,7  
 58:10 60:18 62:8  
 62:10 64:9,13  
 66:5 68:1,12 71:6  
 74:18 78:16 83:1  
**knowing** 56:3  
**knowledge** 58:16  
 64:15  
**knows** 36:22 38:15  
 53:4

---

**L**


---

**language** 12:18  
 24:14 25:2,5  
 58:20 59:2 68:3  
 72:16 76:18 78:4  
 78:9 79:1  
**Lanier** 5:18,22  
**large** 69:9  
**late** 48:14  
**law** 2:10 29:3,7,18  
 29:21 62:21  
**laws** 10:17 28:18  
**layout** 45:14  
**leave** 28:13 36:4,11  
 37:19 54:1 80:11  
 81:13  
**leaving** 40:21  
**left** 70:1  
**legal** 5:8 30:6 76:3  
**lenses** 51:7  
**let's** 14:5 43:17  
 75:12  
**lethal** 42:9  
**letter** 5:22  
**licence** 6:2,5  
**license** 1:9 5:14  
 75:6  
**licensed** 34:15  
**licensee** 8:7,9 14:14  
 16:4,4 20:1 55:13  
 64:14 82:16  
**lieutenants** 69:7  
**life** 60:12 63:10,14  
**lift** 3:16 83:15  
**lifted** 82:11  
**light** 47:12,21

**lighting** 66:6  
**likelihood** 52:6  
**limited** 52:21  
**limits** 53:14  
**line** 22:15  
**list** 14:19 21:1,10  
 21:21 22:4,8 29:8  
 52:11 70:15 71:4  
 71:5,10,13 72:2,4  
**lists** 29:10  
**little** 8:22 24:9 47:1  
 74:19  
**lived** 65:6  
**Living** 50:2  
**LLC** 1:7 2:8,14  
**locate** 55:14  
**located** 5:15  
**location** 3:7 14:2  
**locked** 24:13  
**long** 25:18 39:12  
 46:21 68:17 80:16  
 83:4  
**longer** 8:20 19:9  
 42:12 68:16  
**look** 10:2 25:1  
 27:17,17 28:15,21  
 28:22 29:5,8,15  
 30:1 32:4,9,13  
 58:1 76:14  
**looked** 23:7 30:6  
 50:15  
**looking** 24:11  
 30:17 65:1,9  
**looks** 26:11 29:19  
 29:21 43:11 46:7  
 49:6 73:22  
**loopholes** 24:11  
**lot** 30:13 36:22  
 49:8,17 54:19  
 55:4,5,6 56:2  
 58:10  
**Louise** 2:3 7:10,19  
**love** 21:9  
**low** 47:12  
**Lux** 1:8 2:8,14 5:14  
 8:11 82:4 83:14

---

**M**


---

**ma'am** 83:10

**Madam** 7:19 8:5,14  
 12:10 30:4 36:20  
 79:13  
**main** 41:1  
**maintained** 13:21  
**making** 39:3,12  
 53:6 64:1  
**man** 55:2  
**manage** 41:17  
**manager** 71:6  
**managers** 21:4  
 22:19 34:16 63:19  
 64:7  
**mandates** 30:19  
**mark** 10:2  
**marketplace** 38:2  
**materials** 33:11,14  
**matter** 1:6,16 8:15  
 82:12 83:2,15  
 84:9  
**matters** 3:4 7:4,15  
 8:2  
**mean** 9:12 22:18  
 24:18 33:8 36:17  
 37:18,22 39:5  
 54:15 59:7 61:20  
**meaning** 75:4  
**meant** 59:8  
**meeting** 5:6  
**Meetings** 5:3,6  
**melee** 42:6  
**member** 1:21,21  
 9:9 18:3 19:14  
 20:5,18,21 21:19  
 22:3,7,13,17 23:1  
 23:10,17 24:4,7  
 25:7,20 26:1,4,7  
 26:15,20 27:3,12  
 27:21 28:3,7 42:2  
 42:17,21 43:17  
 44:13 46:20 47:2  
 47:11,22 48:4,8  
 48:13,17 49:19  
 50:9,22 51:4,12  
 52:13 54:4,9  
 55:12 56:1,7,10  
 56:17 61:18 63:18  
 64:12,22 65:8  
 66:10 69:18 70:3

70:9 71:2,8,14,19  
72:6,13 73:19  
74:2,18 75:16,21  
76:7 77:7,8 80:17  
83:19  
**members** 4:12 8:6  
26:8 69:15  
**mention** 29:6,12,13  
29:14 41:9 62:7  
**mentioned** 29:1,2  
40:9 44:1 62:8  
74:17  
**mentions** 29:5  
**merely** 71:6  
**met** 44:20  
**military** 55:2 65:11  
**Miller** 1:18,20 4:3  
4:8 8:3,12 9:21  
10:13 11:5,22  
12:4,9,13,22  
16:14 17:1 18:16  
19:3,12 27:11  
28:5,9 31:3,17  
32:3,15 33:10,17  
34:1,7,18 35:3,11  
36:14 37:18 38:4  
39:10,19 40:4,19  
41:6,22 42:16,18  
43:2,10,15,20  
44:5,9 46:5,19  
51:2 56:9,20 57:5  
57:9,11,16 60:8  
61:16 64:21 66:13  
67:2,12,16,21  
69:12 70:18 72:22  
73:13 74:6 77:9  
77:15,21 78:2,21  
79:4,11,17 80:1,6  
81:3,9,15,20,22  
82:3,21 83:3,9,11  
83:20 84:6  
**mind** 54:5 62:18  
65:20  
**mind-set** 58:13,13  
**minimum** 54:3,3  
73:18  
**minor** 9:15  
**minutes** 15:15,17  
16:9,12

**mis-spoke** 76:20  
**missed** 74:10  
**missiles** 42:4  
**missing** 20:10  
45:18  
**mistake** 23:3  
**momentarily** 82:10  
**monitor** 36:3  
**monitors** 46:13  
**morning** 4:4 7:18  
8:5 9:1,5,15 12:15  
21:22 24:22 48:15  
48:15 57:12,14  
60:6  
**motion** 83:21 84:3  
**move** 83:12  
**movement** 66:6  
**MPD** 13:9,11,18  
15:5 25:4,9 52:17  
52:21 53:7,12,17  
54:1 62:20 68:13  
72:19 73:18  
**MPD's** 53:2  
**multiple** 9:16  
**Municipal** 1:14  
**music** 63:6  
**musician** 42:4

---

### N

---

**N.W** 1:15 2:6 5:15  
**nail** 77:16  
**name** 4:7 14:21  
53:13 57:12  
**Nations** 65:2  
**necessary** 52:19  
68:17 77:6  
**need** 42:11 53:7,21  
62:3,18,19 66:7  
76:6 81:13  
**needs** 53:1,12  
81:16  
**neutral** 59:22  
**new** 1:8 2:14 5:15  
13:15 15:8 16:18  
34:12 46:2,6,11  
46:11,13,16 47:19  
72:3  
**newer** 47:17  
**newest** 18:3

**Nick** 1:21 4:9  
**night** 10:21 11:10  
11:18 14:18 17:14  
20:2 22:2,5 33:7  
44:18,19 45:9,19  
48:14 50:5,13  
51:13,14 58:12  
60:4 66:4 67:13  
74:21  
**nightclub** 36:22  
38:3,6  
**nightclubs** 37:10  
42:3  
**nights** 74:13,14  
**noises** 4:20  
**non-stop** 65:7  
**Northern** 65:6  
**Nos** 3:5  
**notes** 9:4,12,19  
69:1  
**notice** 6:22 32:12  
**nowadays** 58:20  
**number** 52:20 53:2  
53:14 75:14  
**numbers** 46:14  
**NW** 1:8 2:10,14

---

### O

---

**o'clock** 19:21 20:3  
75:7  
**OAG** 29:19 82:12  
83:15  
**objection** 44:3  
**objects** 42:8  
**observers** 58:19  
**observing** 23:22  
**obtain** 5:8  
**obviously** 32:4  
34:17 47:18 50:20  
80:20  
**occasions** 48:11  
**occurred** 14:10  
49:12  
**offer** 40:10  
**offer-in** 51:21  
83:13  
**offer-in-compro...**  
3:4 8:17 9:7 10:8  
77:11 82:6,9  
**office** 2:2,5 6:9 7:22  
10:20 28:18 72:5  
**office's** 31:19  
**officer** 17:16 63:11  
65:11  
**officers** 51:20 52:5  
53:1,3,19 60:13  
63:16 69:5 73:17  
**Official** 5:20 6:6,14  
10:19  
**Oh** 13:4 26:15 34:5  
57:5  
**OIC** 3:5,13,16 17:4  
18:22 24:1 40:2  
41:8,15 52:10  
53:12,13 57:17  
72:16 78:13,16,20  
82:17 83:16  
**okay** 8:12 11:22  
12:5,9,13 16:14  
18:16 19:13 20:21  
21:19 22:3,13  
23:3,9,17 24:4  
25:7 26:7 27:11  
27:12,22 28:9  
31:3,8,17 32:3,15  
32:15 33:10 34:1  
34:19 35:3 39:10  
39:19 40:4 41:6  
42:1 43:2,15 44:5  
46:19 47:2,11  
48:4,17 50:22  
56:9,20 57:9,16  
60:8 61:16,21  
64:12 66:10,13  
67:17,21 69:20  
70:11 71:2,14,20  
72:22 73:13,15,16  
73:19 74:6,21  
75:5,22 76:22  
77:4,9 78:21 79:4  
79:11,19 80:3  
81:20 82:22 83:11  
84:3  
**old** 9:11 31:14 32:2  
32:9,10 39:7 46:6  
**one-page** 79:7  
**ones** 46:11  
**open** 5:3,4,6 15:16

20:3 74:13,14  
75:2  
**opening** 7:8,11  
**operability** 56:14  
**operable** 11:10  
56:12  
**operate** 47:12  
**operates** 64:5,17  
**operating** 15:17  
45:8 47:20 58:1  
82:16  
**operation** 6:15  
12:21 13:16 75:12  
**opinion** 45:16  
**opposed** 60:1 62:12  
83:22  
**opposite** 55:15,17  
**order** 59:15 62:22  
**organization** 64:16  
**organize** 64:5  
**organized** 63:20  
**outdoor** 26:10  
**outline** 3:3  
**outlined** 40:15  
**outside** 26:12,12,16  
26:18 27:6 29:10  
43:5,7,10,12  
44:22 48:20,22  
49:1,11,16 51:5  
55:5,6,7  
**overall** 64:16  
**overhaul** 31:13  
**overhauled** 32:9,13  
**overview** 44:14  
**owner** 2:14 8:11  
44:20 56:6

---

### P

---

**P-R-O-C-E-E-D...**  
4:1  
**p.m** 67:15,15 84:11  
**pace** 41:2  
**page** 3:2 23:2 70:17  
73:22 79:5  
**paggers** 4:22  
**paid** 31:6  
**paragraph** 10:7  
12:14 13:2 29:17  
**parking** 49:8,17

<b>part</b> 13:3,15	16:15 17:3 18:20	<b>possibility</b> 37:19	<b>proceedings</b> 4:18	42:22 44:15 51:3
<b>particular</b> 75:9	19:7 22:21 24:6	<b>possibly</b> 62:15	5:2	55:9 57:8 61:4,17
<b>particularly</b> 65:2	28:1,21 30:7	<b>pouring</b> 40:16	<b>process</b> 77:17	67:17,22 70:12
<b>parties</b> 6:19 7:13	31:21 32:7 34:3	<b>PowerPoint</b> 61:3	<b>product</b> 31:16	81:4 83:12
7:15 8:16 9:8	40:6 41:13 52:8	<b>practicable</b> 13:12	<b>professionals</b> 59:5	<b>quick</b> 42:22 56:11
82:5	52:15 54:2 57:3	25:16	59:15	70:5
<b>party</b> 75:4	68:7,10 74:9 75:6	<b>practical</b> 25:10	<b>projection</b> 61:4	<b>quicker</b> 41:2,4
<b>pass</b> 63:7	75:19,22 76:10,22	<b>practice</b> 34:9 37:8	<b>prolific</b> 9:3	<b>quickly</b> 22:12 68:9
<b>passes</b> 84:3	79:12,20 80:3	<b>predicate</b> 68:11	<b>promptly</b> 39:13	<b>quite</b> 17:16 44:17
<b>passing</b> 63:12	81:6,12,18 82:19	<b>prefer</b> 33:6	73:4	47:3
<b>password</b> 12:19	82:22 83:7,10	<b>preference</b> 40:1,7	<b>proper</b> 11:12	<b>quorum</b> 4:13
13:13 24:12,19,21	<b>phone</b> 50:14	<b>prefers</b> 33:9	<b>proprietary</b> 23:6	<b>quoted</b> 63:15
25:5 72:17	<b>phones</b> 4:22	<b>preliminary</b> 3:4	23:12	
<b>patrons</b> 20:2 23:21	<b>pick</b> 39:9	8:15	<b>protect</b> 55:9	<b>R</b>
37:20 38:22 70:21	<b>picked</b> 39:16 45:22	<b>premises</b> 11:9	<b>protection</b> 17:18	<b>radios</b> 63:21
70:22 74:12,16	<b>pictures</b> 28:2	12:20 13:14 14:1	<b>protects</b> 55:10	<b>raised</b> 75:14
75:20	<b>place</b> 35:7,20 37:14	72:2	<b>provide</b> 11:16	<b>RDU</b> 15:20,22
<b>PDF</b> 78:18	40:12 51:10 54:18	<b>prepared</b> 58:13	15:13 22:12 46:3	52:11 53:9,14
<b>people</b> 12:8 22:4	55:6 57:22 58:4	59:13	53:20 72:8	62:3
36:5 39:2 41:4	<b>placement</b> 37:1	<b>present</b> 1:19 2:12	<b>provided</b> 15:3 82:5	<b>RDUs</b> 54:10
54:20 58:10 59:21	76:19	79:13	<b>providing</b> 23:16	<b>re-present</b> 80:5,7
61:7,8,8 62:2 63:9	<b>plan</b> 3:7 10:15,18	<b>presentation</b> 61:2	25:15,16 33:20	<b>read</b> 9:1,3 10:6,9
63:10,11 66:3	10:19 16:16 17:4	<b>presenting</b> 77:10	53:1	10:10 20:11 54:5
73:6	28:16,19 29:2	<b>presents</b> 6:15	<b>provisions</b> 32:1	70:16 80:18 81:2
<b>percent</b> 58:21 61:8	30:9,12,15,22	<b>presiding</b> 1:18	<b>public</b> 5:4,5,7 6:16	<b>reading</b> 3:5 13:2
<b>Perfect</b> 81:3	31:5,8,14 32:2,8,9	<b>pretty</b> 68:9	7:6 16:2 55:10	<b>ready</b> 11:4 42:18
<b>perfectly</b> 41:15	32:10 40:2,8,18	<b>prevent</b> 35:13	59:19	42:19 59:13
<b>performed</b> 14:15	66:17 67:3 73:12	<b>previous</b> 31:5,8	<b>pull</b> 44:7	<b>real</b> 37:1 56:11
<b>periodic</b> 56:14	75:11 78:8,9,13	52:16	<b>purpose</b> 6:12	60:11 63:10,14
<b>perpetrators</b> 52:4	78:17,18 79:8	<b>prices</b> 39:5	<b>purposes</b> 32:12	<b>realistic</b> 37:21
<b>person</b> 36:2 59:9	<b>plans</b> 28:22	<b>print</b> 81:1	53:11 68:13	<b>realize</b> 62:2,19
60:18 62:17 71:13	<b>plastic</b> 38:8	<b>printer</b> 80:21	<b>pursuant</b> 5:19	<b>really</b> 26:21 36:21
<b>personally</b> 14:9	<b>please</b> 4:22	<b>prior</b> 11:16 15:9	<b>put</b> 15:17 30:22	37:7 66:7 75:1
<b>personnel</b> 14:13	<b>pod</b> 44:22	48:9,10	31:14 33:5 40:1	<b>reappear</b> 81:7
38:21 53:15 54:16	<b>point</b> 23:20 52:8	<b>private</b> 40:11	41:8,14 52:20	<b>reasonable</b> 25:19
62:13 64:19 66:1	72:9	<b>pro-actively</b> 62:17	53:10,13,22 56:15	25:21
68:14 71:7	<b>pointed</b> 15:18	<b>probably</b> 9:17	70:14,20 73:11	<b>reasonably</b> 13:12
<b>perspectives</b> 18:9	<b>pointing</b> 26:19	36:22 37:9 79:9	<b>putting</b> 54:22 77:17	25:10 47:5
<b>Peru</b> 3:10 11:15	<b>points</b> 16:16 17:11	<b>problem</b> 23:15 25:1	77:18 78:7 83:5	<b>reasons</b> 44:11
12:1 27:16,19	30:5 51:10,11	49:1		<b>recall</b> 35:6
43:18,21 44:8,11	<b>police</b> 5:18 17:16	<b>problems</b> 40:14	<b>Q</b>	<b>recap</b> 3:13 69:21
44:17 46:7,21	45:9 52:5 60:12	61:10	<b>question</b> 11:11 17:8	<b>receptionist's</b> 4:16
47:1,8,14 48:3,6	62:20 63:11 69:5	<b>procedural</b> 7:15	30:17 35:5 44:19	<b>receptive</b> 63:8,9
48:10,16 49:2,21	69:8	<b>Procedurally</b> 79:12	50:5,19 51:5 68:2	<b>recess</b> 80:13 82:2
50:12 57:3,7	<b>policing</b> 53:5	<b>procedure</b> 80:4	69:2 76:11 80:9	<b>recognized</b> 58:22
<b>Phillips</b> 2:3,7 7:10	<b>portray</b> 59:4	<b>procedures</b> 63:20	<b>questions</b> 3:9,11,12	<b>recommends</b> 73:18
7:18,19 8:14 9:14	<b>position</b> 19:9 76:13	72:11	17:5 18:18 19:1,4	<b>record</b> 22:22 33:1
10:4,14 11:3,6	<b>positions</b> 21:3,5	<b>proceed</b> 9:10	19:13 27:4,5,18	54:19 57:13 77:2
12:2,6 13:1,6	22:18 71:4	<b>proceeding</b> 5:11	28:10,11 33:18	80:11,18 82:4

84:10  
**recorded** 4:18  
**recording** 46:12  
**recordings** 25:2  
**records** 27:2  
**recount** 70:8  
**redundant** 32:19  
**Reeves** 1:14  
**referenced** 17:7  
**referring** 38:17  
**reflects** 22:1  
**refrain** 4:19  
**regarding** 72:16,17  
**regularly** 72:1  
**Regulation** 1:3,17  
**reimbursable**  
 15:14 51:20 52:1  
 53:20 73:17  
**reinforced** 60:17  
**reinforcement**  
 18:14  
**reiterated** 61:1  
**related** 6:20 35:13  
 67:3  
**relates** 25:16  
**release** 69:5  
**remain** 59:15  
**remember** 40:9  
 60:4  
**removed** 39:13  
 73:4  
**removing** 35:18  
**repair** 46:8  
**report** 7:2 46:15  
**reporter** 4:19  
**reporting** 64:10  
**reports** 19:19  
**represented** 7:9  
**represents** 22:15  
**request** 13:9 15:3  
 24:17 25:4 27:15  
 69:11  
**requested** 6:5  
 24:22  
**required** 37:3  
**requirement** 34:16  
**requirements**  
 10:17  
**requires** 29:21

34:15  
**reservation** 37:3  
**reserve** 37:10  
**reserved** 37:13  
**reserves** 52:17  
**reserving** 37:2  
**resolution** 29:5,13  
 58:14  
**respect** 23:4 78:6  
**respective** 6:10  
**respondent** 2:8 6:5  
 6:10 7:12  
**responses** 70:12  
**rest** 28:14 37:16  
 68:9 71:7  
**result** 5:17  
**resume** 65:1  
**Retailer** 1:9  
**return** 80:18  
**reveal** 11:13  
**review** 13:8 25:3,13  
 77:22,22 79:18  
 80:9 81:10  
**reviewed** 28:19  
 61:10 66:21  
**reviewing** 14:2  
**revise** 78:17  
**revised** 3:7 10:15  
 10:19 28:16 31:9  
 78:9,13,13 82:6  
**revising** 79:21  
**revisions** 31:22  
**revocation** 6:1  
**rid** 42:6  
**right** 4:9,10 8:3  
 10:14 11:6 12:22  
 13:7 17:6 18:17  
 21:13 22:6 32:4  
 33:21 35:4 40:17  
 41:12,22 42:5  
 43:18,20 48:1  
 52:17 54:6 65:18  
 67:4,18 70:18  
 71:9,19,20 73:1  
 73:14,21 76:10  
 77:15 78:7 79:17  
 80:15 81:11,12,18  
 83:3 84:6  
**Robert** 18:1

**Rodriguez** 1:21  
 4:11 18:2 42:1,2  
 43:17 44:13 51:4  
 51:12 52:9 54:9  
 55:13 56:1,7  
 64:22 65:8 66:10  
 70:9 77:8 83:19  
 83:21  
**role** 14:22 61:20  
**Rome** 2:9 3:13 8:8  
 8:8 26:17 36:6  
 43:11 68:6 70:8  
 70:11,19 71:3,12  
 71:17 72:1,8,15  
 73:2,15,20 74:4,7  
 76:20 78:16 79:3  
 80:19  
**room** 1:13 4:21  
 24:13 68:8,14  
 69:10 80:22  
**rope** 36:6,8 73:8,8  
**roped** 35:20  
**roped-off** 36:1,15  
 36:17 37:4  
**rude** 12:11  
**run** 18:1  
**Ruthanne** 1:18,20  
 4:7

---

**S**

---

**safe** 55:18  
**safer** 38:13 58:1,4  
**safety** 6:16 7:6  
 38:22 44:10 52:1  
**sales** 74:20  
**Sankar** 2:4 7:21  
**satisfied** 77:4 82:8  
**satisfy** 8:18  
**Saturday** 51:13,14  
**saw** 12:3 20:6  
 43:19 45:3 48:22  
 65:16,18  
**saying** 34:10 38:7  
 75:17 79:22 80:2  
 80:7,12  
**says** 10:8 11:20  
 12:18 25:2 26:16  
 29:6 70:13 75:6  
**scheduled** 4:17

**school** 61:12  
**scored** 61:7  
**Scott** 2:9 8:8  
**scratch** 31:15  
**screen** 45:3  
**second** 23:2 25:15  
 83:18,19  
**seconded** 83:21  
**Section** 5:5,20 6:7  
 6:14  
**sections** 12:15  
**security** 3:7 10:15  
 10:18 14:7,8,12  
 14:15,18 16:16,17  
 17:4,17,22 18:6  
 20:12,15,17,19,20  
 21:2,3,4,5,17 22:8  
 22:15 23:3 28:16  
 28:19,22 29:2,4  
 29:12 30:1,9 32:8  
 32:21 36:2,4  
 38:21 40:2,8,18  
 45:12 46:18 51:15  
 54:12 57:18 58:8  
 58:9 59:5 62:2,12  
 62:13 63:15 64:5  
 64:17 65:10 66:1  
 66:17 67:10 71:7  
 71:10,17,20 72:3  
 72:10 73:6,11  
 75:11 78:5,8,9,13  
 78:17,18 79:8  
**see** 10:19,22 14:3  
 14:11 15:1 16:7,8  
 17:6,7,15 19:22  
 23:7 33:19 35:1  
 43:16 45:6,20  
 46:18 47:16 49:11  
 54:13 55:4,9 58:2  
 66:7 82:15  
**seeking** 6:1  
**seen** 8:1 42:4 49:18  
 65:22  
**sells** 30:8  
**send** 82:11 83:14  
**sense** 30:20 64:1  
 74:12,14 77:1  
**serious** 55:6  
**serve** 15:7 34:11

75:7  
**server** 40:10  
**servers** 21:18 40:13  
 74:20  
**service** 35:20 37:12  
 38:18 39:6 40:7  
 40:10 73:3,7,9  
 75:13 76:3 78:6  
**session** 14:6,15  
**sessions** 3:8 14:12  
 32:17  
**set** 3:15 82:14  
**sets** 31:19  
**setting** 83:1  
**settlement** 5:9  
**seven** 72:14,15  
**severely** 38:1  
**Sexton** 3:8,12 14:6  
 14:9,17 17:12  
 18:11,15 21:21  
 23:11 32:21 56:22  
 57:14,15 58:5  
 60:10 61:19 62:5  
 64:6 65:5,20  
 66:12,14,19 67:1  
 67:14,19  
**Sexton's** 23:4 64:15  
**she'll** 80:8  
**sheet** 63:6  
**shooting** 45:1  
**short** 30:8  
**shot** 45:12 55:20,21  
**show** 41:20 49:10  
 49:14 57:20 76:17  
 82:12 83:15  
**side** 31:14,14 74:1  
**sidewalk** 45:4,13  
 49:3,4,13  
**signed** 16:3 19:10  
 21:21  
**significant** 69:8  
**significantly** 52:6  
**signing** 83:16  
**simple** 30:19  
**simply** 30:18  
**sir** 22:1 48:3 66:11  
**sitting** 24:2 68:14  
 69:9  
**situation** 16:10

31:2 41:5 55:7 62:15 66:9 <b>situations</b> 53:6 <b>six</b> 53:1,7,13 <b>skimmed</b> 32:10,11 <b>skip</b> 32:16 <b>slides</b> 61:3 <b>small</b> 51:4 <b>smash</b> 42:10 <b>smashing</b> 42:5 <b>Smith</b> 18:1,5 67:5 <b>Social</b> 50:2 <b>soft</b> 19:18 <b>softer</b> 60:22 <b>solo</b> 61:22 <b>somebody</b> 40:16 42:10 69:7 <b>something's</b> 63:13 <b>somewhat</b> 24:22 <b>soon</b> 13:11 25:10 25:16 35:19 73:5 <b>sooner</b> 42:6 <b>sorry</b> 13:4 17:1 34:5 52:9 <b>sort</b> 40:13 69:1 <b>sounds</b> 41:7 <b>South</b> 1:14 <b>speak</b> 16:22 29:18 32:2 60:22 66:8 <b>speaking</b> 32:20 <b>special</b> 4:4 7:21 65:2 <b>specific</b> 66:16 67:3 74:8 <b>specifically</b> 41:11 45:16 <b>specified</b> 23:21 <b>spoke</b> 49:20 <b>spot</b> 60:14,15,18 <b>spots</b> 11:14 <b>stabbing</b> 38:5 <b>staff</b> 20:16,17,19,20 21:2,3,6,17 62:12 63:19 <b>stand</b> 33:5 64:13 <b>standpoint</b> 31:19 52:1 <b>start</b> 19:15,15 28:11 43:3	<b>started</b> 31:15 <b>starting</b> 10:11 <b>state</b> 57:12 <b>stated</b> 5:12 <b>statement</b> 7:8,11 32:6 56:12 <b>stationed</b> 36:2,9 73:6 <b>status</b> 3:15 82:14 83:6,17 <b>statute</b> 30:19 31:21 31:22 32:2 34:15 <b>steps</b> 25:13 <b>stick</b> 6:20 <b>stickler</b> 24:9 <b>stop</b> 20:1 23:20 70:21,22 74:11,15 <b>stories</b> 60:12 <b>street</b> 1:15 2:6,10 49:5,9,17,18 76:18,21 <b>structure</b> 64:7,9 <b>studies</b> 58:19 <b>stuff</b> 55:6 <b>subjects</b> 58:10 <b>submission</b> 10:15 13:22 14:19 28:16 <b>submit</b> 68:3 <b>submitted</b> 5:22 <b>substantial</b> 11:13 <b>sufficiency</b> 27:6,20 30:6 <b>sufficient</b> 29:17 47:9 <b>sufficiently</b> 19:6 <b>suggestion</b> 9:10 <b>suggestions</b> 29:9 30:11 <b>Suite</b> 2:10 <b>summarize</b> 10:5 <b>summary</b> 1:7 3:5 4:4 5:13 6:22 82:4 84:8 <b>supervisor's</b> 62:10 <b>supervisors/man...</b> 62:11 <b>supplement</b> 32:22 <b>supposed</b> 29:6 <b>sure</b> 15:22 19:22	22:20 32:17 36:3 36:9 39:3,12 44:8 44:17 50:20 58:5 61:5 70:16 79:3 81:16 82:16 <b>surveillance</b> 12:19 13:14 <b>suspect</b> 27:4 <b>suspension</b> 1:7 3:16 4:5 5:13 6:4 6:22 11:17 82:4 82:10 83:16 84:8 <b>switched</b> 38:8 <b>sympathy</b> 59:8 <b>system</b> 12:19 13:14 27:17 47:7 <b>systems</b> 46:12,12	<hr/> <b>T</b> <hr/> <b>t/a</b> 1:8 <b>table</b> 37:10 39:4,9 43:22 <b>tables</b> 35:19 39:13 41:2,4 <b>take</b> 9:3,11,19 31:13 32:4 40:16 64:14 70:4 78:15 <b>taken</b> 41:18 69:2 82:2 84:2 <b>takes</b> 35:20 <b>talk</b> 20:9,12 33:15 41:7,11 64:1 82:1 <b>talked</b> 31:21 35:16 35:17 58:18 59:6 59:12 60:10 63:5 63:19 <b>talking</b> 50:18 <b>tame</b> 66:4 <b>tasked</b> 65:21 <b>tasks</b> 68:16 <b>taught</b> 57:21 <b>team</b> 64:17 <b>telegraphed</b> 54:7 <b>tell</b> 9:21 12:8 45:6 53:20 <b>tells</b> 48:18 <b>tems</b> 27:19 <b>ten</b> 74:5 <b>Ten-hour</b> 67:7,8	<b>terms</b> 10:11 17:17 18:9 21:14 25:13 30:14 37:6,15 39:12 48:21 65:16 79:7 <b>test</b> 8:18 23:7 41:19 61:6 72:9 <b>testify</b> 50:12 <b>testimony</b> 3:10,12 6:9 <b>testing</b> 61:15 <b>thank</b> 7:16 8:3,12 19:12 23:2 24:4,7 27:22 28:8 35:4 51:1 54:4 56:7 57:9 61:16 64:20 66:11 67:18 77:14 81:18,21 83:10 84:5,7 <b>Thanks</b> 23:18 67:20 <b>thing</b> 20:8 24:8 33:16 40:8 63:4 64:1 76:8 82:13 <b>things</b> 8:20 19:16 29:1,14 30:22 35:18 37:12 41:20 48:11 52:17 54:19 59:6 61:1,12 66:22 69:3 70:15 77:1 <b>think</b> 8:1 19:5 25:18,21 27:3 28:11 30:5,7 32:19 34:20 35:4 38:10 40:22 41:3 43:6 44:1 50:3 51:17 52:4 53:7 56:21 64:15 67:5 67:22 68:6 69:21 70:4 71:12,22 75:5,13 <b>thought</b> 18:7 24:21 30:22 35:16 36:12 76:14,15 81:7 <b>thousand</b> 66:3 <b>threat</b> 60:11,15 61:22 65:13,15,16 65:21	<b>three</b> 4:12 31:19 48:14 58:7 67:16 68:13,15 74:15,21 75:5 <b>Thursday</b> 16:11 <b>till</b> 20:3 <b>time</b> 15:15 27:16 60:19 62:20 70:5 78:3 83:2,13 <b>times</b> 10:2 59:20 73:7 75:15 <b>timing</b> 19:18 <b>tinkered</b> 8:22 <b>tinkering</b> 9:5 <b>tiny</b> 68:21 <b>TIPS</b> 3:9 15:6,7 34:7,10,21 <b>Title</b> 10:18 <b>titles</b> 71:22 <b>today</b> 4:5,7,9,13,17 5:13 6:8 17:12 18:11 77:12 78:5 78:10,22 82:11 <b>today's</b> 4:14 6:18 <b>told</b> 11:18 32:7 68:19 <b>tomorrow</b> 78:19 <b>top</b> 73:21 <b>totally</b> 32:19 59:22 <b>touched</b> 62:4,5,6 <b>toughest</b> 19:16 <b>trained</b> 16:18,19 20:10 22:2,4 34:16,21 57:17 <b>trainee</b> 66:15 <b>trainers</b> 63:15 <b>training</b> 3:8,9 14:6 14:8,12,14,15 15:6,8 16:20 17:11,13,22 18:6 18:8,11,12 20:13 21:9,15,16 29:12 32:17 33:11,14 34:8,10 57:1 58:3 58:9 61:7,15,20 62:12 66:17 67:8 67:13 72:10 <b>treading</b> 23:5 <b>treat</b> 60:1
---	---	---	--	---	---

**tried** 31:15  
**troubling** 19:21  
**try** 30:21  
**trying** 44:6 59:8  
 60:3  
**turned** 5:1  
**TV** 45:3  
**two** 9:14 18:8,9  
 25:12,13 26:13,14  
 26:21 30:5 36:4  
 39:2 43:9,10,13  
 43:14 45:1 46:11  
 46:12 50:3 51:6,7  
 51:8 67:9 69:6  
 73:6 74:9

**two-page** 22:22  
**type** 47:16 80:21  
**typical** 17:8

---

## U

---

**undermine** 38:1  
**understand** 11:17  
 12:1 43:13 54:15  
 56:16,19  
**understanding**  
 10:21 14:17 31:4  
 52:15 53:10 66:21  
 67:11  
**uninterested** 60:1  
**unit** 15:20 65:3  
**United** 65:2  
**units** 15:22 52:11  
 53:9,14  
**unrelated** 43:1  
**update** 72:2  
**use** 30:20,21 31:15  
 38:15 39:15  
**useful** 48:2  
**uses** 50:10  
**usually** 16:2 20:4  
 28:21  
**utilized** 61:3

---

## V

---

**vague** 20:8 24:9  
 25:10  
**validate** 21:10  
**varied** 17:17  
**various** 58:15  
**Veritas** 2:10

**video** 12:19 13:13  
 24:16 25:2 72:18  
**video-recorders**  
 11:11  
**video-recording**  
 13:8  
**videos** 13:20  
**view** 66:2 72:20  
**viewing** 43:14  
**VIP** 45:17  
**vision** 14:3  
**vote** 3:16 82:10  
 84:2  
**voted** 6:3

---

## W

---

**want** 7:13 18:19  
 19:9,10 26:9  
 27:18 30:16 32:19  
 41:14 44:6,11  
 52:11,21 53:1,3,4  
 53:9,10 56:18  
 57:6,20 60:9  
 68:12 69:4 75:2  
 79:13 80:3,4,7,10  
 81:13  
**wanted** 32:5 39:15  
 43:21 77:16 81:7  
**wants** 17:14,20  
 33:19  
**Washington** 1:15  
 2:6,11,15  
**wasn't** 30:17 31:10  
 61:20 65:21  
**watch** 59:1  
**watching** 59:21  
**way** 39:12,16 55:19  
 55:20,21 58:1  
 60:1 63:8 76:17  
 79:10  
**we'll** 28:13 41:11  
 69:2 70:14 71:21  
 77:22 79:18,18  
 80:13,14,14,17  
 83:17  
**we're** 19:20 21:14  
 23:22 32:4 38:19  
 43:5,7 44:5 51:18  
 53:21 54:6 61:13

69:20 70:16 73:10  
 73:11 76:12 77:10  
 78:11,12 79:20,21  
 80:11 82:3,9,13  
 83:5  
**we've** 30:5 35:16  
 35:17 51:21 77:5  
 80:15  
**weapon** 38:10 42:9  
**weapons** 42:8  
**Wednesday** 11:18  
 16:11 44:20  
**welcome** 4:4 66:12  
 67:19  
**went** 11:17 30:20  
 44:20 47:15 50:4  
 58:14 59:18 60:3  
 61:4 84:10  
**whatnot** 45:13,18  
**who've** 63:16  
**wide-angle** 45:4  
**wil** 56:12  
**willing** 23:11 24:3  
 39:22 53:13 55:13  
**wish** 11:19,20 12:6  
**witnessed** 3:8 14:20  
 15:1  
**witnesses** 6:11  
 77:13  
**wonderful** 23:18  
**wondering** 31:6  
 34:8 35:12  
**work** 15:9 16:20  
 34:13 44:16 47:4  
 53:9 55:3 59:14  
 59:15 73:3 80:14  
**worked** 42:3  
**working** 11:13  
 17:18 46:9 51:14  
 51:16 63:2  
**worried** 74:19  
**wouldn't** 49:8  
 76:16  
**write** 9:19  
**writing** 32:12 77:19  
 78:1  
**written** 23:7 72:9  
**wrong** 61:9 63:13

---

## X

---

x 1:6,11

---

## Y

---

**yeah** 69:20  
**year** 47:1  
**years** 65:7  
**York** 1:8 2:14 5:15

---

## Z

---

**zones** 65:3

---

## 0

---



---

## 1

---

**1** 3:6,7 10:11,14,20  
 28:15 36:10 39:3  
**1-7** 3:5  
**1:04** 84:10  
**10** 3:5,7  
**10-hour** 67:6  
**10:35** 1:17 4:2  
**100** 61:7  
**11** 1:12 4:7  
**12** 15:14  
**1225** 2:10  
**13th** 3:15 82:14  
 83:8,17  
**14** 3:7,8,8  
**14-251-00192** 1:10  
 5:16 7:2  
**14th** 1:15  
**15** 3:9  
**19** 3:9  
**19th** 2:10

---

## 2

---

**2** 3:7 6:3 7:1 11:3  
 11:20 12:14 13:2  
 14:4 35:20 36:11  
**2:30** 20:4,5 23:22  
 71:1 74:12,21  
 75:5,18  
**2000** 1:15  
**20001** 2:6,15  
**20009** 1:15  
**20036** 2:11  
**2014** 1:12 4:7 5:18  
 6:1,3,6 7:1  
**202** 2:7,11,15

**23** 22:4,16  
**24** 24:17 26:3,5  
 36:13 72:20  
**25** 10:18 23:3 71:12  
**25-826** 6:14  
**25-826(b)** 6:7  
**25-827** 5:21  
**26** 23:1 66:1  
**28** 5:18 6:1

---

## 3

---

**3** 3:8 13:22 14:13  
 19:21 32:16 75:2  
 75:7  
**3-0-0** 84:3  
**30** 13:21 14:16  
 15:14,17 16:9,12  
 18:13 65:6  
**320** 2:10  
**33** 61:3

---

## 4

---

**4** 3:3,8 14:5 15:2  
 20:3 75:2  
**400** 1:14  
**405(b)** 5:5  
**44** 3:10  
**441** 2:6  
**48** 25:22  
**4th** 2:6

---

## 5

---

**5** 3:6,9 14:19 15:12  
**537-3609** 2:15  
**57** 3:12

---

## 6

---

**6** 15:6 34:9  
**6-0** 6:3  
**6:30** 67:15  
**649** 1:8 2:14 5:15  
**686-75600** 2:11  
**6th** 2:6

---

## 7

---

**7** 15:13 16:7  
**70** 3:13  
**71743** 1:9  
**727-0874** 2:7

---

**8**

---

**8** 3:4 6:6**80** 58:21**82** 3:15**84** 3:16

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**9**

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**9:30** 67:15 82:20,21

83:8

**90** 58:21