

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

IN THE MATTER OF:

Howard Theatre Entertainment,      Fact-  
LLC t/a Howard Theatre              Finding  
620 T Street, NW                      Hearing  
Retailer CX - ANC-1B  
License No. 88646  
Case #14-251-00013,  
Case #14-251-00093,  
Case #14-251-00229,  
Case #14-251-00238 and  
Case #14-CMP-00240

(Follow-up to Fact-Finding  
Hearing on September 17, 2014)

October 22, 2014

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

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

MARK BRASHEARS, ABRA Investigator

T-A-B-L-E O-F C-O-N-T-E-N-T-S

STATEMENTS:

Roy Ellis. . . . .	7
Steven Bensusan. . . . .	.20
Officer T. Kyle. . . . .	23/61
Anthony Cosenza. . . . .	.41
Investigator Mark Brashears. . . . .	.66

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

(11:09 a.m.)

CHAIRPERSON MILLER: I am going to call the next case which is Case Nos. 14-251-00013, 14-251-00093, 14-251-000229, 14-251-00238 and 14-CMP-00240, Howard Theatre located at 620 T Street, N.W., License No. 88646, in ANC-1B.

When you are ready if you could introduce yourselves for the record starting on our right?

MR. COSENZA: Anthony Cosenza, general manager.

MR. BENSUSAN: Steven Bensusan, one of the owners of Howard Theatre Entertainment.

MR. ELLIS: Chip, Roy Chip Ellis of T Street Entertainment, one of the principals for the Howard Theatre.

MR. KLINE: And Andrew Kline, counsel for the applicant.

CHAIRPERSON MILLER: Okay. I just

1 want to get some names repeated. I have in my  
2 notes Mr. Bensusan, you are a managing member?

3 MR. BENSUSAN: Yes.

4 CHAIRPERSON MILLER: Okay. And  
5 could you repeat your name? I want to write  
6 it. And spell it.

7 MR. BENSUSAN: Steven Bensusan.

8 CHAIRPERSON MILLER: No, I've got  
9 you, I'm sorry.

10 MR. BENSUSAN: Okay.

11 MR. COSENZA: Anthony Cosenza, C-  
12 O-S-E-N-Z-A.

13 CHAIRPERSON MILLER: And your  
14 position is what?

15 MR. COSENZA: General manager.

16 CHAIRPERSON MILLER: General  
17 manager. And the --

18 MR. ELLIS: Roy Chip Ellis.

19 CHAIRPERSON MILLER: Ellis? Okay.

20 MR. ELLIS: One of the principals  
21 of Howard Theatre Entertainment.

22 CHAIRPERSON MILLER: Okay. Great.

1 Thank you. All right. And then we have from  
2 MPD. Hello again.

3 OFFICER KYLE: Good morning.  
4 Officer T. Kyle, MPD.

5 INVESTIGATOR BRASHEARS:  
6 Investigator Brashears, ABRA.

7 CHAIRPERSON MILLER: Okay. All  
8 right. This is a follow-up Fact-Finding  
9 Hearing. We had a Fact-Finding Hearing on  
10 September 17th at which we heard some  
11 disturbing things about security and not  
12 knowing what they were doing and crowd  
13 control.

14 And in general, what appeared to  
15 be some dangerous situations from the Howard  
16 perhaps not knowing what they should be doing  
17 or whatever and so we asked for certain  
18 things, including a security plan. And we  
19 want to see where Howard is, at this point,  
20 because we are concerned that more serious  
21 things could be happening there.

22 MR. KLINE: Madam Chair, if I may?

1 Let me say that, of course, Mr. Cosenza was  
2 here, but Mr. Bensusan, Mr. Ellis and I have  
3 all read the transcript of the last proceeding  
4 and we certainly understand and appreciate the  
5 Board's concerns that were raised during that  
6 hearing and are raised by the various reports.

7 I believe the management of the  
8 Howard Theatre takes those situations very  
9 seriously. I know the Board had questions and  
10 concerns about ownership structure, so what I  
11 would like to do at the outset is turn it over  
12 to Mr. Ellis for him to give you some  
13 background as to, you know, what is this  
14 organization, who runs it, who is in charge  
15 and then move on to changes that are being  
16 made, so that there will not be a repeat of  
17 the various serious circumstances we saw  
18 raised in the reports and were put on the  
19 record at the last hearing.

20 CHAIRPERSON MILLER: Okay. First,  
21 I want to check with Officer Kyle, because I  
22 know that, you know, you are off the streets

1 right now to be here. And we want to make  
2 sure, you know, what your time is, whether you  
3 need to tell us anything first or you are okay  
4 with --

5 OFFICER KYLE: I am okay. I am  
6 okay to be here.

7 CHAIRPERSON MILLER: Okay. Okay.  
8 Great. We are very happy to have you. You  
9 were so helpful last time we met.

10 OFFICER KYLE: Yes, ma'am.

11 CHAIRPERSON MILLER: Okay.

12 MR. ELLIS: Thank you, Madam  
13 Chair.

14 CHAIRPERSON MILLER: Okay. So you  
15 are going to start with addressing how  
16 things --

17 MR. ELLIS: Yes. My name is Roy  
18 Chip Ellis. I am a four generation  
19 Washingtonian here in Washington. And I want  
20 to apologize first off for not being here,  
21 being present for the last hearing, Fact-  
22 Finding Hearing.

1 I, quite frankly, did not know  
2 about it because of our change in management.  
3 Mr. Trey Harris is no longer with us and he  
4 took these matters irresponsibly and did not  
5 take any of this seriously. And you know, we  
6 are quite -- I am personally, quite frankly,  
7 embarrassed because this is a very serious  
8 matter.

9 When we started out about 10 years  
10 ago and came to the square block that the  
11 Howard Theatre sits in, my company is Ellis  
12 Developing Group. We are the developers of  
13 the actual Howard Theatre and one of the  
14 principal owners of the actual operation, but  
15 my business partner and I, Malik Ellis, who  
16 just passed away recently, we intended for  
17 this theatre to be a theatre for the people  
18 like it was back in 1910. It was a theatre  
19 for the people.

20 And so but what we really wanted  
21 to make certain is that it never lost a lot of  
22 the elements of what it was supposed to be and

1 that was a theatre that would have music and  
2 would be able to entertain a wide variety of  
3 people in the D.C. community.

4 Obviously, there has been some  
5 changes from the Howard that used to be back  
6 in the 1920s and '30s and '40s and we have  
7 added food and beverage to this.

8 Another element we have done is  
9 created an atmosphere that allows for private  
10 functions to go on.

11 But I would like to let the Board  
12 know that, you know, 90 percent of what we do  
13 at the Howard Theatre is music sound stage  
14 restaurant-oriented. For instance, this past  
15 weekend we had Gregory Porter and then we had  
16 a private function by the Department of  
17 Education at Howard University.

18 So primarily, we are a music  
19 sound stage. We created a nonprofit called  
20 Howard Theatre Restoration and Howard Theatre  
21 Restoration is in charge with restoring the  
22 building, preserving the history, educating

1 the community and preserving the music that  
2 plays at the Howard Theatre.

3 That is our mission, that is our  
4 goal. I am one of the board of trustees  
5 members on the nonprofit side. The nonprofit  
6 is aware of this and, obviously, is very  
7 unhappy about the outcomes.

8 We have -- since this incident has  
9 taken place, are you now taking major measures  
10 to make certain that there is -- the proper  
11 security for any type of events that we think  
12 might, you know, have a young crowd or a crowd  
13 that might offer up, you know, some sort of  
14 disturbance or any kind of potential  
15 disturbance.

16 You know, obviously, we can't, you  
17 know, tell the future and we don't know  
18 exactly, but we were -- you know, I am here to  
19 say that we are now getting prepared for those  
20 types of events. Obviously, like I said, 90  
21 percent of our events are ones where, you  
22 know, there are adults, real adults that are

1 coming to see music and to take in our  
2 cuisine, but we do have events from time-to-  
3 time where younger people are involved.

4 And we -- this is a wake-up call  
5 for us. This is a major wake-up call so that  
6 we know that we are going to be prepared for  
7 these types of things, for these younger  
8 crowds that may come through and not want to,  
9 you know, kind of go along with, you know,  
10 what the regulations are, what we have in  
11 place.

12 And we have put in place security  
13 measures. We have hired a private security  
14 company. We thought in the past that our  
15 current security could, you know, handle these  
16 situations, but it's every evident that we  
17 have to have a, you know, private company that  
18 will be able to handle major crowds.

19 I read the transcript from the  
20 past hearing and we are going to make certain  
21 if we ever have any -- you know, because we  
22 don't -- we're going to limit, you know, these

1 types of private events in the future. But  
2 when we do have them, we are going to make  
3 sure that everybody is orderly.

4 And, Mr. Short, I read your  
5 testimony and we will be like the Howard of  
6 old where we have people in a orderly single  
7 file. If they have to go wraparound to 7th  
8 Street if they want to get into the venue,  
9 that's what will happen.

10 MR. KLINE: Mr. Ellis, if I may,  
11 either you or your operating partner, Mr.  
12 Bensusan, if you could explain to the Board  
13 precisely how it is that you intend to  
14 maintain that order, I think that would be  
15 helpful. I think that that's probably what  
16 the Board is looking for in terms of what will  
17 be done differently for future events.

18 MR. ELLIS: Well, we're going to  
19 have security that will be clearly identified.  
20 We will have separate security for any type of  
21 private event like the ones that we have  
22 experienced and have this experience. There

1 will be a privately -- there will be a private  
2 company that will address all of these types  
3 of events. They will be identified as  
4 security.

5 We will have -- how many will we  
6 have, Anthony?

7 MR. COSENZA: We submitted a  
8 security plan that had a game plan for,  
9 depending on the situation, 18 plus crowd  
10 we'll definitely raise the numbers from what  
11 we had in the past.

12 CHAIRPERSON MILLER: Your voice  
13 isn't being picked up that well. Thank you.

14 MR. COSENZA: Do you want me to  
15 repeat?

16 CHAIRPERSON MILLER: Yes, I think  
17 so.

18 MR. COSENZA: So when we submit  
19 our security plan, you know, we do events that  
20 are 21 plus, 18 plus, all ages. So depending  
21 on the type of show and what the expected  
22 guest count is, because we can range anywhere

1 from 100 to 1,000 people. We can range  
2 anywhere from 100 to 1,000 people, so  
3 depending on all of those factors --

4 MEMBER SILVERSTEIN: I'm sorry,  
5 you have how many?

6 MR. COSENZA: It can go anywhere  
7 from 100 to 1,000 guests. So depending on  
8 that, we will choose our security numbers and  
9 we are going very liberal with those numbers  
10 now and we have upped them much more than we  
11 have had in the past.

12 MR. KLINE: And the security from  
13 here on out -- before it was handled in-house,  
14 correct?

15 MR. COSENZA: Correct.

16 MR. KLINE: And you have engaged  
17 in an outside company to handle that now?

18 MR. COSENZA: Yes.

19 MR. KLINE: And you have a  
20 contract with them which we have submitted to  
21 the Board?

22 MR. COSENZA: Yes. DMP and they

1 are SOMB-qualified.

2 CHAIRPERSON MILLER: They are what  
3 qualified?

4 MR. COSENZA: SOMB.

5 CHAIRPERSON MILLER: Is that the  
6 one that the police approve?

7 OFFICER KYLE: Yes. Security  
8 Officer Management Branch.

9 CHAIRPERSON MILLER: Right. Okay.

10 OFFICER KYLE: The company itself  
11 is certified through SOMB as well as DCRA.  
12 However, the company has yet to give back to  
13 us, to let us know, a list of their employees.  
14 Even though the company itself is registered,  
15 we need to make sure that each individual is  
16 also registered to know D.C. Code.

17 CHAIRPERSON MILLER: Okay. Just  
18 on that, have you communicated that to Howard?

19 OFFICER KYLE: No. I was speaking  
20 to Mr. Anthony after our last meeting. It has  
21 since ceased.

22 CHAIRPERSON MILLER: That's too

1 bad. Okay. All right.

2 MEMBER SHORT: Madam Chair?

3 CHAIRPERSON MILLER: Yes?

4 MEMBER SHORT: To MPD, thank you  
5 for your services. Thanks for being here this  
6 morning.

7 OFFICER KYLE: Yes, sir.

8 MEMBER SHORT: I, as a Board  
9 Member, just my one single vote, until you are  
10 satisfied with security and the persons  
11 working there, I don't think I can go any  
12 further. Hopefully they will work with you.

13 OFFICER KYLE: Yes, sir.

14 MEMBER SHORT: So that we come in  
15 compliance with all D.C. Law, especially  
16 working with the MPD.

17 OFFICER KYLE: Yes, sir.

18 MEMBER SHORT: Thank you, Madam  
19 Chair.

20 MR. ELLIS: Let me just say that  
21 Officer Kyle and I -- I am going to interject  
22 myself directly into this matter. I have

1 worked with Officer Kyle on a lot of different  
2 matters relating to crime and so forth in the  
3 square block, nuisances, you know, on the  
4 corner of 7th and T.

5 Obviously, you know, this is a  
6 very -- has been a transitional neighborhood  
7 for some time and it is transitioning. I  
8 don't know where it -- I hope that there  
9 wasn't any communication breakdown at all  
10 between Officer Kyle and our general manager,  
11 but I will be the intermediary to make certain  
12 that all of the concerns from the Metropolitan  
13 Police are met and that we address them  
14 promptly.

15 MEMBER SHORT: Thank you. And  
16 that's in the record, so we look forward to  
17 working with you when you are working with  
18 MPD. We want the best quality of service for  
19 Howard Theatre.

20 MR. ELLIS: Most definitely and so  
21 do we. So do I personally.

22 CHAIRPERSON MILLER: I'm sorry,

1 which one of you two are general manager?

2 MR. KLINE: Mr. Cosenza.

3 CHAIRPERSON MILLER: Okay. I  
4 don't know if you want to address that, but I  
5 can't echo Mr. Short more by saying that we  
6 think that this is critical that you work with  
7 MPD. And just we got the impression the last  
8 time that you really weren't even that sure of  
9 what you should be doing and that was one of  
10 the reasons why it was so critical to work  
11 together.

12 And Officer Kyle has been so, to  
13 us, generous with her time to work with you.

14 MR. ELLIS: We will make certain.  
15 I actually placed a call to Officer Kyle last  
16 night. Unfortunately, I think we just missed  
17 each other. But we will make certain by  
18 Friday that all the names are provided and  
19 that we make certain that all the people on  
20 that particular security staff are certified  
21 in a way that Officer Kyle feels fit.

22 MR. KLINE: So just to clarify, we

1 will pledge that we will get the names of the  
2 individuals that are working for the security  
3 company to Officer Kyle by Friday, just so we  
4 are all clear on the record as to what we are  
5 proposing that we do.

6 CHAIRPERSON MILLER: Okay. All  
7 right. And I'm sure it's understood that  
8 communication is more than that.

9 MR. KLINE: Oh, no, I understand  
10 that.

11 CHAIRPERSON MILLER: Right.

12 MR. KLINE: But you know, I know  
13 the Board likes and I like that there be  
14 measurable requirements. And yes,  
15 communication, but communication is somewhat  
16 amorphous, an issue that has specifically been  
17 raised, we want to make sure we address it.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER SHORT: You mean, Friday  
20 the 24th, this month, correct?

21 MR. KLINE: We mean the day after  
22 tomorrow, that's correct.

1 MEMBER SHORT: Thank you.

2 CHAIRPERSON MILLER: Okay. Mr.  
3 Alberti?

4 MEMBER ALBERTI: I don't know  
5 whether I'm moving ahead here, but I mean, as  
6 you said at our Fact-Finding Hearing it was  
7 very clear that we had problems. And,  
8 hopefully, Mr. Cosenza relayed that to you,  
9 Mr. Ellis, and the decision.

10 So I would like now maybe to hear  
11 kind of a status. I mean, what happened? It  
12 has been a month since then, so I would like  
13 to hear from our Investigator and from Officer  
14 Kyle how things have gone over the last month.  
15 If that's appropriate now?

16 CHAIRPERSON MILLER: It could be.

17 MEMBER ALBERTI: Or at some point.

18 CHAIRPERSON MILLER: Is there  
19 anything else that you feel you need to finish  
20 up before we hear from them?

21 MR. BENSUSAN: Well, I would like  
22 to say that as the operating partner, Anthony

1 has been with my company in New York for over  
2 10 years. We brought him here because the  
3 management group that -- the management team  
4 that we put together here did not work and,  
5 obviously, did not work because we are here  
6 and these incidents had happened.

7 We -- I have faith that Anthony  
8 can turn this around. There is a lot of work  
9 to do, as you know, and we are taking it very  
10 seriously and we are going to do it. So I  
11 just wanted to assure you that we are  
12 committed and we are here. We are not -- you  
13 know, we are paying attention and we are  
14 committed to the Howard.

15 I mean, we got into this project  
16 because of the history of the Howard and our  
17 relationship with the bands and the music and  
18 the history of the music. This is what we  
19 want to accomplish here. We want to bring the  
20 Howard back the way it was.

21 CHAIRPERSON MILLER: Okay.

22 MR. KLINE: If I may, Mr.

1       Bensusan, because of the history over the last  
2       few months, have any decisions been made in  
3       terms of the offerings of entertainment in the  
4       Howard?

5                   MR. BENSUSAN:  Yes.  I feel that  
6       we have strayed a little from what -- how we--  
7       our initial vision of what the Howard should  
8       be.  We took a really hard look of the events  
9       that we are booking and we are making sure to  
10      stay away from the events that cause  
11      incidents.

12                   This is a priority for us right  
13      now and to -- you know, it's -- we have been  
14      open for two years as the anchor tenant in a  
15      redevelopment area.  It hasn't been, you know,  
16      all rosy.  I mean, we were struggling in the  
17      beginning, but we are at a point now where we  
18      can bring it to a point we can get to a point  
19      where we need to be and we don't have to book  
20      events like we did.

21                   And it was unfortunate we made  
22      those mistakes.

1                   CHAIRPERSON MILLER: So let me  
2 just ask you before we go to our officer and  
3 Investigator. Do you have this new security  
4 company working for you now? I mean, what's  
5 different than what we heard about before?

6                   MR. COSENZA: So yes, the security  
7 company is working for us currently. We have  
8 had a few events that were already on the  
9 books that were some of the events that we had  
10 problems with in the past. And they are being  
11 executed much better, crowd control,  
12 responsibility of liquor, everything.

13                   CHAIRPERSON MILLER: Okay. All  
14 right. I'm sure we will get back to you.

15                   Officer Kyle or Investigator  
16 Brashears?

17                   OFFICER KYLE: Good morning again.  
18 If I may before I go into the recent  
19 occurrences of the past 30 days of our last  
20 visit, one of my good questions I wanted to  
21 ask, Mr. Anthony, are you still using the  
22 staff members as inside security?

1 MR. COSENZA: We are using them as  
2 hosts inside the building to look at exit-ways  
3 and just clear paths for people. We are not  
4 using them for security situations.

5 OFFICER KYLE: You are using them  
6 as just guidance?

7 MR. COSENZA: Guidance and to  
8 block doorways. Like passages to the back  
9 stage area.

10 MR. BENSUSAN: To seat people.

11 OFFICER KYLE: So you are no  
12 longer using the term as security?

13 MR. COSENZA: No.

14 OFFICER KYLE: Because at our last  
15 visit you were saying they were in-house  
16 security.

17 MR. COSENZA: Yes. We are using  
18 them as hosts now. We have upped our numbers.  
19 When we say security now or how many people we  
20 have, we are talking about our outside  
21 company.

22 OFFICER KYLE: And they are only

1 outside? They are not within?

2 MR. COSENZA: No. They are also  
3 within. They also float inside the building.  
4 They are on roving posts.

5 MR. KLINE: He says outside in  
6 that they are not like employees of the  
7 Howard.

8 MR. COSENZA: They are not from  
9 us.

10 MR. KLINE: They are on a contract  
11 basis.

12 OFFICER KYLE: Okay.

13 CHAIRPERSON MILLER: Just to  
14 clarify, you will have security both inside  
15 the establishment and outside the  
16 establishment?

17 MR. COSENZA: Correct.

18 CHAIRPERSON MILLER: Okay.

19 OFFICER KYLE: Okay. Since our  
20 last visit, I would like to bring to your  
21 attention quite a few occurrences that have  
22 taken place where MPD had been involved.

1                   Two of which resulted in arrests,  
2                   one was an actual APO, an assault on a police  
3                   officer --

4                   CHAIRPERSON MILLER: Oh, okay.

5                   OFFICER KYLE: -- where there was  
6                   an actual arrest made in this case.

7                   MEMBER ALBERTI: Can you give us  
8                   dates when you review these? Can you give us  
9                   dates?

10                  OFFICER KYLE: Yes, I may. Yes, I  
11                  may. This occurred on October 18th.

12                  MEMBER SHORT: Last week?

13                  OFFICER KYLE: Yes, sir.

14                  MEMBER ALBERTI: Yes.

15                  MEMBER SILVERSTEIN: Saturday  
16                  night or Friday night into Saturday morning?

17                  OFFICER KYLE: It would have  
18                  actually be on the 18th at 03:40 hours.

19                  MEMBER SILVERSTEIN: Friday night  
20                  into Saturday morning. Yes, thank you,  
21                  Officer.

22                  OFFICER KYLE: And this was, like

1 I stated was, an assault on a police officer  
2 which led to an arrest.

3 Also on 10/18, at approximately  
4 04:27 hours, this was a sexual abuse case that  
5 occurred within the establishment. This  
6 case --

7 MEMBER ALBERTI: What was the time  
8 on that?

9 OFFICER KYLE: I'm sorry, sir?

10 MEMBER ALBERTI: The time on that?

11 OFFICER KYLE: 04:27.

12 MEMBER ALBERTI: That was 4:27 in  
13 the morning, a.m.?

14 OFFICER KYLE: Correct.

15 MEMBER ALBERTI: All right.

16 OFFICER KYLE: Correct.

17 MEMBER ALBERTI: Okay. Thank you.  
18 I'm a little slow there. Thank you.

19 MEMBER SHORT: What was that  
20 classified as, Officer Kyle?

21 OFFICER KYLE: Sexual assault  
22 misdemeanor.

1                   Also on 10/18 at 7:05 p.m., we had  
2 a simple assault to have occurred within the  
3 location.

4                   MEMBER ALBERTI: That would have  
5 been the following Saturday night?

6                   OFFICER KYLE: 10/18. Same day.

7                   CHAIRPERSON MILLER: Same night.

8                   MEMBER RODRIGUEZ: 10/18, same  
9 night.

10                  MEMBER ALBERTI: Yes, but it's  
11 7:00 p.m.

12                  OFFICER KYLE: 7:00 p.m.

13                  MEMBER ALBERTI: So that would  
14 have been Saturday night into Sunday morning.

15                  MEMBER RODRIGUEZ: Into Sunday  
16 morning.

17                  OFFICER KYLE: Bear with me on the  
18 actual day. It doesn't give me the actual  
19 day. It just gives me the dates.

20                  MR. COSENZA: I can clarify those  
21 if you want.

22                  MEMBER ALBERTI: Well, let's let

1 the officer, because the 7:00 p.m. would have  
2 been --

3 MEMBER SHORT: The 17th.

4 OFFICER KYLE: No, no, no. It's  
5 saying on the 18th.

6 MEMBER ALBERTI: So it would have  
7 been --

8 OFFICER KYLE: At 7:00 p.m.

9 MEMBER ALBERTI: So the first two  
10 incidents happened Friday night --

11 OFFICER KYLE: Early.

12 MEMBER ALBERTI: -- into Saturday.  
13 This one happened Saturday into Sunday?

14 CHAIRPERSON MILLER: Not  
15 necessarily.

16 OFFICER KYLE: Okay.

17 MEMBER ALBERTI: Well, according  
18 to her times it did.

19 CHAIRPERSON MILLER: It could be  
20 Friday night into Saturday.

21 OFFICER KYLE: All of these events  
22 are on the Saturday, October the 18th.

1 CHAIRPERSON MILLER: October 18th.

2 MEMBER ALBERTI: No, I understand.

3 OFFICER KYLE: So at 4:00 in the  
4 morning, it is basically Saturday morning.

5 CHAIRPERSON MILLER: Right.

6 MEMBER ALBERTI: Right. And then  
7 Saturday night again we have another assault.

8 OFFICER KYLE: At 7:05, correct.

9 MEMBER ALBERTI: Yes. That's what  
10 I wanted to make sure.

11 OFFICER KYLE: Yes.

12 MEMBER ALBERTI: Gotcha.

13 OFFICER KYLE: Yes.

14 MEMBER ALBERTI: Do you see where  
15 I'm --

16 CHAIRPERSON MILLER: That's the  
17 19th.

18 MEMBER ALBERTI: Okay.

19 OFFICER KYLE: And the APO --

20 MEMBER SHORT: Assault on a police  
21 officer.

22 OFFICER KYLE: -- assault, I'm

1       sorry, on a police officer was just before.

2                   MEMBER ALBERTI: Right. We got  
3       it.

4                   OFFICER KYLE: Yes.

5                   MEMBER ALBERTI: I think we  
6       understand.

7                   MEMBER SHORT: What time was it  
8       when the assault on the officer?

9                   MEMBER RODRIGUEZ: It's not right.

10                  OFFICER KYLE: At 3:40 in the  
11       morning.

12                  MEMBER SHORT: Now, you said,  
13       Officer Kyle, there was an arrest for the  
14       assault on an officer. Was there any arrest  
15       for the sexual assault?

16                  OFFICER KYLE: No, sir.

17                  MEMBER SHORT: Or the simple  
18       assault?

19                  OFFICER KYLE: No, sir.

20                  MEMBER SHORT: And the simple  
21       assault also occurred inside the interior of  
22       Howard Theatre?

1 OFFICER KYLE: Correct.

2 MEMBER SHORT: And no arrest was  
3 made?

4 OFFICER KYLE: No, sir.

5 MEMBER SHORT: Okay.

6 OFFICER KYLE: On October the 20th,  
7 a Monday, at --

8 MR. KLINE: I'm sorry, what was  
9 that date?

10 OFFICER KYLE: October 20th.

11 MR. KLINE: Okay. Thank you.

12 OFFICER KYLE: At 5:30 p.m., we  
13 had a simple assault with an arrest.

14 MEMBER ALBERTI: Inside, outside?

15 OFFICER KYLE: I'm looking for  
16 that portion now. Outside.

17 MEMBER ALBERTI: Outside, okay.

18 OFFICER KYLE: On October the 8th,  
19 a Wednesday, at 11:34 p.m., there was a simple  
20 assault with the ABRA violation attached to it  
21 of an intoxicated person falling down within  
22 the establishment.

1                   These are the occurrences that MPD  
2                   has reported since my last visit with you.

3                   CHAIRPERSON MILLER: I just want  
4                   to follow-up with have you then had any  
5                   communication with them about --

6                   OFFICER KYLE: No, ma'am.

7                   CHAIRPERSON MILLER: -- the  
8                   security? Okay.

9                   OFFICER KYLE: No, ma'am.

10                  MR. KLINE: Madam Chair, I might  
11                  suggest we are hearing about these for the  
12                  first time.

13                  CHAIRPERSON MILLER: Yes, right.

14                  MR. KLINE: I mean, if the Board  
15                  wishes to do Fact-Finding on these, which we  
16                  certainly understand and appreciate, we,  
17                  obviously, will need some time to investigate,  
18                  so that we can properly offer facts. I think  
19                  the Board's normal procedure in a Fact-Finding  
20                  is to give us copies of reports and let us  
21                  come in and try to address them as best we  
22                  can.

1                   But we are somewhat at a  
2                   disadvantageous position, at this point. I'm  
3                   hearing about these for the first time. I'm  
4                   getting whispers that we know something about  
5                   some of them.

6                   CHAIRPERSON MILLER: Okay.

7                   MR. KLINE: But in order to  
8                   properly address them, I would request that we  
9                   be given perhaps, you know, at least until  
10                  next Wednesday if the Board wishes for us to  
11                  address them.

12                 CHAIRPERSON MILLER: Okay. Well,  
13                 let me just say this. This Fact-Finding  
14                 Hearing was scheduled before any of that.

15                 MR. KLINE: I understand.

16                 CHAIRPERSON MILLER: So we weren't  
17                 planning to have a Fact-Finding on those  
18                 incidents. And I don't think, we haven't seen  
19                 any reports yet either, so and soon the time  
20                 is going to come for that. But I think we are  
21                 just trying to see where or how it was at this  
22                 point.

1                   So this is kind of like just  
2                   general. Like it doesn't -- it sounds like  
3                   there is still problems. So for me, it's just  
4                   the hearing in general. I understand you  
5                   don't have to rebut everything. That's not  
6                   what this is about. But, you know, it's about  
7                   kind of like where is Howard and, you know,  
8                   where are we going to go from here, if  
9                   anywhere.

10                   MR. KLINE: Right.

11                   CHAIRPERSON MILLER: You know,  
12                   this is just a status or this is where you are  
13                   now.

14                   MR. KLINE: I understand. I guess  
15                   my concern as counsel is before we conclude  
16                   that there are problems, I think it's only  
17                   fair that the licensee be given an opportunity  
18                   to address these issues. I mean, you know,  
19                   just in a smattering, I've heard well, that  
20                   was an assault on an employee by someone  
21                   outside the establishment.

22                   And you know, that's just what I

1 got in one earful right now. So I think it's  
2 only fair if the Board is going to use this as  
3 a basis to conclude that there are continuing  
4 problems, that we have an opportunity to at  
5 least have some time --

6 CHAIRPERSON MILLER: Okay.

7 MR. KLINE: -- to investigate it  
8 all.

9 CHAIRPERSON MILLER: And I don't  
10 know if I used that word or not, but basically  
11 it's kind of like to hear what is happening  
12 right now.

13 MR. KLINE: Understood.

14 CHAIRPERSON MILLER: We are not  
15 going, for the Fact-Finding, to be, you know,  
16 taking any action, you know.

17 MR. KLINE: Understood,  
18 understood.

19 CHAIRPERSON MILLER: Okay. Did  
20 somebody else want to say something? Yes?

21 MEMBER RODRIGUEZ: I have a  
22 question. Of course the Board always makes

1 decisions on facts, Mr. Kline. Okay. Officer  
2 Kyle, I did have a question about the  
3 organization that approved the security  
4 company. Could I have that name again,  
5 please?

6 OFFICER KYLE: The acronym is  
7 SOMB.

8 MEMBER RODRIGUEZ: S-O-M, as in  
9 mother?

10 OFFICER KYLE: Yes.

11 MEMBER RODRIGUEZ: B, as in Bob?

12 OFFICER KYLE: Correct.

13 MEMBER RODRIGUEZ: And what does  
14 that stand for?

15 OFFICER KYLE: Security Officers  
16 Management Branch.

17 MEMBER RODRIGUEZ: Security  
18 Officers?

19 OFFICER KYLE: Management.

20 MEMBER RODRIGUEZ: Management.

21 OFFICER KYLE: Branch.

22 MEMBER RODRIGUEZ: Branch. Thank

1       you, Officer Kyle.

2                       OFFICER KYLE:   You're welcome.

3                       CHAIRPERSON MILLER:   Okay.  I  
4       don't know if others feel differently, but  
5       just on Mr. Kline's point, I do think that,  
6       you know, we can hear in general, but that we  
7       shouldn't ask too many questions or go into  
8       too much detail given no one has seen the  
9       report.  Mr. Silverstein, do you have a  
10      comment?

11                      MEMBER SILVERSTEIN:  Yes, I do.  
12      And I understand exactly where you are coming  
13      from, Mr. Kline.  And I think it is -- we have  
14      a couple of different roles here all of us.  
15      And this is not adjudication, at this point,  
16      but you all read the transcript.  We all  
17      either were there or read the transcript.

18                      And there were things there that  
19      go so far beyond adjudication and to public  
20      safety.  And there is an enormous trust that  
21      you folks have been given, it's an absolute  
22      gem, but the gentleman sitting next to me has

1 actually pulled dead bodies out of fires.

2 I spent 30 years in broadcast  
3 journalism. I covered a lot of those things.  
4 And I saw things in that first hearing that  
5 screamed out at me of things that I have  
6 covered. The use of pyrotechnics without  
7 having the fire department involved, The  
8 Station Nightclub in Warwick, Rhode Island,  
9 100 people died, 230 people were injured, only  
10 134 got out of there unharmed when a  
11 pyrotechnic display went bad and the place  
12 caught fire.

13 Just days after that, the E2  
14 Nightclub stampede in Chicago where the  
15 entrances were blocked and people couldn't get  
16 out, there was a fight. Somebody let go  
17 pepper spray. 21 people died in that  
18 stampede, 50 people were injured.

19 The Happy Land fire in the Bronx,  
20 87 people died in a case there where the doors  
21 -- where people couldn't get out.

22 We are not saying you guys are --

1 we are not casting judgment here, but our  
2 primary function is to make sure that people  
3 don't get hurt. You have a place where 1,000  
4 people can get in there. And we are seeing  
5 things that are just terrifying to us. I'm  
6 not exaggerating.

7           It's a 100 year-old building that  
8 is and has been the heart and the soul of  
9 Washington and is a dear thing, especially to  
10 the African community. And it has been  
11 entrusted to you and the taxpayers spent \$29  
12 million with, you know, renovating this jewel.

13           And there are things that have to  
14 be addressed now. You have to work with them  
15 now. We are not talking about due process on  
16 adjudicating things. We are all talking about  
17 we don't want something awful to happen.

18           And everything that we saw in that  
19 hearing a month ago screamed out at us that  
20 this can't happen any more. That it shouldn't  
21 have happened and if the safety and the lives  
22 of our fellow Washingtonians are more

1 important to us than the steps of due process,  
2 we have to stop these dangerous things from  
3 happening.

4 That's all I have to say.

5 MEMBER RODRIGUEZ: Well, said.

6 CHAIRPERSON MILLER: Thank you  
7 very much. Yes, sir?

8 MR. COSENZA: May I address these  
9 issues?

10 CHAIRPERSON MILLER: Yes.

11 MR. COSENZA: Okay. So I would  
12 like to start with saying they have stopped.  
13 You know, the things that we saw in the last  
14 hearing, they don't exist any more. Crowd  
15 control issues, not cooperating when police  
16 are investigating or they are trying to get  
17 cameras and video footage from an incident  
18 that occurred inside. All of those things  
19 have gone away and we are now compliant.

20 These four unrelated incidents, I  
21 can go over one at a time.

22 Saturday, we had a Howard

1 Homecoming event, an alumni event. It was a  
2 crowd that was mostly, I would say, 25 to 35.  
3 It was a good business professional crowd that  
4 was -- the majority of them were from out of  
5 town and we had a great event with no hitches  
6 inside the building.

7 At the end of the night when we  
8 emptied the building out, we had the problem  
9 where we had a lot of people that were staying  
10 at hotels, had no where to go and they  
11 gathered on the sidewalk and we had a hard  
12 time getting rid of the party outside. So we  
13 did move people down the block.

14 During that, there was an  
15 occurrence where two girls did get into a  
16 fight at that point. That was the first issue  
17 that happened, so that was outside after  
18 everything had finished for the evening and  
19 concluded and we were working on clearing  
20 everyone off the block, that's why it was so  
21 late in the report.

22 That same evening after the crowd

1 had been emptied out, while they were still in  
2 the street, a young lady came back to talk to  
3 our security and said that she had been groped  
4 while inside of the nightclub. They asked for  
5 identifying features or any sort of  
6 description of the person. She couldn't give  
7 a description and she was very upset that we  
8 couldn't do anything about it.

9 We tried as much as we could to  
10 explain to her that if there is anything that  
11 we can do on your behalf, we would be happy to  
12 do it, but you were in a room with 1,000  
13 people and this was told to us after the room  
14 had already emptied out. I mean, we had  
15 security stationed all throughout the inside  
16 and outside able to be contacted at any point  
17 during the event. And that's what, you know,  
18 that second case was.

19 The third one was a Saturday at  
20 7:00 p.m. We had a daytime event, also an  
21 alumni event on Saturday during the day. The  
22 event was a bust. We had about 150 people

1 throughout the course of the day, never more  
2 than 30 or 40 people in the room at any one  
3 time.

4 We had a young lady who showed up  
5 at around noon, came in with her ticket, saw  
6 that the room was quiet and said I'm going to  
7 come back later when you have other  
8 performances. She came back at 7:15. Her  
9 original ticket through the promoter said the  
10 party would be going until 8:00 p.m.

11 She came back intoxicated. We did  
12 not let her into the establishment. She came  
13 into the lobby. We told her that the event  
14 has been closed down since 7:00 p.m. and that  
15 there is no event. She began to argue about  
16 the \$11.67 that she had paid for her ticket,  
17 which we told her we would be happy to  
18 accommodate her for one of our shows, but her  
19 \$11.67 we do not take, the promoter took and  
20 we could instruct her on how to get back to  
21 that.

22 At that point, she became irate

1 and started scratching and slapping our head  
2 host. That was the third event and that was  
3 where she was arrested.

4 And the last one that occurred on  
5 the 20th, which was just this Monday, that was  
6 our accountant during the day standing outside  
7 smoking a cigarette. When she went to walk  
8 back into the building a gentleman grabbed her  
9 arm and tried to pull himself into the  
10 building, a drunk gentleman.

11 We were not open for operation  
12 during this time. We had another member of  
13 our office staff had pushed the guy off of  
14 her, called the police and we got him  
15 arrested. So those are those four instances.  
16 And it's very mitigating circumstances and it  
17 looks very poor against us before they are  
18 explained, but I do hope that you understand  
19 that these instances are not the same  
20 instances of crowd control issues over-serving  
21 liquor and things like that.

22 MEMBER SILVERSTEIN: Mr. Cosenza,

1 we are not litigating any of these now. Our  
2 concern with Officer Kyle is that right now  
3 you all have, and I think I would suggest  
4 this, I don't want you to get off the  
5 reservation, but you really should have some  
6 people who are your points of contact with 3D.

7 And that you should be in regular  
8 contact with those folks, so things don't get  
9 through the crack, so that everybody  
10 understands they are not your enemies. We are  
11 certainly not your enemies. I think everybody  
12 wants to see this wonderful historic structure  
13 return to its greatness, which it has in so  
14 many ways and not be in danger.

15 MR. ELLIS: Now, let me just say  
16 that Officer Kyle is definitely not an enemy  
17 of mine, in that we are good friends and we  
18 just haven't seen other in a while, but I plan  
19 on seeing her a lot often, more often even  
20 though she is, I think, one kind of street  
21 over now from the Howard Theatre. But as far  
22 as I'm concerned, she is still in the Howard

1 Theatre District area.

2 MEMBER SHORT: Now, please, let me  
3 make this statement for the record also. I  
4 just heard recently that Washington, D.C. is  
5 now the No. 1 tourist attraction city in the  
6 world. We are number one. We can't have the  
7 Howard Theatre being an embarrassment or an  
8 endangerment to our community.

9 MR. ELLIS: Not at all, sir.

10 MEMBER SHORT: I concur totally  
11 with my Council Member, Mike Silverstein, that  
12 we, as a Board, aren't your enemies and we  
13 aren't trying to do anything other than  
14 protect our citizenry and the good name of  
15 Washington, D.C. So we have everybody in the  
16 world coming here and they reading the front  
17 page of the Washington Post that someone was  
18 injured, people were trampled or whatever else  
19 could happen, the worst case scenario and it's  
20 not good for you. It's not good for our city  
21 and it's definitely not good for any business  
22 person, visitor or any tourist that comes to

1 this down.

2 And lastly, I would just like to  
3 say if you haven't got -- do you know what an  
4 RDO is? Do you know what that is?

5 MR. ELLIS: I think that's --

6 MEMBER SHORT: I think you need to  
7 start thinking about that, especially when you  
8 have 1,000 people in that building. And I, as  
9 a Board Member, can't speak for any other  
10 Board Members, I think that if that comes up  
11 and you are before us again, I'll feel a lot  
12 more secure about what you are doing.

13 MR. ELLIS: Definitely.

14 MEMBER SHORT: With the new  
15 employment and the new security that you have,  
16 you're going to need an RDO over there in  
17 front of that building.

18 MR. ELLIS: Most definitely. We  
19 will definitely take that into --

20 MEMBER SHORT: Thank you.

21 MR. ELLIS: -- serious  
22 consideration. Understand that there is

1 nothing more than we want to do than to try to  
2 bring tourists to the Howard Theatre and so  
3 there is a certain image that we must maintain  
4 and we must keep in the community, because we  
5 are just now trying to, you know, get out of  
6 the first two years and try to, you know,  
7 hopefully have a very profitable business and,  
8 you know, something that everybody can be  
9 proud of.

10 And one of our main goals is to  
11 try to bring tourists to the Howard Theatre  
12 now and let them know that it is no longer a  
13 block where you might get your car stolen or  
14 broken into or something like that, that it's  
15 a safe neighborhood, safe square block and  
16 that there is incredible history to be learned  
17 at the Howard Theatre.

18 MEMBER SHORT: Thank you. Glad we  
19 got that on record.

20 MEMBER ALBERTI: I have a  
21 question. But go ahead, Mr. Rodriguez.

22 CHAIRPERSON MILLER: All right.

1 Mr. Rodriguez?

2 MEMBER RODRIGUEZ: Yes, sir.

3 Howard is definitely a historic and cultural  
4 gem for Washington, D.C. One of the things  
5 that was mentioned was tourism and how  
6 important that is to our city in terms of, you  
7 know, job opportunities in the tourism  
8 industry. And certainly this entity can lend  
9 out jobs.

10 The entity is an entity that  
11 belongs to the people. I don't believe that  
12 only the -- the people own Howard Theatre, but  
13 it is leased. Is that correct?

14 MR. ELLIS: I'll give you the  
15 specifics.

16 MEMBER RODRIGUEZ: All right.

17 MR. ELLIS: The city put in,  
18 approximately, 35 percent of the total cost of  
19 the redevelopment of the Howard Theatre.

20 MEMBER RODRIGUEZ: Yes, sir.

21 MR. ELLIS: I would say,  
22 approximately, \$13 or \$14 million. So 29 --

1       \$12 to \$13 million. It was a \$29 million  
2       project. The rest was raised through the  
3       nonprofit, a loan from Eagle Bank and other  
4       grants that we received and new markets tax  
5       credits and historic tax credits. There was  
6       about six different sources of finance that  
7       went into the restoration and redevelopment of  
8       the Howard.

9                   The city and the citizens of the  
10       District do have a major stake in this  
11       building. And as I said before, as a four  
12       generation Washingtonian, I take a lot of  
13       responsibility making certain that we make  
14       those citizens of today and those from the  
15       past, to make certain that the Howard Theatre  
16       is a place where everybody can be proud of.

17                   MEMBER RODRIGUEZ: And so, Mr.  
18       Ellis, you have got, you know, your entity.  
19       You have got the police department. And you  
20       have got the ABC Board working together. We  
21       can move forward with this institution,  
22       because we are very concerned. I think you

1 have shown that you are concerned about it.

2 The police department is concerned about it.

3 It's an entity that we all have a  
4 responsibility to make sure that it works for  
5 all of us in D.C.

6 MR. ELLIS: Most definitely.

7 MEMBER RODRIGUEZ: Thank you.

8 MR. ELLIS: Most definitely.

9 CHAIRPERSON MILLER: Mr. Alberti?

10 MEMBER ALBERTI: Thank you. I  
11 really don't have any words of wisdom to give  
12 you. I just really want to ask some  
13 questions, at this point.

14 And I'm not litigating the case, I  
15 just want to get a sense of what your plans  
16 are, how you plan to operate.

17 For the October 18th, that Friday  
18 night event, how many security people did you  
19 have? Not hosts, security people.

20 MR. COSENZA: Security, we had 18.

21 MEMBER ALBERTI: 18 for 1,000  
22 people. Okay. I'll tell you, you probably

1 should up it. I would just kind of like to  
2 see one for 50 people, especially a crowd like  
3 that late night, drinking. I mean, Mr.  
4 Cosenza, you have been here long enough. I  
5 don't know if you have conveyed this to the  
6 other two people at that table, but things get  
7 pretty dicey there at times, so that's why I'm  
8 a little worried about the number of security.

9 Mr. Ellis, Mr. Cosenza, Mr.  
10 Bensusan. Bensusan, I'm sorry.

11 MR. BENSUSAN: That's okay.

12 MEMBER ALBERTI: Excuse me. I  
13 know that you submitted a security plan last  
14 night. We haven't had a chance to look at it.  
15 When did you become aware that the Board --  
16 that you had committed to submitting a plan?

17 MR. BENSUSAN: We became -- I  
18 became aware that we had -- that we were  
19 majorly deficient in our security functions  
20 and we had to submit a plan based on the last  
21 -- the transcript of the last hearing.

22 MEMBER ALBERTI: So when did you

1       become aware that there was a commitment to  
2       submit a security plan?

3                   MR. ELLIS: For me it was just  
4       really two weeks ago, I would say. I would  
5       say three weeks ago.

6                   MEMBER ALBERTI: Three weeks ago?  
7       Okay. I'm a little surprised Mr. Cosenza  
8       didn't tell you the next day after our  
9       hearing, because he committed to it. In fact,  
10      he committed to it and he had offered to give  
11      it to us in two days.

12                   Now, we understand that that's,  
13      Mr. Kline knows, pretty impossible to put  
14      together a quality security plan in two days.  
15      So we gave you 30 days. It's a little -- here  
16      is where I'm going.

17                   You are making all these promises,  
18      but we've got to be confident. I want to be  
19      confident that you guys really understand and  
20      you are going to be committed to your  
21      promises. But what I'm seeing is I see a  
22      security plan submitted at 5:30 last night and

1 it doesn't give me confidence that you really  
2 understand the seriousness of the problem and  
3 the fact that it's your actions that lead to  
4 these problems.

5 It doesn't happen in a vacuum. We  
6 have lots of crowds like this throughout the  
7 city that are well-controlled. All right.  
8 You have a responsibility and I'm not -- from  
9 what I have seen and heard today, even today,  
10 I'm not confident.

11 All right? So you need to go back  
12 and reset and think this through a bit more.

13 MR. ELLIS: Well, I would just say  
14 that we, you know, were trying to revamp our  
15 whole kind of security structure, what we had  
16 and what we considered to be security, no  
17 longer security and it did take us a little  
18 longer than we expected. And we had to go  
19 through some hard questions and hard thought  
20 about how to do it and I -- you know, from my  
21 perspective, I apologize for us being last  
22 minute in getting it to the actual Board. I

1 know it was supposed to be here last Friday.

2           Actually, last Friday I was having  
3 a ceremony for my partner who passed away at  
4 the Howard Theatre. But we will make certain  
5 from this point forward that this new system  
6 that we have all bought in to will be  
7 expeditious in getting you all the  
8 information, everything that you need.

9           MEMBER ALBERTI: Okay. I'm just  
10 going to wrap this up. I just want to let you  
11 know when we had the first Fact-Finding, one  
12 of our goals was to make sure that the owners,  
13 that you guys, Mr. Bensusan and Mr. Ellis,  
14 that you knew what was going on.

15           We were sorely disappointed when  
16 some people who showed up and who couldn't  
17 remember events and didn't know what was going  
18 on and, obviously, didn't have a handle on how  
19 to run things. So I'm glad that you are here  
20 today so that you know and you now are  
21 informed.

22           And so I guess I'm a little

1 hopeful, maybe not confident, but hopeful,  
2 that now that you are here and you are  
3 hearing, you understand hopefully the  
4 seriousness of this and what your  
5 responsibilities are going forward and that  
6 you convey that to the people that you hire.

7 That you set the tone and you hold  
8 them responsible.

9 MR. ELLIS: Most definitely.

10 MEMBER SHORT: I have a question,  
11 just one more.

12 CHAIRPERSON MILLER: All right.

13 MEMBER SHORT: For your 18 and  
14 over events, how does Howard Theatre prevent  
15 people under 21 years of age from getting  
16 alcohol?

17 MR. COSENZA: There is a few  
18 different scenarios with that. One would be  
19 we had an event this weekend where we just had  
20 our balcony level, our mezzanine level secure  
21 only for 21 plus. It was the only area that  
22 we were securing -- that we were serving

1 alcohol on.

2 In our main floor area, there was  
3 no alcohol anywhere allowed on the floor. So  
4 we had security roving through taking --  
5 making sure there was nothing that appeared on  
6 the floor. And the upstairs was completely  
7 separate. We had all the entrances blocked to  
8 the upstairs with guards that were, you know,  
9 making sure that no alcohol came in and out of  
10 that area. So that will be one situation.

11 The other thing that we do is we  
12 do an ID check at the front of the building,  
13 depending on if we are expecting the majority  
14 of the guests to be over 21. If we are  
15 expecting the majority to be 21, what we will  
16 do is we will X out the hands of the few that  
17 are 18 and put two giant black Xes on their  
18 hands to show the bartenders that they are not  
19 able to serve and also to show the roving  
20 security guards that if one of them had a  
21 drink in their hand, that this guest needs to  
22 be escorted out because they didn't follow the

1 rule.

2 If the majority of the guests are  
3 going to be 18 plus and there is only going to  
4 be a smaller amount of 21 year-olds, then we  
5 would wristband with the wristbands the 21  
6 year-olds. So we are trying to do this, so  
7 that we can expedite getting them in off the  
8 street, so that we don't have crowd control  
9 issues, but at the same time making it very  
10 clear to our staff and to the security staff  
11 who is of legal drinking age.

12 MEMBER SHORT: Thank you. That's  
13 all I have, Madam Chair.

14 CHAIRPERSON MILLER: Mr.  
15 Silverstein?

16 MEMBER SILVERSTEIN: You mentioned  
17 that you were stopping people from going up or  
18 down from the mezzanine level. One of the  
19 things that was really the most horrifying in  
20 the original hearing was how people were  
21 unable to get out of the theatre.

22 Is anything being blocked? How

1 long would it take to get 1,000 people out of  
2 that theatre right now?

3 MR. COSENZA: I can't give you an  
4 exact answer on that, but when we do empty out  
5 the building, there are no issues. We are  
6 filtering people out with security guards on  
7 either side, checking to make sure that people  
8 aren't taking any alcoholic beverages with  
9 them and we do it a cow call-style fashion  
10 where we go from a large area into narrow,  
11 narrow areas, so that everyone can filter out  
12 slowly and calmly.

13 MEMBER SILVERSTEIN: Okay.

14 MR. BENSUSAN: We also use -- we  
15 are not using our emergency exits. You know,  
16 for -- if there is an emergency, then we would  
17 be. So, you know, you would have that many  
18 more exit opportunities. And when he said we  
19 were stopping people from going up to the  
20 mezzanine, there are no barricades. There is  
21 nothing physically there. It's just a person  
22 standing there watching to make sure nobody

1 who is not 21 is getting upstairs.

2 MR. ELLIS: We have -- you know,  
3 we have side exits on the ground level. We  
4 have major exits on both sides of the building  
5 on the balcony level with fire escapes. And  
6 so we think we have ample egress for people to  
7 get out and they are marked and our security  
8 now is very aware of all the different exits  
9 in case something were to happen.

10 MEMBER SILVERSTEIN: Thank you for  
11 that.

12 CHAIRPERSON MILLER: Okay. Why  
13 don't we get back to Officer Kyle and  
14 Investigator Brashears. I know, Mr.  
15 Brashears, you haven't had a chance to say  
16 anything yet. Are you finished, Officer Kyle  
17 or do you have something else you want to add  
18 before we turn to Mr. Brashears?

19 OFFICER KYLE: I guess my biggest  
20 concern is to follow-up on what Mr. Short had  
21 stressed at our first meeting, it's the RDO.

22 CHAIRPERSON MILLER: Okay.

1                   OFFICER KYLE: Has any action been  
2 taken towards that? Has anybody reached out  
3 to SOMB to try to get that or at least get  
4 some information on whether you are for or  
5 against it? The RDO is something that MPD  
6 highly stressed to help alleviate some of  
7 these incident reports that are coming  
8 through.

9                   MR. BENSUSAN: Yes, I think that  
10 for the majority of the shows that we do, you  
11 know, RDO isn't necessarily, you know,  
12 necessary. But for the ones that we do think  
13 that it might be, now that we have had these  
14 meetings and we have been here and we have  
15 heard everybody, we will definitely take them  
16 under advisement and figure out if it makes  
17 sense.

18                   I'm trying to stay away from those  
19 events to begin with, but if there is  
20 something that we see that is coming up that  
21 we would feel that it would be useful, we  
22 definitely will look into it. We haven't done

1 that as of yet, but we will.

2 MEMBER SHORT: I have to ask a  
3 question, Madam Chair.

4 CHAIRPERSON MILLER: Okay.

5 MEMBER SHORT: So you are saying  
6 you make the decision whether you need an RDO  
7 or not? I mean, just based on your knowledge  
8 of Washington, D.C., is that what you are  
9 saying?

10 MR. BENSUSAN: No.

11 MEMBER SHORT: What are you  
12 saying?

13 MR. BENSUSAN: I'm saying based on  
14 the audience of the event. If we have a jazz  
15 artist that draws 500 people like yourself  
16 coming to see a show, but you don't drink, I  
17 don't necessarily think an RDO would be  
18 necessary.

19 If we have a hip-hop event, you  
20 know, or a go-go event that is booked and, you  
21 know, we're expecting large crowds and  
22 potentially unruly crowds, then I believe that

1 we should look into that, yes.

2 MEMBER SHORT: Okay. Well, here  
3 is what I would suggest. Have you had any  
4 training in crowd control as far as panic or  
5 whatever? Have you had any training like MPD  
6 has?

7 MR. BENSUSAN: Me personally? No.

8 MR. KLINE: Mr. Short, if I may?  
9 And this situation is a little different than  
10 others, because in most of the venues that you  
11 see, they have their own internal security.  
12 Very few are using security officers that are  
13 certified, so this is a little different than  
14 what we see in some of the --

15 MEMBER SHORT: I'll agree it's a  
16 little different and I'll grant you that. I  
17 think that MPD needs to be at the table with  
18 Howard Theatre --

19 MR. KLINE: We agree.

20 MEMBER SHORT: -- to give them  
21 some advice on when they should or should not.  
22 I really think that if they got their

1 conversations together, discussions together,  
2 MPD along with Howard Theatre will come out  
3 with a much better result.

4 MR. KLINE: We agree.

5 MEMBER SHORT: Community safety is  
6 a must.

7 MR. BENSUSAN: We agree.

8 MR. ELLIS: I think, you know, one  
9 of the things we will take out of this right  
10 now is that, you know, we will get with  
11 Officer Kyle and with the precinct and we will  
12 map out, you know, over the next several  
13 months like what is coming up and forecast  
14 what we think might be an actual event that  
15 would really need to have that kind of  
16 presence. And so we will -- you have our word  
17 that we will do that as soon as we leave.

18 MEMBER SHORT: Thank you for that  
19 commitment.

20 MR. ELLIS: Yes.

21 CHAIRPERSON MILLER: Again, Mr.  
22 Silverstein?

1                   MEMBER SILVERSTEIN: I'm very glad  
2                   that you said that, Mr. Ellis, because you  
3                   can't control exactly what was going on 10  
4                   feet or 20 feet outside your building, but you  
5                   are the ones who are bringing the crowd there,  
6                   so you have to work with the police, with the  
7                   RDO so that if you have a situation like you  
8                   did this past weekend where people are  
9                   congregating outside because they had a great  
10                  time and they don't want to go home, you need  
11                  to work with the police so that we can all  
12                  make sure that these things are resolved  
13                  peacefully, amicably and with peace order and  
14                  quiet.

15                         If we all work together, it's  
16                         going to work.

17                         MR. ELLIS: Yes.

18                         CHAIRPERSON MILLER: Okay. Mr.  
19                         Brashears?

20                         INVESTIGATOR BRASHEARS: Thank  
21                         you, ma'am. As was stated earlier, there have  
22                         been, approximately, seven incidents that have

1       come forward. ABRA currently has  
2       Investigators assigned. We are looking into  
3       those things.

4               A few of the relevant facts that  
5       had come forward since the last time we met  
6       was an issue where the establishment didn't  
7       have the appropriate number of ABC managers.  
8       There were numerous times when the place just  
9       did not have an ABC manager/owner present.

10              They seem to have remedied that.  
11       I visited the establishment many times. They  
12       have added ABC managers. I have been working  
13       closely with the management. In the past,  
14       management was basically nonexistent. He has  
15       actually been there late in the evening. He  
16       is outside dealing with the customers. He is  
17       assisting people, so there has been more of a  
18       hands-on approach.

19              There are still some issues,  
20       technical issues that they are working out  
21       with the camera equipment. For some reason,  
22       it's not maintaining the time as it should.

1 It's off by an hour and 13 minutes, which when  
2 you are trying to review video footage, it  
3 makes it a little difficult. I'm told that,  
4 you know, the technical folks are working on  
5 that.

6 There have been other issues with  
7 the footage not being kept as long as we would  
8 like. Again, I'm told that they are working  
9 on those issues.

10 The biggest thing I have seen is  
11 enhancement in the security. The security  
12 officers that they have hired make a presence.  
13 They are well-identified. They are patting  
14 people down. They are using their metal  
15 detector. They are roving through the  
16 facility.

17 But the issue that I have and bear  
18 in mind ABRA Investigators don't tell an  
19 establishment how to establish their security,  
20 but as an Investigator when I speak to a  
21 security, the head of security for an  
22 establishment, I expect them to be

1 knowledgeable.

2           And there have been many instances  
3 where I have spoken with the head of security  
4 and he couldn't tell me who the contract or  
5 the contract security was. How many were  
6 assigned on a given night. And when I spoke  
7 with him about his training and background,  
8 other than what he referred to as in-house  
9 training, he doesn't really have any security  
10 training.

11           And all of those things,  
12 obviously, concerned me. But as I say, I have  
13 seen some changes for the good and some  
14 issues.

15           And as far as the RDO, I know, you  
16 know, everyone is discussing the RDO. I have  
17 frequent conversations with the police that  
18 are assigned in that area and one of the  
19 things that keeps coming up with the 251  
20 reports that we are getting from MPD seem to  
21 be crowd control outside after the  
22 establishment is closed or during let-out. So

1 there are still some issues there.

2 MEMBER SILVERSTEIN: Thank you,  
3 Mr. Brashears.

4 OFFICER KYLE: Madam Chair?

5 CHAIRPERSON MILLER: Yes?

6 OFFICER KYLE: Just for a  
7 reminder, again, I'm still waiting on a  
8 company to reach back out to me.

9 CHAIRPERSON MILLER: All right.

10 OFFICER KYLE: I didn't know this  
11 portion with the head of security, but that  
12 goes back to what I was saying earlier as far  
13 as them giving us a list of the people, so we  
14 can find out if those people are certified.  
15 So we are still waiting for a response.

16 MR. KLINE: And as I said, we will  
17 have that to you by Friday.

18 MEMBER SHORT: Madam Chair?

19 OFFICER KYLE: From the security  
20 company?

21 MR. KLINE: Yes. We pledged to  
22 you that we will get you --

1 OFFICER KYLE: Okay.

2 MR. KLINE: -- the names of the  
3 persons that are on-site --

4 OFFICER KYLE: Okay.

5 MR. KLINE: -- so that we can  
6 resolve that issue.

7 OFFICER KYLE: Sure. Thank you.

8 CHAIRPERSON MILLER: Yes, Mr.  
9 Short?

10 MEMBER SHORT: Officer Kyle, can  
11 you, please, as soon as you receive that from  
12 Howard send a copy here to our attorney, so we  
13 can be abreast of that?

14 OFFICER KYLE: I sure can. Yes,  
15 sir.

16 MEMBER SHORT: And in fact, if you  
17 would like, just send us the report of  
18 everything you have and the requirements.

19 OFFICER KYLE: Not a problem.

20 MEMBER SHORT: Okay. Thank you  
21 very much.

22 OFFICER KYLE: Yes, sir.

1 CHAIRPERSON MILLER: Or the  
2 applicant.

3 MEMBER SHORT: Well, I'm just--

4 CHAIRPERSON MILLER: Yes.

5 MEMBER SHORT: If she has the  
6 meeting with the licensee --

7 CHAIRPERSON MILLER: Yes.

8 MEMBER SHORT: -- and she sends us  
9 the report on how that meeting went,  
10 especially dealing with crowd control, RDOs,  
11 everything that comes along, that way we will  
12 be abreast that they are working together.

13 OFFICER KYLE: Yes, sir.

14 MEMBER SHORT: Thank you very  
15 much.

16 CHAIRPERSON MILLER: Okay. Good.  
17 Anything else? Okay. So as far as measurable  
18 things, Friday we are all going to get this  
19 list of the employees at the security company.  
20 It's going to MPD and to ABC Board. Correct?  
21 Okay.

22 And then I was thinking the same

1 thing, Mr. Short, except in a different way,  
2 but that I think what is critical it sounds  
3 like is that we know that the licensee is  
4 actually working with MPD, isn't it, because  
5 this is all about public safety, that's what  
6 this is about. So we want to make sure it's  
7 safe and we think that certainly if you are  
8 communicating on a continued basis, it should  
9 be.

10 So it can either come from -- I  
11 mean, Mr. Short asked Officer Kyle to do it,  
12 if that's okay with you, otherwise the  
13 licensee should be able to do it.

14 OFFICER KYLE: It's not a problem  
15 for me at all.

16 CHAIRPERSON MILLER: Okay. That  
17 would be --

18 OFFICER KYLE: That's fine.

19 CHAIRPERSON MILLER: Okay.

20 OFFICER KYLE: Yes, ma'am.

21 MR. ELLIS: Officer Kyle is going  
22 to be invited to every show she wants to go to

1 at the Howard Theatre whenever she wants.

2 MEMBER ALBERTI: I'm not sure she  
3 can accept that.

4 OFFICER KYLE: For the record, I  
5 did not accept it.

6 MEMBER ALBERTI: Unless she is  
7 RDO.

8 OFFICER KYLE: For the record, I  
9 did not accept that.

10 CHAIRPERSON MILLER: Okay. And  
11 could you just clarify when you will be  
12 meeting next or when you expect to meet?

13 MR. ELLIS: I will say that right  
14 after this meeting, we will have our first  
15 brief meeting and then we will set up  
16 something for tomorrow, if she is available.  
17 Whenever she is available.

18 MEMBER SHORT: And if I could,  
19 Madam Chair?

20 CHAIRPERSON MILLER: Yes.

21 MEMBER SHORT: I want to thank the  
22 owners for being here today, because that was

1 a real bone of contention for this Board, I  
2 myself as a Member, that the owners weren't  
3 present to answer the questions and that the  
4 persons that were here, just didn't seem to  
5 have a clue.

6 So now we have the owners here and  
7 fourth generation Washingtonian who knows how  
8 the Howard used to be and what it really meant  
9 to our community. I feel a lot more sure that  
10 we are working in the right direction.

11 Hopefully by the time you are here again  
12 before us, we will get some progress reports  
13 that says you said what you meant and you  
14 meant what you said.

15 MR. ELLIS: You have my word on  
16 that, sir.

17 MEMBER SHORT: Thank you.

18 MR. ELLIS: And hopefully the next  
19 time I see you all, you will be at the Howard  
20 Theatre enjoying a show and not in this kind  
21 of setting.

22 MEMBER SHORT: I'll wait until we

1 get all of the issues straightened out.

2 MR. ELLIS: All right.

3 MEMBER SHORT: And buy my ticket.

4 MR. ELLIS: All right.

5 MR. KLINE: Mr. Short, that was  
6 actually one of the reasons that we thought it  
7 was so important that the ownership review the  
8 transcript of the last hearing, so they  
9 weren't here and we concede that, but we hope  
10 that we were able to make up for that by  
11 having them review the transcript, so they  
12 know exactly what went on and what the  
13 concerns were that were raised by you and  
14 other Board Members.

15 MEMBER SHORT: Thank you very  
16 much.

17 CHAIRPERSON MILLER: Okay.  
18 Anything else? All right. So I think that  
19 then concludes this hearing. Thank you very  
20 much.

21 MR. ELLIS: Thank you.

22 MR. BENSUSAN: Thank you.

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MR. COSENZA: Thank you.

(Whereupon, the Fact-Finding  
Hearing in the above-entitled matter was  
concluded at 12:11 p.m.)

<b>A</b>	<p><b>ago</b> 9:10 41:19 55:4 55:5,6</p> <p><b>agree</b> 65:15,19 66:4 66:7</p> <p><b>ahead</b> 21:5 50:21</p> <p><b>Alberti</b> 4:20 21:3,4 21:17 27:7,14 28:7,10,12,15,17 29:4,10,13,22 30:6,9,12,17 31:2 31:6,9,12,14,18 32:2,5 33:14,17 50:20 53:9,10,21 54:12,22 55:6 57:9 75:2,6</p> <p><b>alcohol</b> 58:16 59:1 59:3,9</p> <p><b>alcoholic</b> 4:3,15,15 61:8</p> <p><b>alleviate</b> 63:6</p> <p><b>allowed</b> 59:3</p> <p><b>allows</b> 10:9</p> <p><b>alumni</b> 43:1 44:21</p> <p><b>amicably</b> 67:13</p> <p><b>amorphous</b> 20:16</p> <p><b>amount</b> 60:4</p> <p><b>ample</b> 62:6</p> <p><b>ANC-1B</b> 4:8 7:9</p> <p><b>anchor</b> 23:14</p> <p><b>Andrew</b> 7:21</p> <p><b>answer</b> 61:4 76:3</p> <p><b>Anthony</b> 6:6 7:13 8:12 14:6 16:20 21:22 22:7 24:21</p> <p><b>anybody</b> 63:2</p> <p><b>APO</b> 27:2 31:19</p> <p><b>apologize</b> 8:20 56:21</p> <p><b>appeared</b> 6:14 59:5</p> <p><b>applicant</b> 7:22 73:2</p> <p><b>appreciate</b> 7:4 34:16</p> <p><b>approach</b> 68:18</p> <p><b>appropriate</b> 21:15 68:7</p> <p><b>approve</b> 16:6</p> <p><b>approved</b> 38:3</p>	<p><b>approximately</b> 28:3 51:18,22 67:22</p> <p><b>area</b> 23:15 25:9 48:1 58:21 59:2 59:10 61:10 70:18</p> <p><b>areas</b> 61:11</p> <p><b>argue</b> 45:15</p> <p><b>arm</b> 46:9</p> <p><b>arrest</b> 27:6 28:2 32:13,14 33:2,13</p> <p><b>arrested</b> 46:3,15</p> <p><b>arrests</b> 27:1</p> <p><b>artist</b> 64:15</p> <p><b>asked</b> 6:17 44:4 74:11</p> <p><b>assault</b> 27:2 28:1 28:21 29:2 31:7 31:20,22 32:8,14 32:15,18,21 33:13 33:20 36:20</p> <p><b>assigned</b> 68:2 70:6 70:18</p> <p><b>assisting</b> 68:17</p> <p><b>assure</b> 22:11</p> <p><b>atmosphere</b> 10:9</p> <p><b>attached</b> 33:20</p> <p><b>attention</b> 22:13 26:21</p> <p><b>attorney</b> 72:12</p> <p><b>attraction</b> 48:5</p> <p><b>audience</b> 64:14</p> <p><b>available</b> 75:16,17</p> <p><b>aware</b> 11:6 54:15 54:18 55:1 62:8</p> <p><b>awful</b> 41:17</p>	<p><b>bad</b> 17:1 40:11</p> <p><b>balcony</b> 58:20 62:5</p> <p><b>bands</b> 22:17</p> <p><b>Bank</b> 52:3</p> <p><b>barricades</b> 61:20</p> <p><b>bartenders</b> 59:18</p> <p><b>based</b> 54:20 64:7 64:13</p> <p><b>basically</b> 31:4 37:10 68:14</p> <p><b>basis</b> 26:11 37:3 74:8</p> <p><b>bear</b> 29:17 69:17</p> <p><b>bee</b> 27:18</p> <p><b>began</b> 45:15</p> <p><b>beginning</b> 23:17</p> <p><b>behalf</b> 44:11</p> <p><b>believe</b> 7:7 51:11 64:22</p> <p><b>belongs</b> 51:11</p> <p><b>Bensusan</b> 6:5 7:15 7:15 8:3,4,8,8,11 7:2 13:12 21:21 23:1,5 25:10 54:10,10,11,17 57:13 61:14 63:9 64:10,13 65:7 66:7 77:22</p> <p><b>best</b> 18:18 34:21</p> <p><b>better</b> 24:11 66:3</p> <p><b>beverage</b> 4:3,15,15 10:7</p> <p><b>beverages</b> 61:8</p> <p><b>beyond</b> 39:19</p> <p><b>biggest</b> 62:19 69:10</p> <p><b>bit</b> 56:12</p> <p><b>black</b> 59:17</p> <p><b>block</b> 9:10 18:3 25:8 43:13,20 50:13,15</p> <p><b>blocked</b> 40:15 59:7 60:22</p> <p><b>board</b> 4:3,15 7:9 10:11 11:4 13:12 13:16 15:21 17:8 20:13 34:14 35:10 37:2,22 48:12</p>	<p>49:9,10 52:20 54:15 56:22 73:20 76:1 77:14</p> <p><b>Board's</b> 7:5 34:19</p> <p><b>Bob</b> 38:11</p> <p><b>bodies</b> 40:1</p> <p><b>bone</b> 76:1</p> <p><b>book</b> 23:19</p> <p><b>booked</b> 64:20</p> <p><b>booking</b> 23:9</p> <p><b>books</b> 24:9</p> <p><b>bought</b> 57:6</p> <p><b>Branch</b> 16:8 38:16 38:21,22</p> <p><b>Brashears</b> 5:9 6:6,5 6:6 24:16 62:14 62:15,18 67:19,20 71:3</p> <p><b>breakdown</b> 18:9</p> <p><b>brief</b> 75:15</p> <p><b>bring</b> 22:19 23:18 26:20 50:2,11</p> <p><b>bringing</b> 67:5</p> <p><b>broadcast</b> 40:2</p> <p><b>broken</b> 50:14</p> <p><b>Bronx</b> 40:19</p> <p><b>BROOKS</b> 4:20</p> <p><b>brought</b> 22:2</p> <p><b>building</b> 4:16 10:22 25:2 26:3 41:7 43:6,8 46:8,10 49:8,17 52:11 59:12 61:5 62:4 67:4</p> <p><b>business</b> 9:15 43:3 48:21 50:7</p> <p><b>bust</b> 44:22</p> <p><b>buy</b> 77:3</p>
		<b>B</b>	<b>C</b>	
	<p><b>B</b> 38:11</p> <p><b>back</b> 9:18 10:5 16:12 22:20 24:14 25:8 44:2 45:7,8 45:11,20 46:8 56:11 62:13 71:8 71:12</p> <p><b>background</b> 7:13 70:7</p>	<p><b>blocked</b> 40:15 59:7 60:22</p> <p><b>board</b> 4:3,15 7:9 10:11 11:4 13:12 13:16 15:21 17:8 20:13 34:14 35:10 37:2,22 48:12</p>	<p><b>C</b> 8:12</p> <p><b>C-O-N-T-E-N-T-S</b> 6:2</p> <p><b>call</b> 7:5 12:4,5 19:15</p> <p><b>call-style</b> 61:9</p> <p><b>called</b> 10:19 46:14</p>	

<p><b>calmly</b> 61:12  <b>camera</b> 68:21  <b>cameras</b> 42:17  <b>car</b> 50:13  <b>case</b> 4:9,9,10,10,11  7:5,5 27:6 28:4,6  40:20 44:18 48:19  53:14 62:9  <b>casting</b> 41:1  <b>caught</b> 40:12  <b>cause</b> 23:10  <b>ceased</b> 16:21  <b>ceremony</b> 57:3  <b>certain</b> 6:17 9:21  11:10 12:20 18:11  19:14,17,19 50:3  52:13,15 57:4  <b>certainly</b> 7:4 34:16  47:11 51:8 74:7  <b>certified</b> 16:11  19:20 65:13 71:14  <b>Chair</b> 6:22 8:13  17:2,19 34:10  60:13 64:3 71:4  71:18 75:19  <b>Chairperson</b> 4:17  4:19 7:4,23 8:5,9  8:14,17,20,23 6:7  7:20 8:7,11,14  14:12,16 16:2,5,9  16:17,22 17:3  18:22 19:3 20:6  20:11,18 21:2,16  21:18 22:21 24:1  24:13 26:13,18  27:4 29:7 30:14  30:19 31:1,5,16  34:3,7,13 35:6,12  35:16 36:11 37:6  37:9,14,19 39:3  42:6,10 50:22  53:9 58:12 60:14  62:12,22 64:4  66:21 67:18 71:5  71:9 72:8 73:1,4,7  73:16 74:16,19  75:10,20 77:17</p>	<p><b>chance</b> 54:14 62:15  <b>change</b> 9:2  <b>changes</b> 7:15 10:5  70:13  <b>charge</b> 7:14 10:21  <b>check</b> 7:21 59:12  <b>checking</b> 61:7  <b>Chicago</b> 40:14  <b>Chip</b> 7:18,18 8:19  8:18  <b>choose</b> 15:8  <b>cigarette</b> 46:7  <b>circumstances</b> 7:17  46:16  <b>citizenry</b> 48:14  <b>citizens</b> 52:9,14  <b>city</b> 48:5,20 51:6,17  52:9 56:7  <b>clarify</b> 19:22 26:14  29:20 75:11  <b>classified</b> 28:20  <b>clear</b> 20:4 21:7  25:3 60:10  <b>clearing</b> 43:19  <b>clearly</b> 13:19  <b>closed</b> 45:14 70:22  <b>closely</b> 68:13  <b>clue</b> 76:5  <b>Code</b> 16:16  <b>COLUMBIA</b> 4:2  <b>come</b> 12:8 17:14  34:21 35:20 45:7  66:2 68:1,5 74:10  <b>comes</b> 48:22 49:10  73:11  <b>coming</b> 12:1 39:12  48:16 63:7,20  64:16 66:13 70:19  <b>comment</b> 39:10  <b>commitment</b> 55:1  66:19  <b>committed</b> 22:12  22:14 54:16 55:9  55:10,20  <b>communicated</b>  16:18  <b>communicating</b></p>	<p>74:8  <b>communication</b>  18:9 20:8,15,15  34:5  <b>community</b> 10:3  11:1 41:10 48:8  50:4 66:5 76:9  <b>company</b> 9:11  12:14,17 14:2  15:17 16:10,12,14  20:3 22:1 24:4,7  25:21 38:4 71:8  71:20 73:19  <b>completely</b> 59:6  <b>compliance</b> 17:15  <b>compliant</b> 42:19  <b>concede</b> 77:9  <b>concern</b> 36:15 47:2  62:20  <b>concerned</b> 6:20  47:22 52:22 53:1  53:2 70:12  <b>concerns</b> 7:5,10  18:12 77:13  <b>conclude</b> 36:15  37:3  <b>concluded</b> 43:19  78:4  <b>concludes</b> 77:19  <b>concur</b> 48:10  <b>confidence</b> 56:1  <b>confident</b> 55:18,19  56:10 58:1  <b>congregating</b> 67:9  <b>consideration</b>  49:22  <b>considered</b> 56:16  <b>contact</b> 47:6,8  <b>contacted</b> 44:16  <b>contention</b> 76:1  <b>continued</b> 74:8  <b>continuing</b> 37:3  <b>contract</b> 15:20  26:10 70:4,5  <b>control</b> 4:3,15,15  6:13 24:11 42:15  46:20 60:8 65:4</p>	<p>67:3 70:21 73:10  <b>conversations</b> 66:1  70:17  <b>convey</b> 58:6  <b>conveyed</b> 54:5  <b>cooperating</b> 42:15  <b>copies</b> 34:20  <b>copy</b> 72:12  <b>corner</b> 18:4  <b>correct</b> 15:14,15  20:20,22 26:17  28:14,16 31:8  33:1 38:12 51:13  73:20  <b>Cosenza</b> 6:6 7:13  7:13 8:12,12,16  7:1 14:7,14,18  15:6,15,18,22  16:4 19:2 21:8  24:6 25:1,7,13,17  26:2,8,17 29:20  42:8,11 46:22  53:20 54:4,9 55:7  58:17 61:3 78:1  <b>cost</b> 51:18  <b>Council</b> 48:11  <b>counsel</b> 7:22 36:15  <b>count</b> 14:22  <b>couple</b> 39:14  <b>course</b> 7:1 37:22  45:1  <b>covered</b> 40:3,6  <b>cow</b> 61:9  <b>crack</b> 47:9  <b>created</b> 10:9,19  <b>credits</b> 52:5,5  <b>crime</b> 18:2  <b>critical</b> 19:6,10  74:2  <b>crowd</b> 6:12 11:12  11:12 14:9 24:11  42:14 43:2,3,22  46:20 54:2 60:8  65:4 67:5 70:21  73:10  <b>crowds</b> 12:8,18  56:6 64:21,22</p>	<p><b>cuisine</b> 12:2  <b>cultural</b> 51:3  <b>current</b> 12:15  <b>currently</b> 24:7 68:1  <b>customers</b> 68:16  <b>CX</b> 4:8</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D.C</b> 4:16 10:3  16:16 17:15 48:4  48:15 51:4 53:5  64:8  <b>danger</b> 47:14  <b>dangerous</b> 6:15  42:2  <b>date</b> 33:9  <b>dates</b> 27:8,9 29:19  <b>day</b> 20:21 29:6,18  29:19 44:21 45:1  46:6 55:8  <b>days</b> 24:19 40:13  55:11,14,15  <b>daytime</b> 44:20  <b>DCRA</b> 16:11  <b>dead</b> 40:1  <b>dealing</b> 68:16 73:10  <b>dear</b> 41:9  <b>decision</b> 21:9 64:6  <b>decisions</b> 23:2 38:1  <b>deficient</b> 54:19  <b>definitely</b> 14:10  18:20 47:16 48:21  49:13,18,19 51:3  53:6,8 58:9 63:15  63:22  <b>department</b> 10:16  40:7 52:19 53:2  <b>depending</b> 14:9,20  15:3,7 59:13  <b>description</b> 44:6,7  <b>detail</b> 39:8  <b>detector</b> 69:15  <b>developers</b> 9:12  <b>Developing</b> 9:12  <b>dicey</b> 54:7  <b>died</b> 40:9,17,20  <b>different</b> 18:1 24:5</p>
---	--	--	---	---

39:14 52:6 58:18 62:8 65:9,13,16 74:1 <b>differently</b> 13:17 39:4 <b>difficult</b> 69:3 <b>direction</b> 76:10 <b>directly</b> 17:22 <b>disadvantageous</b> 35:2 <b>disappointed</b> 57:15 <b>discussing</b> 70:16 <b>discussions</b> 66:1 <b>display</b> 40:11 <b>District</b> 4:2 48:1 52:10 <b>disturbance</b> 11:14 11:15 <b>disturbing</b> 6:11 <b>DMP</b> 15:22 <b>doing</b> 6:12,16 19:9 49:12 <b>DONALD</b> 4:20 <b>doors</b> 40:20 <b>doorways</b> 25:8 <b>draws</b> 64:15 <b>drink</b> 59:21 64:16 <b>drinking</b> 54:3 60:11 <b>drunk</b> 46:10 <b>due</b> 41:15 42:1	8:19,19,20,21 7:2 7:12 8:12,17,18 9:11,15 13:10,18 17:20 18:20 19:14 21:9 47:15 48:9 49:5,13,18,21 51:14,17,21 52:18 53:6,8 54:9 55:3 56:13 57:13 58:9 62:2 66:8,20 67:2 67:17 74:21 75:13 76:15,18 77:2,4 77:21 <b>embarrassed</b> 9:7 <b>embarrassment</b> 48:7 <b>emergency</b> 61:15 61:16 <b>employee</b> 36:20 <b>employees</b> 16:13 26:6 73:19 <b>employment</b> 49:15 <b>emptied</b> 43:8 44:1 44:14 <b>empty</b> 61:4 <b>endangerment</b> 48:8 <b>enemies</b> 47:10,11 48:12 <b>enemy</b> 47:16 <b>engaged</b> 15:16 <b>enhancement</b> 69:11 <b>enjoying</b> 76:20 <b>enormous</b> 39:20 <b>entertain</b> 10:2 <b>entertainment</b> 4:6 7:17,19 8:22 23:3 <b>entity</b> 51:8,10,10 52:18 53:3 <b>entrances</b> 40:15 59:7 <b>entrusted</b> 41:11 <b>equipment</b> 68:21 <b>escapes</b> 62:5 <b>escorted</b> 59:22 <b>especially</b> 17:15 41:9 49:7 54:2 73:10	<b>establish</b> 69:19 <b>establishment</b> 26:15,16 28:5 33:22 36:21 45:12 68:6,11 69:19,22 70:22 <b>evening</b> 43:18,22 68:15 <b>event</b> 13:21 43:1,1 43:5 44:17,20,21 44:22 45:13,15 46:2 53:18 58:19 64:14,19,20 66:14 <b>events</b> 11:11,20,21 12:2 13:1,17 14:3 14:19 23:8,10,20 24:8,9 30:21 57:17 58:14 63:19 <b>everybody</b> 13:3 47:9,11 48:15 50:8 52:16 63:15 <b>evident</b> 12:16 <b>exact</b> 61:4 <b>exactly</b> 11:18 39:12 67:3 77:12 <b>exaggerating</b> 41:6 <b>Excuse</b> 54:12 <b>executed</b> 24:11 <b>exist</b> 42:14 <b>exit</b> 61:18 <b>exit-ways</b> 25:2 <b>exits</b> 61:15 62:3,4,8 <b>expect</b> 69:22 75:12 <b>expected</b> 14:21 56:18 <b>expecting</b> 59:13,15 64:21 <b>expedite</b> 60:7 <b>expeditious</b> 57:7 <b>experience</b> 13:22 <b>experienced</b> 13:22 <b>explain</b> 13:12 44:10 <b>explained</b> 46:18	56:3 72:16 <b>Fact-Finding</b> 4:12 6:8,9 21:6 34:15 34:19 35:13,17 37:15 57:11 78:2 <b>factors</b> 15:3 <b>facts</b> 34:18 38:1 68:4 <b>fair</b> 36:17 37:2 <b>faith</b> 22:7 <b>falling</b> 33:21 <b>far</b> 39:19 47:21 65:4 70:15 71:12 73:17 <b>fashion</b> 61:9 <b>features</b> 44:5 <b>feel</b> 21:19 23:5 39:4 49:11 63:21 76:9 <b>feels</b> 19:21 <b>feet</b> 67:4,4 <b>fellow</b> 41:22 <b>fight</b> 40:16 43:16 <b>figure</b> 63:16 <b>file</b> 13:7 <b>filter</b> 61:11 <b>filtering</b> 61:6 <b>finance</b> 52:6 <b>find</b> 71:14 <b>Finding</b> 4:7 8:22 <b>fine</b> 74:18 <b>finish</b> 21:19 <b>finished</b> 43:18 62:16 <b>fire</b> 40:7,12,19 62:5 <b>fires</b> 40:1 <b>first</b> 7:20 8:3,20 30:9 34:12 35:3 40:4 43:16 50:6 57:11 62:21 75:14 <b>fit</b> 19:21 <b>float</b> 26:3 <b>floor</b> 59:2,3,6 <b>folks</b> 39:21 47:8 69:4 <b>follow</b> 59:22 <b>follow-up</b> 4:12 6:8 34:4 62:20	<b>following</b> 29:5 <b>food</b> 10:7 <b>footage</b> 42:17 69:2 69:7 <b>forecast</b> 66:13 <b>forth</b> 18:2 <b>forward</b> 18:16 52:21 57:5 58:5 68:1,5 <b>four</b> 8:18 42:20 46:15 52:11 <b>fourth</b> 76:7 <b>frankly</b> 9:1,6 <b>frequent</b> 70:17 <b>Friday</b> 19:18 20:3 20:19 27:16,19 30:10,20 53:17 57:1,2 71:17 73:18 <b>friends</b> 47:17 <b>front</b> 48:16 49:17 59:12 <b>function</b> 10:16 41:2 <b>functions</b> 10:10 54:19 <b>further</b> 17:12 <b>future</b> 11:17 13:1 13:17
<hr/> <b>E</b> <hr/>				<hr/> <b>G</b> <hr/>
<b>E2</b> 40:13 <b>Eagle</b> 52:3 <b>earful</b> 37:1 <b>earlier</b> 67:21 71:12 <b>Early</b> 30:11 <b>echo</b> 19:5 <b>educating</b> 10:22 <b>Education</b> 10:17 <b>egress</b> 62:6 <b>either</b> 13:11 35:19 39:17 61:7 74:10 <b>element</b> 10:8 <b>elements</b> 9:22 <b>Ellis</b> 6:4 7:18,18		<hr/> <b>F</b> <hr/> <b>facility</b> 69:16 <b>fact</b> 4:6 8:21 55:9	<b>game</b> 14:8 <b>gathered</b> 43:11 <b>gem</b> 39:22 51:4 <b>general</b> 7:14 8:16 8:17 6:14 18:10 19:1 36:2,4 39:6 <b>generation</b> 8:18 52:12 76:7 <b>generous</b> 19:13 <b>gentleman</b> 39:22 46:8,10 <b>getting</b> 11:19 35:4 43:12 56:22 57:7 58:15 60:7 62:1 70:20 <b>giant</b> 59:17 <b>girls</b> 43:15	

**give** 7:12 16:12  
27:7,8 29:18  
34:20 44:6 51:14  
53:11 55:10 56:1  
61:3 65:20  
**given** 35:9 36:17  
39:8,21 70:6  
**gives** 29:19  
**giving** 71:13  
**glad** 50:18 57:19  
67:1  
**go** 10:10 12:9 13:7  
15:6 17:11 24:2  
24:18 36:8 39:7  
39:19 40:16 42:21  
43:10 50:21 56:11  
56:18 61:10 67:10  
74:22  
**go-go** 64:20  
**goal** 11:4  
**goals** 50:10 57:12  
**goes** 71:12  
**going** 7:4 8:15 12:6  
12:20,22 13:2,18  
15:9 17:21 22:10  
35:20 36:8 37:2  
37:15 45:6,10  
49:16 55:16,20  
57:10,14,17 58:5  
60:3,3,17 61:19  
67:3,16 73:18,20  
74:21  
**good** 6:3 24:17,20  
43:3 47:17 48:14  
48:20,20,21 70:13  
73:16  
**Gotcha** 31:12  
**grabbed** 46:8  
**grant** 65:16  
**grants** 52:4  
**great** 8:23,8 43:5  
67:9  
**greatness** 47:13  
**Gregory** 10:15  
**groped** 44:3  
**ground** 62:3  
**group** 9:12 22:3

**guards** 59:8,20  
61:6  
**guess** 36:14 57:22  
62:19  
**guest** 14:22 59:21  
**guests** 15:7 59:14  
60:2  
**guidance** 25:6,7  
**guy** 46:13  
**guys** 40:22 55:19  
57:13

---

### H

**hand** 59:21  
**handle** 12:15,18  
15:17 57:18  
**handled** 15:13  
**hands** 59:16,18  
**hands-on** 68:18  
**happen** 13:9 41:17  
41:20 48:19 56:5  
62:9  
**happened** 21:11  
22:6 30:10,13  
41:21 43:17  
**happening** 6:21  
37:11 42:3  
**happy** 8:8 40:19  
44:11 45:17  
**hard** 23:8 43:11  
56:19,19  
**Harris** 9:3  
**head** 46:1 69:21  
70:3 71:11  
**hear** 21:10,13,20  
37:11 39:6  
**heard** 6:10 24:5  
36:19 48:4 56:9  
63:15  
**hearing** 4:7,12,16  
6:9,9 7:6,19 8:21  
8:22 12:20 21:6  
34:11 35:3,14  
36:4 40:4 41:19  
42:14 54:21 55:9  
58:3 60:20 77:8  
77:19 78:3

**heart** 41:8  
**HECTOR** 4:21  
**Hello** 6:2  
**help** 63:6  
**helpful** 8:9 13:15  
**highly** 63:6  
**hip-hop** 64:19  
**hire** 58:6  
**hired** 12:13 69:12  
**historic** 47:12 51:3  
52:5  
**history** 10:22 22:16  
22:18 23:1 50:16  
**hitches** 43:5  
**hold** 58:7  
**home** 67:10  
**Homecoming** 43:1  
**hope** 18:8 46:18  
77:9  
**hopeful** 58:1,1  
**hopefully** 17:12  
21:8 50:7 58:3  
76:11,18  
**horrifying** 60:19  
**host** 46:2  
**hosts** 25:2,18 53:19  
**hotels** 43:10  
**hour** 69:1  
**hours** 27:18 28:4  
**Howard** 4:6,7 7:7  
7:16,20 8:22 6:15  
6:19 7:8 9:11,13  
10:5,13,17,20,20  
11:2 13:5 16:18  
18:19 22:14,16,20  
23:4,7 26:7 32:22  
36:7 42:22 47:21  
47:22 48:7 50:2  
50:11,17 51:3,12  
51:19 52:8,15  
57:4 58:14 65:18  
66:2 72:12 75:1  
76:8,19  
**hurt** 41:3

---

### I

**ID** 59:12

**identified** 13:19  
14:3  
**identifying** 44:5  
**image** 50:3  
**important** 42:1  
51:6 77:7  
**impossible** 55:13  
**impression** 19:7  
**in-house** 15:13  
25:15 70:8  
**incident** 11:8 42:17  
63:7  
**incidents** 22:6  
23:11 30:10 35:18  
42:20 67:22  
**including** 6:18  
**incredible** 50:16  
**individual** 16:15  
**individuals** 20:2  
**industry** 51:8  
**information** 57:8  
63:4  
**informed** 57:21  
**initial** 23:7  
**injured** 40:9,18  
48:18  
**inside** 24:22 25:2  
26:3,14 32:21  
33:14 42:18 43:6  
44:4,15  
**instance** 10:14  
**instances** 46:15,19  
46:20 70:2  
**institution** 52:21  
**instruct** 45:20  
**intend** 13:13  
**intended** 9:16  
**interior** 32:21  
**interject** 17:21  
**intermediary** 18:11  
**internal** 65:11  
**intoxicated** 33:21  
45:11  
**introduce** 7:11  
**investigate** 34:17  
37:7  
**investigating** 42:16

**Investigator** 5:9  
6:6,5,6 21:13 24:3  
24:15 62:14 67:20  
69:20  
**Investigators** 68:2  
69:18  
**invited** 74:22  
**involved** 12:3 26:22  
40:7  
**irate** 45:22  
**irresponsibly** 9:4  
**Island** 40:8  
**issue** 20:16 43:16  
68:6 69:17 72:6  
**issues** 36:18 42:9  
42:15 46:20 60:9  
61:5 68:19,20  
69:6,9 70:14 71:1  
77:1

---

### J

**JAMES** 4:22  
**jazz** 64:14  
**jewel** 41:12  
**job** 51:7  
**jobs** 51:9  
**journalism** 40:3  
**judgment** 41:1

---

### K

**keep** 50:4  
**keeps** 70:19  
**kept** 69:7  
**kind** 11:14 12:9  
21:11 36:1,7  
37:11 47:20 54:1  
56:15 66:15 76:20  
**Kline** 7:21,21 6:22  
13:10 15:12,16,19  
19:2,22 20:9,12  
20:21 22:22 26:5  
26:10 33:8,11  
34:10,14 35:7,15  
36:10,14 37:7,13  
37:17 38:1 39:13  
55:13 65:8,19  
66:4 71:16,21

72:2,5 77:5	38:12,15,19,21	<b>located</b> 7:7	<b>map</b> 66:12	67:1 71:2,18
<b>Kline's</b> 39:5	39:1,2 47:2,16	<b>location</b> 29:3	<b>Mark</b> 5:9 6:6	72:10,16,20 73:3
<b>knew</b> 57:14	62:13,16,19 63:1	<b>long</b> 54:4 61:1 69:7	<b>marked</b> 62:7	73:5,8,14 75:2,6
<b>know</b> 7:9,13,22,22	66:11 71:4,6,10	<b>longer</b> 9:3 25:12	<b>markets</b> 52:4	75:18,21 76:2,17
8:2 9:1,5 10:12,12	71:19 72:1,4,7,10	50:12 56:17,18	<b>matter</b> 4:5 9:8	76:22 77:3,15
11:12,13,16,17,17	72:14,19,22 73:13	<b>look</b> 18:16 23:8	17:22 78:3	<b>members</b> 11:5
11:18,22 12:6,9,9	74:11,14,18,20,21	25:2 54:14 63:22	<b>matters</b> 9:4 18:2	24:22 49:10 77:14
12:15,17,21,22	75:4,8	65:1	<b>mean</b> 20:19,21 21:5	<b>mentioned</b> 51:5
14:19 16:13,16		<b>looking</b> 13:16	21:11 22:15 23:16	60:16
18:3,5,8 19:4	<b>L</b>	33:15 68:2	24:4 34:14 36:18	<b>met</b> 4:15 8:9 18:13
20:12,12 21:4	<b>lady</b> 44:2 45:4	<b>looks</b> 46:17	44:14 54:3 64:7	68:5
22:9,13 23:13,15	<b>Land</b> 40:19	<b>lost</b> 9:21	74:11	<b>metal</b> 69:14
35:4,9 36:6,7,11	<b>large</b> 61:10 64:21	<b>lot</b> 9:21 18:1 22:8	<b>meant</b> 76:8,13,14	<b>Metropolitan</b>
36:18,22 37:10,15	<b>lastly</b> 49:2	40:3 43:9 47:19	<b>measurable</b> 20:14	18:12
37:16 39:4,6	<b>late</b> 43:21 54:3	49:11 52:12 76:9	73:17	<b>mezzanine</b> 58:20
41:12 42:13 44:17	68:15	<b>lots</b> 56:6	<b>measures</b> 11:9	60:18 61:20
49:3,4 50:5,6,8,12	<b>Law</b> 17:15		12:13	<b>Mike</b> 4:21 48:11
51:7 52:18 54:5	<b>lead</b> 56:3	<b>M</b>	<b>meet</b> 75:12	<b>Miller</b> 4:17,19 7:4
54:13 56:14,20	<b>learned</b> 50:16	<b>ma'am</b> 8:10 34:6,9	<b>meeting</b> 4:4 16:20	7:23 8:5,9,14,17
57:1,11,17,20	<b>leased</b> 51:13	67:21 74:20	62:21 73:6,9	8:20,23 6:7 7:20
59:8 61:15,17	<b>leave</b> 66:17	<b>Madam</b> 6:22 8:12	75:12,14,15	8:7,11,14 14:12
62:2,14 63:11,11	<b>led</b> 28:2	17:2,18 34:10	<b>meetings</b> 63:14	14:16 16:2,5,9,17
64:20,21 66:8,10	<b>legal</b> 60:11	60:13 64:3 71:4	<b>member</b> 4:20,20,21	16:22 17:3 18:22
66:12 69:4 70:15	<b>lend</b> 51:8	71:18 75:19	4:21,22 8:3 15:4	19:3 20:6,11,18
70:16 71:10 74:3	<b>let's</b> 29:22	<b>main</b> 50:10 59:2	17:2,4,8,9,14,18	21:2,16,18 22:21
77:12	<b>let-out</b> 70:22	<b>maintain</b> 13:14	18:15 20:19 21:1	24:1,13 26:13,18
<b>knowing</b> 6:12,16	<b>level</b> 58:20,20	50:3	21:4,17 27:7,12	27:4 29:7 30:14
<b>knowledge</b> 64:7	60:18 62:3,5	<b>maintaining</b> 68:22	27:14,15,19 28:7	30:19 31:1,5,16
<b>knowledgeable</b>	<b>liberal</b> 15:9	<b>major</b> 11:9 12:5,18	28:10,12,15,17,19	34:3,7,13 35:6,12
70:1	<b>License</b> 4:8 7:8	52:10 62:4	29:4,8,10,13,15	35:16 36:11 37:6
<b>knows</b> 55:13 76:7	<b>licensee</b> 36:17 73:6	<b>majority</b> 43:4	29:22 30:3,6,9,12	37:9,14,19 39:3
<b>Kyle</b> 6:5,3,4 7:21	74:3,13	59:13,15 60:2	30:17 31:2,6,9,12	42:6,10 50:22
8:5,10 16:7,10,19	<b>likes</b> 20:13	63:10	31:14,18,20 32:2	53:9 58:12 60:14
17:7,13,17,21	<b>limit</b> 12:22	<b>majorly</b> 54:19	32:5,7,9,12,17,20	62:12,22 64:4
18:1,10 19:12,15	<b>liquor</b> 24:12 46:21	<b>making</b> 23:9 52:13	33:2,5,14,17	66:21 67:18 71:5
19:21 20:3 21:14	<b>list</b> 16:13 71:13	55:17 59:5,9 60:9	37:21 38:8,11,13	71:9 72:8 73:1,4,7
24:15,17 25:5,11	73:19	<b>Malik</b> 9:15	38:17,20,22 39:11	73:16 74:16,19
25:14,22 26:12,19	<b>litigating</b> 47:1	<b>management</b> 7:7	42:5 46:12,22	75:10,20 77:17
27:5,10,13,17,22	53:14	9:2 16:8 22:3,3	48:2,10,11 49:6,9	<b>million</b> 41:12 51:22
28:9,11,14,16,20	<b>little</b> 23:6 28:18	38:16,19,20 68:13	49:14,20 50:18,20	52:1,1
28:21 29:6,12,17	54:8 55:7,15	68:14	51:2,16,20 52:17	<b>mind</b> 69:18
30:4,8,11,16,21	56:17 57:22 65:9	<b>manager</b> 7:14 8:16	53:7,10,21 54:12	<b>mine</b> 47:17
31:3,8,11,13,19	65:13,16 69:3	8:18 18:10 19:1	54:22 55:6 57:9	<b>minute</b> 56:22
31:22 32:4,10,13	<b>lives</b> 41:21	<b>manager/owner</b>	58:10,13 60:12,16	<b>minutes</b> 69:1
32:16,19 33:1,4,6	<b>LLC</b> 4:7	68:9	61:13 62:10 64:2	<b>misdemeanor</b>
33:10,12,15,18	<b>loan</b> 52:3	<b>managers</b> 68:7,12	64:5,11 65:2,15	28:22
34:6,9 38:2,6,10	<b>lobby</b> 45:13	<b>managing</b> 8:3	65:20 66:5,18	<b>missed</b> 19:16

<b>mission</b> 11:3	<b>NICK</b> 4:20	17:21 18:1,10	63:12 67:5	<b>passed</b> 9:16 57:3
<b>mistakes</b> 23:22	<b>night</b> 19:16 27:16	19:12,15,21 20:3	<b>open</b> 23:14 46:11	<b>paths</b> 25:3
<b>mitigating</b> 46:16	27:16,19 29:5,7,9	21:13 24:2,15,17	<b>operate</b> 53:16	<b>patting</b> 69:13
<b>Monday</b> 33:7 46:5	29:14 30:10,20	25:5,11,14,22	<b>operating</b> 13:11	<b>paying</b> 22:13
<b>month</b> 20:20 21:12	31:7 43:7 53:18	26:12,19 27:3,5	21:22	<b>peace</b> 67:13
21:14 41:19	54:3,14 55:22	27:10,13,17,21,22	<b>operation</b> 9:14	<b>peacefully</b> 67:13
<b>months</b> 23:2 66:13	70:6	28:1,9,11,14,16	46:11	<b>people</b> 9:17,19 10:3
<b>morning</b> 6:3 17:6	<b>nightclub</b> 40:8,14	28:20,21 29:6,12	<b>opportunities</b> 51:7	12:3 13:6 15:1,2
24:17 27:16,20	44:4	29:17 30:1,4,8,11	61:18	19:19 25:3,10,19
28:13 29:14,16	<b>nonexistent</b> 68:14	30:16,21 31:3,8	<b>opportunity</b> 36:17	40:9,9,15,17,18
31:4,4 32:11	<b>nonprofit</b> 10:19	31:11,13,19,21,22	37:4	40:20,21 41:2,4
<b>mother</b> 38:9	11:5,5 52:3	32:1,4,8,10,13,14	<b>order</b> 13:14 35:7	43:9,13 44:13,22
<b>move</b> 7:15 43:13	<b>noon</b> 45:5	32:16,19 33:1,4,6	67:13	45:2 47:6 48:18
52:21	<b>normal</b> 34:19	33:10,12,15,18	<b>orderly</b> 13:3,6	49:8 51:11,12
<b>moving</b> 21:5	<b>Nos</b> 7:5	34:6,9 38:1,6,10	<b>organization</b> 7:14	53:18,19,22 54:2
<b>MPD</b> 6:2,4 17:4,16	<b>notes</b> 8:3	38:12,15,19,21	38:3	54:6 57:16 58:6
18:18 19:7 26:22	<b>nuisances</b> 18:3	39:1,2 47:2,16	<b>original</b> 45:9 60:20	58:15 60:17,20
34:1 63:5 65:5,17	<b>number</b> 48:6 54:8	62:13,16,19 63:1	<b>outcomes</b> 11:7	61:1,6,7,19 62:6
66:2 70:20 73:20	68:7	66:11 71:4,6,10	<b>outset</b> 7:11	64:15 67:8 68:17
74:4	<b>numbers</b> 14:10	71:19 72:1,4,7,10	<b>outside</b> 15:17 25:20	69:14 71:13,14
<b>music</b> 10:1,13,18	15:8,9 25:18	72:14,19,22 73:13	26:1,5,15 33:14	<b>pepper</b> 40:17
11:1 12:1 22:17	<b>numerous</b> 68:8	74:11,14,18,20,21	33:16,17 36:21	<b>percent</b> 10:12
22:18	<b>NW</b> 4:7	75:4,8	43:12,17 44:16	11:21 51:18
<b>N</b>	<b>O</b>	<b>officers</b> 38:15,18	46:6 67:4,9 68:16	<b>performances</b> 45:8
<b>N.W</b> 4:16 7:8	<b>O-F</b> 6:2	65:12 69:12	70:21	<b>person</b> 33:21 44:6
<b>name</b> 8:6,17 38:4	<b>O-S-E-N-Z-A</b> 8:13	<b>Oh</b> 20:9 27:4	<b>over-serving</b> 46:20	48:22 61:21
48:14	<b>obviously</b> 10:4 11:6	<b>okay</b> 7:23 8:5,11,20	<b>owners</b> 7:16 9:14	<b>personally</b> 9:6
<b>names</b> 8:2 19:18	11:16,20 18:5	8:23 6:7 7:20 8:3	57:12 75:22 76:2	18:21 65:7
20:1 72:2	22:5 34:17 57:18	8:5,6,7,7,11,14	76:6	<b>persons</b> 17:10 72:3
<b>narrow</b> 61:10,11	70:12	16:9,17 17:1 19:3	<b>ownership</b> 7:10	76:4
<b>necessarily</b> 30:15	<b>occurred</b> 27:11	20:6,18 21:2	77:7	<b>perspective</b> 56:21
63:11 64:17	28:5 29:2 32:21	22:21 24:13 26:12	<b>P</b>	<b>physically</b> 61:21
<b>necessary</b> 63:12	42:18 46:4	26:18,19 27:4	<b>P-R-O-C-E-E-D-...</b>	<b>picked</b> 14:13
64:18	<b>occurrence</b> 43:15	28:17 30:16 31:18	7:2	<b>place</b> 11:9 12:11,12
<b>need</b> 8:3 16:15	<b>occurrences</b> 24:19	33:5,11,17 34:8	<b>p.m</b> 29:1,11,12	26:22 40:11 41:3
21:19 23:19 34:17	26:21 34:1	35:6,12 37:6,19	30:1,8 33:12,19	52:16 68:8
49:6,16 56:11	<b>October</b> 4:14 27:11	38:1 39:3 42:11	44:20 45:10,14	<b>placed</b> 19:15
57:8 64:6 66:15	30:22 31:1 33:6	53:22 54:11 55:7	78:4	<b>plan</b> 6:18 14:8,8,19
67:10	33:10,18 53:17	57:9 61:13 62:12	<b>page</b> 48:17	47:18 53:16 54:13
<b>needs</b> 59:21 65:17	<b>offer</b> 11:13 34:18	62:22 64:4 65:2	<b>paid</b> 45:16	54:16,20 55:2,14
<b>neighborhood</b> 18:6	<b>offered</b> 55:10	67:18 72:1,4,20	<b>panic</b> 65:4	55:22
50:15	<b>offerings</b> 23:3	73:16,17,21 74:12	<b>particular</b> 19:20	<b>planning</b> 35:17
<b>never</b> 9:21 45:1	<b>office</b> 46:13	74:16,19 75:10	<b>partner</b> 9:15 13:11	<b>plans</b> 53:15
<b>new</b> 22:1 24:3	<b>officer</b> 6:5,3,4 7:21	77:17	21:22 57:3	<b>plays</b> 11:2
49:14,15 52:4	8:5,10 16:7,8,10	<b>old</b> 13:6	<b>party</b> 43:12 45:10	<b>please</b> 38:5 48:2
57:5	16:19 17:7,13,17	<b>on-site</b> 72:3	<b>passages</b> 25:8	72:11
		<b>ones</b> 11:21 13:21		<b>pledge</b> 20:1

<p><b>pledged</b> 71:21  <b>plus</b> 14:9,20,20  58:21 60:3  <b>point</b> 6:19 21:17  23:17,18,18 35:2  35:22 39:5,15  43:16 44:16 45:22  53:13 57:5  <b>points</b> 47:6  <b>police</b> 16:6 18:13  27:2 28:1 31:20  32:1 42:15 46:14  52:19 53:2 67:6  67:11 70:17  <b>poor</b> 46:17  <b>Porter</b> 10:15  <b>portion</b> 33:16  71:11  <b>position</b> 8:15 35:2  <b>Post</b> 48:17  <b>posts</b> 26:4  <b>potential</b> 11:14  <b>potentially</b> 64:22  <b>precinct</b> 66:11  <b>precisely</b> 13:13  <b>prepared</b> 11:19  12:6  <b>presence</b> 66:16  69:12  <b>present</b> 4:18,23  8:21 68:9 76:3  <b>preserving</b> 10:22  11:1  <b>presiding</b> 4:17  <b>pretty</b> 54:7 55:13  <b>prevent</b> 58:14  <b>primarily</b> 10:18  <b>primary</b> 41:2  <b>principal</b> 9:14  <b>principals</b> 7:20  8:21  <b>priority</b> 23:12  <b>private</b> 10:9,16  12:13,17 13:1,21  14:1  <b>privately</b> 14:1  <b>probably</b> 13:15</p>	<p>53:22  <b>problem</b> 43:8 56:2  72:19 74:14  <b>problems</b> 21:7  24:10 36:3,16  37:4 56:4  <b>procedure</b> 34:19  <b>proceeding</b> 7:3  <b>process</b> 41:15 42:1  <b>professional</b> 43:3  <b>profitable</b> 50:7  <b>progress</b> 76:12  <b>project</b> 22:15 52:2  <b>promises</b> 55:17,21  <b>promoter</b> 45:9,19  <b>promptly</b> 18:14  <b>proper</b> 11:10  <b>properly</b> 34:18  35:8  <b>proposing</b> 20:5  <b>protect</b> 48:14  <b>proud</b> 50:9 52:16  <b>provided</b> 19:18  <b>public</b> 39:19 74:5  <b>pull</b> 46:9  <b>pulled</b> 40:1  <b>pushed</b> 46:13  <b>put</b> 7:18 12:12 22:4  51:17 55:13 59:17  <b>pyrotechnic</b> 40:11  <b>pyrotechnics</b> 40:6</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <p><b>qualified</b> 16:3  <b>quality</b> 18:18 55:14  <b>question</b> 37:22 38:2  50:21 58:10 64:3  <b>questions</b> 7:9 24:20  39:7 53:13 56:19  76:3  <b>quiet</b> 45:6 67:14  <b>quite</b> 9:1,6,6 26:21</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>raise</b> 14:10  <b>raised</b> 7:5,6,18  20:17 52:2 77:13</p>	<p><b>range</b> 14:22 15:1  <b>RDO</b> 49:4,16 62:21  63:5,11 64:6,17  67:7 70:15,16  75:7  <b>RDOs</b> 73:10  <b>reach</b> 71:8  <b>reached</b> 63:2  <b>read</b> 7:3 12:19 13:4  39:16,17  <b>reading</b> 48:16  <b>ready</b> 7:10  <b>real</b> 11:22 76:1  <b>really</b> 9:20 19:8  23:8 47:5 53:11  53:12 55:4,19  56:1 60:19 65:22  66:15 70:9 76:8  <b>reason</b> 68:21  <b>reasons</b> 19:10 77:6  <b>rebut</b> 36:5  <b>receive</b> 72:11  <b>received</b> 52:4  <b>record</b> 7:11,19  18:16 20:4 48:3  50:19 75:4,8  <b>redevelopment</b>  23:15 51:19 52:7  <b>Reeves</b> 4:16  <b>referred</b> 70:8  <b>registered</b> 16:14,16  <b>regular</b> 47:7  <b>regulations</b> 12:10  <b>relating</b> 18:2  <b>relationship</b> 22:17  <b>relayed</b> 21:8  <b>relevant</b> 68:4  <b>remedied</b> 68:10  <b>remember</b> 57:17  <b>reminder</b> 71:7  <b>renovating</b> 41:12  <b>repeat</b> 8:6 7:16  14:15  <b>repeated</b> 8:2  <b>report</b> 39:9 43:21  72:17 73:9  <b>reported</b> 34:2</p>	<p><b>reports</b> 7:6,18  34:20 35:19 63:7  70:20 76:12  <b>request</b> 35:8  <b>requirements</b>  20:14 72:18  <b>reservation</b> 47:5  <b>reset</b> 56:12  <b>resolve</b> 72:6  <b>resolved</b> 67:12  <b>response</b> 71:15  <b>responsibilities</b>  58:5  <b>responsibility</b>  24:12 52:13 53:4  56:8  <b>responsible</b> 58:8  <b>rest</b> 52:2  <b>restaurant-orient...</b>  10:14  <b>restoration</b> 10:20  10:21 52:7  <b>restoring</b> 10:21  <b>result</b> 66:3  <b>resulted</b> 27:1  <b>Retailer</b> 4:8  <b>return</b> 47:13  <b>revamp</b> 56:14  <b>review</b> 27:8 69:2  77:7,11  <b>Rhode</b> 40:8  <b>rid</b> 43:12  <b>right</b> 7:12 6:1,8 8:1  16:9 17:1 20:7,11  23:12 24:14 28:15  31:5,6 32:2,9  34:13 36:10 37:1  37:12 47:2 50:22  51:16 56:7,11  58:12 61:2 66:9  71:9 75:13 76:10  77:2,4,18  <b>Rodriguez</b> 4:21  29:8,15 32:9  37:21 38:8,11,13  38:17,20,22 42:5  50:21 51:1,2,16</p>	<p>51:20 52:17 53:7  <b>roles</b> 39:14  <b>room</b> 4:16 44:12,13  45:2,6  <b>rosy</b> 23:16  <b>roving</b> 26:4 59:4,19  69:15  <b>Roy</b> 6:4 7:18 8:19  8:17  <b>rule</b> 60:1  <b>run</b> 57:19  <b>runs</b> 7:14  <b>Ruthanne</b> 4:17,19</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>S-O-M</b> 38:8  <b>safe</b> 50:15,15 74:7  <b>safety</b> 39:20 41:21  66:5 74:5  <b>satisfied</b> 17:10  <b>Saturday</b> 27:15,16  27:20 29:5,14  30:12,13,20,22  31:4,7 42:22  44:19,21  <b>saw</b> 7:17 40:4  41:18 42:13 45:5  <b>saying</b> 19:5 25:15  30:5 40:22 42:12  64:5,9,12,13  71:12  <b>says</b> 26:5 76:13  <b>scenario</b> 48:19  <b>scenarios</b> 58:18  <b>scheduled</b> 35:14  <b>scratching</b> 46:1  <b>screamed</b> 40:5  41:19  <b>seat</b> 25:10  <b>second</b> 44:18  <b>secure</b> 49:12 58:20  <b>securing</b> 58:22  <b>security</b> 6:11,18  11:11 12:12,13,15  13:19,20 14:4,8  14:19 15:8,12  16:7 17:10 19:20</p>
--	--	---	--	---

20:2 24:3,6,22 25:4,12,16,19 26:14 34:8 38:3 38:15,17 44:3,15 49:15 53:18,19,20 54:8,13,19 55:2 55:14,22 56:15,16 56:17 59:4,20 60:10 61:6 62:7 65:11,12 69:11,11 69:19,21,21 70:3 70:5,9 71:11,19 73:19 see 6:19 12:1 31:14 35:21 47:12 54:2 55:21 63:20 64:16 65:11,14 76:19 seeing 41:4 47:19 55:21 seen 35:18 39:8 47:18 56:9 69:10 70:13 send 72:12,17 sends 73:8 sense 53:15 63:17 separate 13:20 59:7 September 4:12 6:10 serious 6:20 7:17 9:7 49:21 seriously 7:9 9:5 22:10 seriousness 56:2 58:4 serve 59:19 service 18:18 services 17:5 serving 58:22 set 58:7 75:15 setting 76:21 seven 67:22 sexual 28:4,21 32:15 Short 4:22 13:4 17:2,4,8,14,18 18:15 19:5 20:19 21:1 27:12 28:19	30:3 31:20 32:7 32:12,17,20 33:2 33:5 48:2,10 49:6 49:14,20 50:18 58:10,13 60:12 62:20 64:2,5,11 65:2,8,15,20 66:5 66:18 71:18 72:9 72:10,16,20 73:3 73:5,8,14 74:1,11 75:18,21 76:17,22 77:3,5,15 show 14:21 59:18 59:19 64:16 74:22 76:20 showed 45:4 57:16 shown 53:1 shows 45:18 63:10 side 11:5 61:7 62:3 sides 62:4 sidewalk 43:11 Silverstein 4:21 15:4 27:15,19 39:9,11 46:22 48:11 60:15,16 61:13 62:10 66:22 67:1 71:2 simple 29:2 32:17 32:20 33:13,19 single 13:6 17:9 sir 17:7,13,17 27:13 28:9 32:16,19 33:4 42:7 48:9 51:2,20 72:15,22 73:13 76:16 sits 9:11 sitting 39:22 situation 14:9 59:10 65:9 67:7 situations 6:15 7:8 12:16 25:4 six 52:6 slapping 46:1 slow 28:18 slowly 61:12 smaller 60:4 smattering 36:19	smoking 46:7 SOMB 16:4,11 38:7 63:3 SOMB-qualified 16:1 somebody 37:20 40:16 somewhat 20:15 35:1 soon 35:19 66:17 72:11 sorely 57:15 sorry 8:10 15:4 18:22 28:9 32:1 33:8 54:10 sort 11:13 44:5 soul 41:8 sound 10:13,19 sounds 36:2 74:2 sources 52:6 speak 49:9 69:20 speaking 16:19 specifically 20:16 specifics 51:15 spell 8:7 spent 40:2 41:11 spoke 70:6 spoken 70:3 spray 40:17 square 9:10 18:3 50:15 staff 19:20 24:22 46:13 60:10,10 stage 10:13,19 25:9 stake 52:10 stampede 40:14,18 stand 38:14 standing 46:6 61:22 start 8:15 42:12 49:7 started 9:9 46:1 starting 7:11 stated 28:1 67:21 statement 48:3 STATEMENTS 6:3	Station 40:8 stationed 44:15 status 21:11 36:12 stay 23:10 63:18 staying 43:9 steps 42:1 Steven 6:5 7:15 8:8 stolen 50:13 stop 42:2 stopped 42:12 stopping 60:17 61:19 straightened 77:1 strayed 23:6 street 4:7,16 7:8,19 13:8 44:2 47:20 60:8 streets 7:22 stressed 62:21 63:6 structure 7:10 47:12 56:15 struggling 23:16 submit 14:18 54:20 55:2 submitted 14:7 15:20 54:13 55:22 submitting 54:16 suggest 34:11 47:3 65:3 Suite 4:16 Sunday 29:14,15 30:13 supposed 9:22 57:1 sure 8:2 13:3 16:15 19:8 20:7,17 23:9 24:14 31:10 41:2 53:4 57:12 59:5,9 61:7,22 67:12 72:7,14 74:6 75:2 76:9 surprised 55:7 system 57:5	t/a 4:7 table 54:6 65:17 take 9:5 12:1 45:19 49:19 52:12 56:17 61:1 63:15 66:9 taken 11:9 26:22 63:2 takes 7:8 talk 44:2 talking 25:20 41:15 41:16 tax 52:4,5 taxpayers 41:11 team 22:3 technical 68:20 69:4 tell 8:3 11:17 53:22 55:8 69:18 70:4 tenant 23:14 term 25:12 terms 13:16 23:3 51:6 terrifying 41:5 testimony 13:5 thank 6:1 8:12 14:13 17:4,18 18:15 21:1 27:20 28:17,18 33:11 38:22 42:6 49:20 50:18 53:7,10 60:12 62:10 66:18 67:20 71:2 72:7 72:20 73:14 75:21 76:17 77:15,19,21 77:22 78:1 Thanks 17:5 theatre 4:6,7 7:7,16 7:20 8:22 7:8 9:11,13,17,17,18 10:1,13,20,20 11:2 18:19 32:22 47:21 48:1,7 50:2 50:11,17 51:12,19 52:15 57:4 58:14 60:21 61:2 65:18 66:2 75:1 76:20 thing 41:9 59:11
---	--	--	--	---

69:10 74:1	<b>total</b> 51:18	19:16	<b>Warwick</b> 40:8	24:4,7 43:19
<b>things</b> 6:11,18,21	<b>totally</b> 48:10	<b>unhappy</b> 11:7	<b>Washington</b> 4:16	52:20 68:12,20
8:16 12:7 21:14	<b>tourism</b> 51:5,7	<b>unharmed</b> 40:10	8:19 41:9 48:4,15	69:4,8 73:12 74:4
39:18 40:3,4,5	<b>tourist</b> 48:5,22	<b>University</b> 10:17	48:17 51:4 64:8	76:10
41:5,13,16 42:2	<b>tourists</b> 50:2,11	<b>unrelated</b> 42:20	<b>Washingtonian</b>	<b>works</b> 53:4
42:13,18 46:21	<b>town</b> 43:5	<b>unruly</b> 64:22	8:19 52:12 76:7	<b>world</b> 48:6,16
47:8 51:4 54:6	<b>training</b> 65:4,5	<b>upped</b> 15:10 25:18	<b>Washingtonians</b>	<b>worried</b> 54:8
57:19 60:19 66:9	70:7,9,10	<b>upset</b> 44:7	41:22	<b>worst</b> 48:19
67:12 68:3 70:11	<b>trampled</b> 48:18	<b>upstairs</b> 59:6,8	<b>wasn't</b> 18:9	<b>wrap</b> 57:10
70:19 73:18	<b>transcript</b> 7:3	62:1	<b>watching</b> 61:22	<b>wraparound</b> 13:7
<b>think</b> 11:11 13:14	12:19 39:16,17	<b>use</b> 37:2 40:6 61:14	<b>way</b> 19:21 22:20	<b>wristband</b> 60:5
13:15 14:16 17:11	54:21 77:8,11	<b>useful</b> 63:21	73:11 74:1	<b>wristbands</b> 60:5
19:6,16 32:5	<b>transitional</b> 18:6	<hr/>	<b>ways</b> 47:14	<b>write</b> 8:6
34:18 35:18,20	<b>transitioning</b> 18:7	<b>V</b>	<b>we'll</b> 14:10	<hr/>
36:16 37:1 39:5	<b>Trey</b> 9:3	<b>vacuum</b> 56:5	<b>we're</b> 12:22 13:18	<b>X</b>
39:13 47:3,11,20	<b>tried</b> 44:9 46:9	<b>variety</b> 10:2	64:21	<b>X</b> 59:16
49:5,6,10 52:22	<b>trust</b> 39:20	<b>various</b> 7:6,17	<b>we've</b> 55:18	<b>Xes</b> 59:17
56:12 62:6 63:9	<b>trustees</b> 11:4	<b>venue</b> 13:8	<b>Wednesday</b> 33:19	<hr/>
63:12 64:17 65:17	<b>try</b> 34:21 50:1,6,11	<b>venues</b> 65:10	35:10	<b>Y</b>
65:22 66:8,14	63:3	<b>video</b> 42:17 69:2	<b>week</b> 27:12	<b>year-old</b> 41:7
74:2,7 77:18	<b>trying</b> 35:21 42:16	<b>violation</b> 33:20	<b>weekend</b> 10:15	<b>year-olds</b> 60:4,6
<b>thinking</b> 49:7	48:13 50:5 56:14	<b>vision</b> 23:7	58:19 67:8	<b>years</b> 9:9 22:2
73:22	60:6 63:18 69:2	<b>visit</b> 24:20 25:15	<b>weeks</b> 55:4,5,6	23:14 40:2 50:6
<b>third</b> 44:19 46:2	<b>turn</b> 7:11 22:8	26:20 34:2	<b>welcome</b> 39:2	58:15
<b>thought</b> 12:14	62:18	<b>visited</b> 68:11	<b>well-controlled</b>	<b>York</b> 22:1
56:19 77:6	<b>two</b> 19:1 23:14 27:1	<b>visitor</b> 48:22	56:7	<b>young</b> 11:12 44:2
<b>three</b> 55:5,6	30:9 43:15 50:6	<b>voice</b> 14:12	<b>well-identified</b>	45:4
<b>ticket</b> 45:5,9,16	54:6 55:4,11,14	<b>vote</b> 17:9	69:13	<b>younger</b> 12:3,7
77:3	59:17	<hr/>	<b>went</b> 40:11 46:7	<hr/>
<b>time</b> 8:2,9 12:3	<b>type</b> 11:11 13:20	<b>W</b>	52:7 73:9 77:12	<b>Z</b>
18:7 19:8,13 28:7	14:21	<b>wait</b> 76:22	<b>weren't</b> 19:8 35:16	<hr/>
28:10 32:7 34:12	<b>types</b> 11:20 12:7	<b>waiting</b> 71:7,15	76:2 77:9	<b>0</b>
34:17 35:3,19	13:1 14:2	<b>wake-up</b> 12:4,5	<b>whispers</b> 35:4	<hr/>
37:5 42:21 43:12	<hr/>	<b>walk</b> 46:7	<b>wide</b> 10:2	<b>00013</b> 7:6
45:3 46:12 60:9	<b>U</b>	<b>want</b> 8:2,6 6:19	<b>wisdom</b> 53:11	<b>00238</b> 7:7
67:10 68:5,22	<b>unable</b> 60:21	7:21 8:1,19 12:8	<b>wishes</b> 34:15 35:10	<b>03:40</b> 27:18
76:11,19	<b>understand</b> 7:4	13:8 14:14 18:18	<b>wonderful</b> 47:12	<b>04:27</b> 28:4,11
<b>time-to</b> 12:2	20:9 31:2 32:6	19:4 20:17 22:19	<b>word</b> 37:10 66:16	<hr/>
<b>times</b> 30:18 54:7	34:16 35:15 36:4	22:19 29:21 34:3	76:15	<b>1</b>
68:8,11	36:14 39:12 46:18	37:20 41:17 47:4	<b>words</b> 53:11	<b>1</b> 4:1 7:2 8:2 48:5
<b>today</b> 52:14 56:9,9	49:22 55:12,19	50:1 53:12,15	<b>work</b> 17:12 19:6,10	<b>1,000</b> 15:1,2,7 41:3
57:20 75:22	56:2 58:3	55:18 57:10 62:17	19:13 22:4,5,8	44:12 49:8 53:21
<b>told</b> 44:13 45:13,17	<b>understands</b> 47:10	67:10 74:6 75:21	41:14 67:6,11,15	61:1
69:3,8	<b>understood</b> 20:7	<b>wanted</b> 9:20 22:11	67:16	<b>10</b> 7:11 8:11 9:9
<b>tomorrow</b> 20:22	37:13,17,18	24:20 31:10	<b>worked</b> 18:1	22:2 67:3
75:16	<b>unfortunate</b> 23:21	<b>wants</b> 47:12 74:22	<b>working</b> 17:11,16	<b>10/18</b> 28:3 29:1,6,8
<b>tone</b> 58:7	<b>Unfortunately</b>	75:1	18:17,17 20:2	<b>100</b> 15:1,2,7 40:9
				41:7
				<b>11</b> 7:12 8:12

<b>11:09</b> 7:3	<b>24th</b> 20:20	<b>9</b>	
<b>11:34</b> 33:19	<b>25</b> 43:2	<b>9</b> 7:10 8:10	
<b>12</b> 7:13 8:13	<b>251</b> 70:19	<b>90</b> 10:12 11:20	
<b>12:11</b> 78:4	<b>29</b> 51:22		
<b>13</b> 7:14 8:14 69:1			
<b>134</b> 40:10	<b>3</b>		
<b>14</b> 7:15 8:15	<b>3</b> 6:1 7:4 8:4		
<b>14-251</b> 7:5,6	<b>3:40</b> 32:10		
<b>14-251-00013</b> 4:9	<b>30</b> 24:19 40:2 45:2		
<b>14-251-000229</b> 7:6	55:15		
<b>14-251-00093</b> 4:9	<b>30s</b> 10:6		
7:6	<b>35</b> 43:2 51:18		
<b>14-251-00229</b> 4:10	<b>3D</b> 47:6		
<b>14-251-00238</b> 4:10			
<b>14-CMP-00240</b>	<b>4</b>		
4:11 7:7	<b>4</b> 7:1,5 8:5		
<b>14th</b> 4:16	<b>4:00</b> 31:3		
<b>15</b> 7:16 8:16	<b>4:27</b> 28:12		
<b>150</b> 44:22	<b>40</b> 45:2		
<b>16</b> 7:17 8:17	<b>400S</b> 4:16		
<b>17</b> 4:12 7:18 8:18	<b>40s</b> 10:6		
<b>17th</b> 6:10 30:3	<b>41</b> 6:6		
<b>18</b> 7:19 8:19 14:9			
14:20 53:20,21	<b>5</b>		
58:13 59:17 60:3	<b>5</b> 7:6 8:1,6		
<b>18th</b> 27:11,18 30:5	<b>5:30</b> 33:12 55:22		
30:22 31:1 53:17	<b>50</b> 40:18 54:2		
<b>19</b> 7:20 8:20	<b>500</b> 64:15		
<b>1910</b> 9:18			
<b>1920s</b> 10:6	<b>6</b>		
<b>19th</b> 31:17	<b>6</b> 7:7 8:7		
	<b>620</b> 4:7 7:8		
<b>2</b>	<b>66</b> 6:6		
<b>2</b> 5:7 7:3 8:3			
<b>20</b> 6:5 7:21 8:21	<b>7</b>		
67:4	<b>7</b> 6:4 7:8 8:8		
<b>2000</b> 4:16	<b>7:00</b> 29:11,12 30:1		
<b>20009</b> 4:17	30:8 44:20 45:14		
<b>2014</b> 4:12,14	<b>7:05</b> 29:1 31:8		
<b>20th</b> 33:6,10 46:5	<b>7:15</b> 45:8		
<b>21</b> 7:22 8:22 14:20	<b>7th</b> 13:7 18:4		
40:17 58:15,21			
59:14,15 60:4,5	<b>8</b>		
62:1	<b>8</b> 7:9 8:9		
<b>22</b> 4:14 7:23 8:23	<b>8:00</b> 45:10		
<b>23/61</b> 6:5	<b>87</b> 40:20		
<b>230</b> 40:9	<b>88646</b> 4:8 7:8		
	<b>8th</b> 33:18		