

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
+ + + + +
MEETING

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IN THE MATTER OF:
2461 Corporation,
t/a Madam's Organ
2461 18th Street NW
Retailer CT-ANC 1C
License #25273
Case # 23-251-00016
(Failed to Follow
Security Plan.)
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Wednesday
March 20, 2024

The Alcoholic Beverage and Cannabis
Board met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
SILAS GRANT, JR., Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
RICHARD BIANCO, Licensee's Counsel
SARA REYNOLDS, Licensee
INVESTIGATOR MARK RUIZ, DC ABCA
CHRISTOPHER SOUTHCOTT, DC OAG

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

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

2 1:33 p.m.

3 CHAIRPERSON ANDERSON: And so the only  
4 case that we have on our calendar this afternoon  
5 is a show cause hearing, Case Number  
6 23-251-00016, Madam's Organ, License Number  
7 25273. Good afternoon, Mr. Orellana, can you  
8 please elevate the rights of the parties in this  
9 case?

10 MR. ORELLANA: Sure, good afternoon.  
11 Investigator Mark Ruiz, your access has been  
12 elevated. Christopher Southcott, your access has  
13 been elevated. Richard Bianco, your access has  
14 been elevated. And Sara Reynolds, your access  
15 has been elevated. That is all, Chairman.

16 CHAIRPERSON ANDERSON: Good afternoon.

17 MR. SOUTHCOTT: Good afternoon.

18 CHAIRPERSON ANDERSON: Good afternoon.  
19 Let me have the attorneys identify themselves for  
20 the record, starting with the government.

21 MR. SOUTHCOTT: Good afternoon,  
22 Chairman Anderson. This is from the Attorney  
23 General, Chris Southcott, first name C-H-R-I-S,  
24 last name S-O-U-T-H-C-O-T-T, from D.C.'s Office  
25 of the Attorney General representing the

1 District.

2 CHAIRPERSON ANDERSON: Good afternoon.  
3 Mr. Bianco?

4 MR. BIANCO: Members of the board,  
5 Richard Bianco on behalf of the respondent in  
6 this case, 2461 Corp. R-I-C-H-A-R-D B-I-A-N-C-O.  
7 With me I have the establishment's manager, Sara  
8 Reynolds, as well as the owner, Bill Duggan. And  
9 I can have them introduce themselves separately  
10 at your pleasure.

11 CHAIRPERSON ANDERSON: All right. I  
12 think we'll do that shortly. There is a  
13 preliminary matter that I would like to address  
14 at the beginning of the hearing. I am aware, Mr.  
15 Bianco, that you had filed a motion asking for  
16 this matter to be postponed. The government had  
17 opposed your motion, and clearly we're here  
18 today, and so on our legal agenda this morning  
19 the board denied your motion, and so therefore  
20 that's why we're here.

21 It's my understanding that in moving  
22 forward that you might want to call a witness out  
23 of order. We can address that if that is still  
24 relevant. Okay?

25 MR. BIANCO: Thank you very much, Mr.

1 Chair, I appreciate you putting that on the  
2 record. As of right now it's not based on when  
3 we're being called. I had planned for the  
4 potential of delay, but since we're going forward  
5 on time, I think I can call him in order. If  
6 that changes, I will speak up and let the board  
7 know.

8 CHAIRPERSON ANDERSON: All right,  
9 thank you. Mr. Southcott, are there any other  
10 preliminary matters that we need to deal with  
11 before we move forward?

12 MR. SOUTHCOTT: Yes, there are a  
13 couple of preliminary matters from the government  
14 and co with respect to the witness list that has  
15 been provided by the establishment. The first is  
16 that as iterated in the District's opposition to  
17 its continuance, the District believes that  
18 eyewitness testimony to the events that led to  
19 the altercation which took place on May 21, 2023  
20 are not relevant to these proceedings.

21 The reason for that is that the single  
22 charge that the District is bringing is that the  
23 establishment violated its security claim by  
24 failing to file an incident report or, you know,  
25 to create an incident report, and failing to

1 contact MPD or EMS following an emergency  
2 situation. As such, the particular nature and  
3 truth of whose account and whose eyewitness  
4 account holds is not relevant to these  
5 proceedings and the determination of the charge  
6 before the board.

7 CHAIRPERSON ANDERSON: I'm sorry, as  
8 you're aware, Mr. Southcott, the government has  
9 the burden to prove its charge, and so the  
10 licensee doesn't have to put a case on because  
11 it's up to the government to prove that the  
12 infraction occurred. And I don't believe that  
13 the Board is in a position to tell the licensee  
14 how he can respond in defending the charge that  
15 we are here for today.

16 So as I stated before, you have the  
17 burden, so you need to convince the Board that  
18 the infraction did occur, and then the licensee  
19 will respond as he sees appropriate to respond if  
20 the licensee determines that he needs to put a  
21 case on to defend its position. I don't know if  
22 it's a motion that you're making for us to --

23 MR. SOUTHCOTT: I'm making a motion  
24 particularly to have excluded as witnesses Walter  
25 Johnson, Aaron Payton, Zach Miller, Javana Clark,

1 who have all been identified as eyewitnesses  
2 under respondent's witness list.

3 CHAIRPERSON ANDERSON: But I --

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: Yes, Mr.  
6 Bianco. Go ahead, sir.

7 MR. BIANCO: So this is very unusual.  
8 As the chair mentioned, it's their burden to  
9 prove their case. When I had the discussion last  
10 week with Mr. Southcott about continuing the  
11 matter, he mentioned that he believed that  
12 there's no facts that we can put on here that  
13 would be successful in defense, and at that point  
14 I invited him to file a dispositive motion if he  
15 thought that there were no material facts in  
16 dispute. He declined to do that. Had he done  
17 that, we would have been able to lay out in brief  
18 format exactly what facts are in dispute.

19 The government opted to not do that,  
20 and to tell us what defense we are allowed or are  
21 not allowed to put on we think is something  
22 inappropriate for the government to dictate.  
23 There are in fact facts in dispute in this case,  
24 and our witnesses are going to hash that out. If  
25 there was a motion to be made that would've

1 disposed of this matter, it should've been made.

2 MR. SOUTHCOTT: Mr. Chair, may I  
3 respond?

4 CHAIRPERSON ANDERSON: Sure, sir.

5 MR. SOUTHCOTT: I'd like to  
6 recategorize the characterization of my comments,  
7 which were not that there were no dispositive  
8 facts, or rather that the new set of facts that  
9 the establishment could put on that would mean  
10 that they are not liable to the charge, rather  
11 the facts that are relevant to the charge are  
12 whether the establishment did or did not contact  
13 MPD or EMS following an emergency situation and  
14 whether the establishment did or did not create  
15 an incident report of this situation.

16 Those are relevant facts and the  
17 District is perfectly fine to hear testimony  
18 related to, you know, any dispute that arises as  
19 to whether those factual conditions have been  
20 met. But because the charges for the  
21 establishment violating its security claim by not  
22 contacting MPD or EMS and by failing to create an  
23 incident report, the District is simply seeking  
24 to cabin a relevant information and testimony  
25 that has nothing to do with the actual charge in



1 this case, which is whether the establishment  
2 abided by their security plan. It has nothing to  
3 do with whose account of what actually took place  
4 on the night of May 21, 2023 is correct.

5 So Mr. Bianco was incorrect in saying  
6 that the District does not believe that. You  
7 know, there are any set of facts that, you know,  
8 the establishment could put on that would refute  
9 the District's case. The District just is  
10 clarifying what the scope of the case is, and  
11 that that scope does not include speculative  
12 testimony about what did or did not occur.  
13 Testimony about whether an incident occurred at  
14 all is relevant, but not testimony as to what  
15 happened during that incident.

16 CHAIRPERSON ANDERSON: All right.  
17 Well, we have a charge. We know the charge and  
18 it's the government's burden to sustain the  
19 charge, and so at this junction the board is not  
20 going to take a position on your motion.

21 I think that once the government has  
22 presented its case and the applicant decides to  
23 defend its case, they'll call witnesses, and I  
24 think that you can raise an objection and we'll  
25 find out the nature of the testimony -- that Mr.

1 Bianco can provide us a synopsis of what it is  
2 that the witness will testify to and then we can  
3 address it at that juncture.

4 But I think it's premature, I don't  
5 know who the witnesses are. I see there are a  
6 lot of witnesses on the list. I don't even know  
7 how many witnesses he plans to call this  
8 afternoon, and so maybe one of the things that we  
9 can start off as how many witnesses -- well,  
10 sorry. Yeah, I stand corrected.

11 As I stated before, at the juncture  
12 that the respondent decided to call a witness,  
13 you can raise your motion and then the board will  
14 rule at that juncture if a witness is called,  
15 okay? So just preliminarily, how many witnesses  
16 do you have, does the government have?

17 MR. SOUTHCOTT: The government will  
18 be calling Investigator Mark Ruiz as a witness.

19 CHAIRPERSON ANDERSON: Okay. Thank  
20 you. And Mr. Bianco, if you decide to call  
21 witnesses, how many witnesses will you be  
22 calling?

23 MR. BIANCO: At this point, Mr. Chair,  
24 because our case is responsive to the  
25 government's case, so our herd of witnesses may

1 be thin, so to speak, depending on what  
2 information is elicited in the government's case  
3 in chief. I will for the purpose of timing tell  
4 the board that my intention is to call three  
5 witnesses.

6 CHAIRPERSON ANDERSON: All right,  
7 that's fine, sir. I did briefly look at your  
8 witness list and I think I found maybe almost ten  
9 people listed I believe, and so I was just trying  
10 to get for time just to get an idea of how long  
11 this hearing might go. All right. So --

12 MR. SOUTHCOTT: The District does have  
13 a second --

14 CHAIRPERSON ANDERSON: Yes, sir?

15 MR. SOUTHCOTT: Preliminary matter  
16 related to the witness list. The District would  
17 also be objecting to calling Joseph Massey as a  
18 potential expert witness in this matter. I don't  
19 know if he's one of the three that Mr. Bianco was  
20 potentially indicating that he would be calling.

21 If so, you know, if not, then, you  
22 know, then obviously the objection is moot. To  
23 the extent that you would be calling him as an  
24 expert witness, the District does not believe  
25 that he's qualified to testify in this matter.

1 CHAIRPERSON ANDERSON: All right. Let  
2 us wait to see once you have tested and the  
3 respondent, if this respondent is going to call  
4 witnesses, and once a witness is called, then you  
5 would have the right to object to the witness,  
6 and the board will make a ruling at that  
7 juncture, okay?

8 MR. SOUTHCOTT: Okay. Thank you, Mr.  
9 Chair.

10 CHAIRPERSON ANDERSON: All right,  
11 thank you. All right, does the government wish  
12 to make an opening statement?

13 MR. SOUTHCOTT: Yes, the government  
14 does.

15 CHAIRPERSON ANDERSON: Go ahead, sir.

16 MR. SOUTHCOTT: Good afternoon,  
17 members of the board. We are here to discuss the  
18 investigation that occurred to an incident that  
19 took place in the early morning hours of May 21,  
20 2023 at Madam's Organ.

21 In spite of the at times conflicting  
22 accounts that underpin this case, at heart we  
23 have a fairly simple matter. On May 21, a  
24 violent physical altercation occurred at the  
25 establishment between patrons Jakob Scheidt and

1 Javana Clark and employees Walter Johnson and  
2 Aaron Patton.

3 Now, who is at fault for the  
4 altercation is disputed, but what is undisputed  
5 is that following the altercation, Mr. Scheidt  
6 filed a police report with MPD reporting the  
7 incident. You will hear that MPD conducted an  
8 investigation of the incident, reaching out to  
9 staff at Madam's Organ. You will also hear that  
10 the MPD report generated by Mr. Scheidt triggered  
11 ABCA to conduct its own investigation into the  
12 events of May 21, 2023.

13 That investigation led to one charge,  
14 namely that Madam's Organ failed to abide by the  
15 terms of their board-approved security plan by  
16 failing to contact the Metropolitan Police  
17 Department or create an incident log after a  
18 violent incident occurred inside of the  
19 establishment, in violation of D.C. Code Section  
20 25-823A6.

21 Now crucially, failure to follow a  
22 security plan is the only charge that the  
23 District is bringing against Madam's Organ, and  
24 therefore testimony about who was at fault in the  
25 altercation is irrelevant to those proceedings.

1 It does not matter if Mr. Scheidt was at fault  
2 for it, or Ms. Clark, or Mr. Patton, or Mr.  
3 Johnson, what matters is that an incident  
4 occurred and that incident triggered obligations  
5 for Madam's Organ under their security plan.

6 So the District takes no position on  
7 whose eyewitness interpretation is correct. You  
8 will hear statements from patrons Scheidt and  
9 Clark who place the blame for the altercation at  
10 the hands of the establishment's security staff.  
11 By contrast, security staff Johnson and Patton  
12 provided statements to ABCA placing the blame for  
13 the altercation at the hands of Mr. Scheidt.

14 But who's at fault has no bearing on  
15 the nature of this case. You will hear  
16 Investigator Ruiz testify that regardless of  
17 whose version of events you believe, there are  
18 consistencies which exist between the accounts.  
19 All of the accounts describe a physical  
20 altercation between a patron and Madam's Organ  
21 staff. Accounts from both the patron and Madam's  
22 Organ employees describe security staff making  
23 comments which escalated the situation.

24 All accounts describe an assault  
25 taking place. And accounts from both the patrons

1 and from security staff describe Mr. Scheidt  
2 suffering physical injuries as a result of the  
3 encounter.

4 So regardless of whose version of  
5 events is true, you'll hear Investigator Ruiz  
6 testify that according to every eyewitness  
7 account provided to him in the course of his  
8 investigation, each version of the events of May  
9 21 triggered requirements from Madam's Organ  
10 under their security.

11 Now, what were those requirements?  
12 You'll hear that under their security plan,  
13 police and/or EMS are called for any emergency  
14 situation. Investigator Ruiz will testify that  
15 each account of the altercation constituted an  
16 emergency situation which required police and/or  
17 EMS to be called. And the establishment failed  
18 to do so.

19 You will also hear that under the  
20 security plan, managers are required to make  
21 incident reports for any issue that rises inside  
22 the bar. Such incident reports exist so that in  
23 the event of an investigation, MPR or ABCA can  
24 refer to the already created incident report  
25 instead of having to rely on a statement made by

1 employees who know that they are under  
2 investigation.

3 Yes, Investigator Ruiz will testify  
4 that he never received an incident report  
5 generated by a manager at the establishment, and  
6 to date the establishment has failed to produce  
7 such an incident report. To the extent that the  
8 establishment has provided any account of the  
9 events of May 21, those accounts were not  
10 recorded until June 10, 2023, which was several  
11 weeks after the events in question, and which  
12 occurred after MPD reached out to the  
13 establishment in the course of its investigation  
14 of the altercation.

15 Based on these facts, the District  
16 asks at the end of these proceedings, this court  
17 find Madam's Organ liable for violating D.C. Code  
18 Section 25-823A6 by failing to follow its  
19 security plan. Thank you.

20 CHAIRPERSON ANDERSON: Mr. Bianco, do  
21 you wish to make an opening statement or you  
22 defer?

23 MR. BIANCO: I will make an opening  
24 statement at this time.

25 CHAIRPERSON ANDERSON: Okay, go ahead,



1 sir.

2 MR. BIANCO: Members of the board, as  
3 you hear the evidence in this case, it is  
4 important to remember what this case is about.  
5 It's not about excessive force, it's not about  
6 misconduct by a security employee or some  
7 wrongful act of violence committed by the  
8 establishment. Nor is this case brought under  
9 the amorphous unlawful purpose provision that can  
10 mean basically anything.

11 If we look at the charging document,  
12 what's alleged here, it's that the establishment  
13 failed to call MPD or make an incident log report  
14 after a violent incident occurred inside of the  
15 establishment in violation of the board-approved  
16 security plan. Our position on this is two-fold.

17 Number one, nothing alleged in the  
18 charge is a violation of the letter or the intent  
19 of the security plan as approved. Number two,  
20 the facts as they occur, all of which were on a  
21 public sidewalk and not inside the establishment,  
22 did not trigger either of the cited provisions of  
23 the security plan. It is the government's burden  
24 to prove that the establishment's response to  
25 this occurrence violated their own security plan.

1           By the plain language of the document  
2 and application of the facts to the agreement and  
3 the law, it is clear that no violation occurred.  
4 The government glosses over some very important  
5 facts that they must prove in order to make their  
6 case, namely number one, as alleged that the  
7 incident occurred inside the establishment. It's  
8 pretty universally clear from what they presented  
9 it absolutely 100 percent did not.

10           Number two, what counsel dances around  
11 but does not directly address is the MPD  
12 notification requirement in the security plan.  
13 If it exists, only requires notifying MPD in the  
14 case of a quote unquote emergency. Does he  
15 address specifically what constitute that? He  
16 does not.

17           Every single skinned knee or grabbed  
18 shirt or shove does not constitute an emergency.  
19 And that's not me saying that that's not going to  
20 be my client saying that, that is going to be the  
21 witnesses that we present, and the Metropolitan  
22 Police Department's own guidance saying that.

23           At the conclusion of the government's  
24 case, what we think we're going to see is a  
25 motion in the style of a directed verdict where

1 the government cannot meet its burden, has not  
2 met its burden on the charging documents alone,  
3 and the board will see fit to decide this case  
4 summarily. Thank you very much.

5 CHAIRPERSON ANDERSON: Thank you. All  
6 right, does the government wish to call a  
7 witness?

8 MR. SOUTHCOTT: Yes. This time the  
9 government would like to call ABCA Investigator  
10 Mark Ruiz.

11 CHAIRPERSON ANDERSON: Mr. Ruiz, can  
12 you raise your right hand, please?

13 WHEREUPON,

14 MARK RUIZ

15 Was called for examination by Counsel for the  
16 Government, and after having been first duly  
17 sworn, was examined and testified as follows:

18 CHAIRPERSON ANDERSON: Your witness,  
19 sir.

20 DIRECT EXAMINATION

21 MR. SOUTHCOTT: Thank you.  
22 Investigator Ruiz, can you please briefly  
23 introduce yourself to the board?

24 INVESTIGATOR RUIZ: I'm Investigator  
25 Mark Ruiz. That's M-A-R-K R-U-I-Z. I'm an

1 investigator with the Alcoholic Beverage and  
2 Cannabis Administration, also known as ABCA,  
3 which my primary responsibilities include  
4 investigating and inspecting alcohol licensed  
5 establishments throughout the District of  
6 Columbia.

7 BY MR. SOUTHCOTT:

8 Q And how long have you been in that  
9 position?

10 A Five years now.

11 Q In the course of your time as an  
12 investigator, have you investigated cases  
13 involving violent altercations between bar staff  
14 and patrons?

15 A Yes.

16 Q In the course of your investigation as  
17 an investigator, have you investigated cases that  
18 involve violations of the security plan?

19 A Yes.

20 Q Did you conduct an investigation into  
21 Madam's Organ based on events which occurred on  
22 May 21, 2023?

23 A Yes.

24 Q Could you describe how this case came  
25 to you?

1           A       It was assigned to me from the  
2 supervisor. It was another investigator's case,  
3 and she had to leave on emergency leave so he  
4 asked me to take a look at it, review it, and  
5 which I did.

6           Q       And in the course of your  
7 investigation, did you create a case report?

8           A       Yes.

9           Q       Would you recognize that case report  
10 if you saw it?

11          A       I would.

12               MR. SOUTHCOTT: This time -- I know  
13 that the case report is already admitted into  
14 evidence, Mr. Chair, but I'm going to largely  
15 referring to the case report and having the  
16 investigator testifying off of it. I'll pull it  
17 up as muted, I don't need to get there quite at  
18 this point. I just did want to note that for the  
19 record.

20               CHAIRPERSON ANDERSON: So noted.

21               MR. SOUTHCOTT: Investigator Ruiz,  
22 was there a MPD report that ABCA received which  
23 triggered this investigation?

24               INVESTIGATOR RUIZ: Yes.

25               MR. SOUTHCOTT: And now I will pull

1 up -- I'd like to, if I could share my screen?

2 CHAIRPERSON ANDERSON: Mr. Orellana?

3 MR. ORELLANA: Granted.

4 CHAIRPERSON ANDERSON: Go ahead, sir.

5 You have access.

6 MR. ORELLANA: Is this visible to the  
7 board?

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. SOUTHCOTT: Okay. I'm actually  
10 going to cut a little bit. Investigator Ruiz,  
11 this is marked as Exhibit 1. Can you identify  
12 what this document is?

13 (Whereupon, the above-referred to  
14 document was marked as Exhibit No. 1 for  
15 identification.)

16 INVESTIGATOR RUIZ: Yeah, is the MPD  
17 incident report, CCN23079946.

18 BY MR. SOUTHCOTT:

19 Q And this is the incident report that  
20 you received which triggered your investigation,  
21 correct?

22 A Yes.

23 Q Okay. Could you read the public  
24 narrative contained in the police report?

25 A MPD received a call for an apparent

1 assault report. Once on scene, it was determined  
2 that V1 got into a verbal altercation about his  
3 significant other with the club bouncers. V1  
4 stated that once his significant other came from  
5 out of the restroom he confronted the bouncers in  
6 reference to the statement that they made.

7 V1 states that the bouncer grabbed him  
8 which resulted in an altercation outside of the  
9 club. V1 states the other bouncers inside of the  
10 establishment came out and assaulted him as well.  
11 S1 was last seen following V1 and W1 until they  
12 were able to get to another safe location nearby.

13 Q And can you identify who D1 is?

14 A V1 would be one of the victims, Jakob  
15 Richard Scheidt.

16 Q And could you identify who W1 is?

17 A W1 was identified as Javana Clark.

18 Q And S1 is identified as who?

19 A Unknown.

20 Q Is S1 indicated to be a member of  
21 Adams Morgan security staff?

22 A Based on my knowledge, it is  
23 indicated.

24 Q Okay. Based on your receipt of this  
25 police -- actually, sorry, one more question on

1 this. Who creates, or where does the public  
2 narrative come from in a police report like this?

3 A This created from the police officer  
4 that responded to the victim's call.

5 Q Okay. And did MPD generate this in  
6 response to a report that was filed by Madam's  
7 Organ or any of its security staff or employees?

8 A No, this was generated from a 911 call  
9 from the victims.

10 Q And the victim is Jakob Scheidt,  
11 correct?

12 A Correct.

13 Q And what's the report, date and time  
14 of this?

15 A May 21, 2023, 5:33 a.m.

16 Q Thank you. At this time, I would like  
17 to direct your attention to what has been marked  
18 as Exhibit Number 2.

19 (Whereupon, the above-referred to  
20 document was marked as Exhibit No. 2 for  
21 identification.)

22 Q Could you identify what this document  
23 is?

24 A Exhibit Number 2 is the statement from  
25 Jakob Scheidt regarding the assault that occurred



1 on May 21, 2023 at Madam's Organ.

2 Q And how did you receive this  
3 statement?

4 A This statement was provided to me by  
5 a previous investigator, Dantzler, who started  
6 the investigation and has taken them from the  
7 victims.

8 Q And how did she receive the statement?

9 A Via email.

10 Q Who does she receive it from?

11 A Mr. Scheidt.

12 MR. SOUTHCOTT: Okay. I don't want,  
13 you know, you read every part of this document  
14 into the record, but I will have you read parts  
15 of it. Do you --

16 MR. BIANCO: I'm going to object  
17 before there is any reading of this document into  
18 the record. My objection is twofold. One, the  
19 board has, I believe, admitted this document into  
20 evidence already, so it's unnecessarily  
21 repetitive. And number two, I would object on  
22 the basis of unreliable hearsay. While hearsay  
23 is admissible in administrative proceedings, that  
24 hearsay has to be reliable.

25 This particular document does not meet

1 the criteria. One, it's double hearsay, this  
2 particular witness did not take this statement by  
3 his own testimony, it was taken by someone else  
4 who then provided it to him. And number two,  
5 this particular person that it is taken from is  
6 somebody who has an interest in the outcome of  
7 these proceedings in his favor.

8 Based on that, the self-serving  
9 statement is not something that the board should  
10 consider, since it's not direct evidence or  
11 otherwise reliable.

12 MR. SOUTHCOTT: I have several  
13 responses to that. The first response is that  
14 this statement is not duplicative, it is  
15 important to understand, based on there were very  
16 sparse accounts of what actually occurred, and  
17 whether that triggered any obligations in the  
18 establishment based on the police report.

19 Going through the statement is  
20 necessary for Investigator Ruiz to make a  
21 determination as to whether the events as  
22 depicted therein triggered any obligation for the  
23 establishment to comply with various provisions  
24 of its security plan. Second, this isn't  
25 hearsay, because it's not being admitted for the

1 truth of the matter asserted therein.

2 As I mentioned in my opening, the  
3 District, throughout these proceedings, will take  
4 no position on the veracity of any of the  
5 statements are being made in any of the various  
6 four eyewitness accounts of which were provided  
7 to the investigator. The reason why these  
8 statements matter is because these statements all  
9 speak to Investigator Ruiz' investigation, and  
10 what he did, and his analysis as to whether any  
11 of the statements triggered an obligation for the  
12 establishment to conduct certain provisions under  
13 its security plan.

14 As such, it is important for the board  
15 to have the context needed for an evaluation and  
16 determination of whether -- even assuming  
17 arguendo, that one of these statements or any of  
18 them are credible, because the District's case  
19 will show that under each statement made, the  
20 provisions of the security plan were triggered.

21 It does not matter the truth of what  
22 is being asserted in them. Therefore it's not  
23 actually hearsay. Beyond that, to the extent  
24 that any of the truth or lack thereof would be  
25 admitted into this, that speaks to weight, not

1 admissibility.

2 CHAIRPERSON ANDERSON: I'm going to  
3 overrule the objection. I'll allow the witness  
4 to testify.

5 MR. SOUTHCOTT: Okay. Investigator  
6 Ruiz, you have reviewed this statement, correct?

7 INVESTIGATOR RUIZ: Yes.

8 BY MR. SOUTHCOTT:

9 Q Okay, and does this statement describe  
10 an incident that occurred between a patron and  
11 members of security staff which originated inside  
12 the bar?

13 A Yes.

14 Q Why did it originate inside the bar?

15 A The bar was closing, and the bouncers  
16 were trying to get the victim to leave the bar.

17 Q And per this statement, did a member  
18 of the establishment say anything to him as he  
19 was leaving the bar?

20 MR. BIANCO: Objection. What we just  
21 heard counsel argue is that this document is not  
22 being offered for the truth of the matter  
23 asserted, and now he's asking the witness  
24 directly what happened in this version of the  
25 events.

1 MR. SOUTHCOTT: It's still not being  
2 admitted for the truth of the matter asserted,  
3 because the District is taking no position as to  
4 whether this or isn't true. The District is  
5 simply trying to say that there was an incident  
6 that is consistent with every account that is  
7 provided, regardless of which account that you  
8 believe.

9 And that regardless of whose version  
10 of events is depicted, there are consistencies  
11 which indicate that an incident occurred, which  
12 triggered the security provisions of the  
13 establishment. This is crucial for the District  
14 in terms of demonstrating the only charge, which  
15 is whether an incident occurred which required  
16 provisions under the security plan.

17 MR. BIANCO: If whether an incident  
18 occurred is dependent on the truth of the matter  
19 in this particular document, then the District  
20 doesn't meet its burden.

21 CHAIRPERSON ANDERSON: But, Mr.  
22 Bianco, I guess let me ask a question, is your  
23 client disputing -- whether or not the incident  
24 occurred inside, outside, did an incident occur?

25 MR. BIANCO: An incident occurred

1 outside the bar on the sidewalk, and the content  
2 of any statements made inside of the bar is  
3 neither here nor there, and the only evidence  
4 presented is inadmissible hearsay.

5 CHAIRPERSON ANDERSON: As I stated  
6 before, and I think I stated about the  
7 government, the document is not submitted for the  
8 truth to say that the version, I believe -- I  
9 think it appears that there is no dispute that an  
10 incident occurred. Where the incident occurred,  
11 well that's factually for the board to make a  
12 determination later on in your case.

13 Because I think part of the argument  
14 by the respondent is that because the incident  
15 did not occur inside the establishment that the  
16 security plan provisions were not triggered, I  
17 think that's what I heard earlier from you, the  
18 respondent. So, I'm going to overrule the  
19 objection, and allow the witness to testify.

20 I don't know what this case is about,  
21 this is a first impression, so I'm just trying to  
22 figure out how the board can make a  
23 determination. And I believe that in cross  
24 examination, you'll have an opportunity to cross  
25 examine the witness, and if your version is

1 correct then you should be able to establish that  
2 on the record in cross examination of a witness,  
3 so I'm going to overrule the objection.

4 MR. SOUTHCOTT: Thank you, Mr. Chair.  
5 Back to my question, Investigator Ruiz. Per this  
6 account, were there statements that were made  
7 from employees to the patron?

8 INVESTIGATOR RUIZ: After the bouncer  
9 demanded him to leave, and after he was  
10 explaining that he was waiting for his  
11 significant other, the bouncer yelled several  
12 statements at him as he was inside the  
13 establishment.

14 BY MR. SOUTHCOTT:

15 Q What did they yell at him?

16 A So, the bouncer, I'm reading from the  
17 statement, the bouncers rudely refused, and  
18 repeatedly yelled quote unquote don't worry about  
19 her, she's probably in there fucking dudes and  
20 sucking dicks quote unquote.

21 Q After that statement was made  
22 according to this interpretation of events, did  
23 Mr. Scheidt then leave the establishment and wait  
24 for Ms. Clark?

25 A Yes.

1           Q       And once they left did Mr. Scheidt and  
2 Ms. Clark then continue to have a discussion with  
3 the bouncer, which continued out onto the  
4 sidewalk?

5           A       Yeah. Mr. Scheidt told Ms. Clark what  
6 occurred, about the insult, and I believe she  
7 confronted the bouncer.

8           Q       So, I am going to have you read from  
9 this top paragraph starting from the sentence the  
10 bouncer, and continuing to the end of the  
11 paragraph. Could you please read that portion of  
12 the statement?

13          A       Are you talking about the first  
14 paragraph, second sentence?

15          Q       Yeah, the bouncer responded by  
16 yelling.

17          A       The bouncer responded by yelling the  
18 insult again in her face. As the first bouncer  
19 shouted this at Javana as we were both standing  
20 on the sidewalk outside, another bouncer,  
21 shorter, with light brown skin and dreadlocks,  
22 grabbed me with both hands from behind and  
23 attacked me. I turned into him and faced him  
24 while demanding that he release me several times.

25                   The second bouncer refused and



1 continued assaulting me in an attempt to force me  
2 to the ground. When it was clear he would not  
3 take his hands off me, I reacted in self-defense,  
4 and reversed his attempt to bring me to the  
5 pavement.

6 Q Can you also read the next paragraph?

7 A Now with both of us on the sidewalk,  
8 the second bouncer knocked my glasses off my  
9 face, I attempted to grab my glasses from the  
10 ground as another bouncer kicked and punched me,  
11 while another deliberately stomped on my glasses.  
12 After I got clear of the altercation, Javana and  
13 I began walking away as another patron attempted  
14 to create space between myself, and attacking  
15 employees who now numbered around five to six  
16 men.

17 They continued to follow us down the  
18 street mocking us, and hurling additional  
19 insults.

20 Q Thank you. So, according to the  
21 statement, after that altercation ended, did Mr.  
22 Scheidt eventually call emergency services?

23 A Yes, he called 911, and they responded  
24 to the hotel he was at.

25 Q And per his statement, did he end up

1 going to the emergency room?

2 A He received medical attention from  
3 what I understand, I believe on site from an  
4 ambulance.

5 Q I'll direct your attention to the  
6 final paragraph of the statement. Does the  
7 second sentence of that paragraph indicate that  
8 Mr. Scheidt received medical attention at an  
9 emergency room?

10 A Yes.

11 Q Okay. Does his statement describe the  
12 injuries he suffered as a result of his  
13 interpretation of what occurred?

14 A Yes.

15 Q What injuries did he sustain?

16 A Emotional strain --

17 Q And then in the top paragraph on this  
18 page?

19 A Cuts and bruises to both arms, his  
20 forehead, torso, palms, and large lacerations to  
21 both knees, and then his glasses were also  
22 crushed.

23 Q And did those wounds, were they  
24 temporary?

25 A His description is that they caused

1 serious pain for weeks, and at the time have yet  
2 to fully heal.

3 Q Did you receive any images attached to  
4 this statement?

5 A Yes. So, this statement was provided  
6 to me. However, I did have email communication  
7 with Mr. Scheidt afterwards, following up on his  
8 visit to the establishment. During that time he  
9 provided me the photos of his injuries.

10 Q Would you recognize those photos?

11 A Yes.

12 MR. BIANCO: So, Mr. Chair?

13 CHAIRPERSON ANDERSON: Yes.

14 MR. BIANCO: So, I'm going to object  
15 here, but I want to first see how you'd like to  
16 handle the objection. So, the objection I'm  
17 going to make is to the photos specifically, and  
18 I think I'm going to have to have some testimony  
19 in order to hash out the objection, and I am glad  
20 to hold off until cross examination, at which  
21 time I can move to strike the photos.

22 Or I am glad to voir dire on the  
23 photos at this point, whatever the board prefers.

24 CHAIRPERSON ANDERSON: I think part of  
25 the -- is this a portion of the investigator's

1 report?

2 MR. SOUTHCOTT: Yes, this is contained  
3 in the case report.

4 CHAIRPERSON ANDERSON: So, I'm unsure,  
5 Mr. Bianco, what would you voir dire? I mean,  
6 the investigator is just reporting based on what  
7 was provided to him, he's not -- go ahead, sir.

8 MR. BIANCO: No, I understand, but  
9 attaching inadmissible evidence to an  
10 investigative report doesn't make it admissible.  
11 So, my issue here is that these photos are  
12 undated, there's no identifying information on  
13 them, there is no indication as to when they're  
14 taken, there's no indication as to who took them,  
15 and there's no one to testify that they truly and  
16 accurately depict the condition that existed at  
17 the time.

18 These are all basic tenets of  
19 evidentiary foundation as well as authentication.  
20 They are prejudicial, and they should not be  
21 considered by the board regardless of whether or  
22 not they are attached to the report.

23 CHAIRPERSON ANDERSON: But Mr. Bianco,  
24 I think I'm confused. I think the issue, and  
25 maybe in another proceeding it becomes more

1 relevant. But for the board, and the charge, I'm  
2 looking at the charging document, and the  
3 charging document stated that you violated the  
4 terms of your board approved security plan by  
5 failing to contact Metropolitan Police  
6 Department.

7 Or create an incident log after a  
8 violent incident occurred inside of the  
9 establishment, for which the board may take  
10 proposed action. I don't think that -- I mean,  
11 an incident occurred, I'm not sure if the board  
12 is going to determine whether or not this is  
13 violent or not.

14 But the case report by the agency, the  
15 investigator, as part of his investigation is  
16 providing information that was received by him to  
17 say this is the basis of writing this case  
18 report. So, I'm going to overrule your  
19 objection, you are welcome to cross examine the  
20 investigator, but I think at this juncture, based  
21 on the charging document, I don't see the basis  
22 of your objection.

23 So, I'm going to overrule your  
24 objection, sir, and that's based on what the  
25 charge is, and you'll have the opportunity during

1 cross examination to cross examine this witness.

2 MR. BIANCO: I get that. And I  
3 suppose my point is that these photos could have  
4 been taken any time since years ago up until the  
5 moment that this investigator received them  
6 somehow. And without laying that foundation,  
7 it's not proper to consider.

8 CHAIRPERSON ANDERSON: But you are  
9 welcome, on cross examination, to make those  
10 points. And I think the board will be in a  
11 better position to see what weight if any to give  
12 the documents, because maybe you could establish  
13 that this was taken a year after the event. So,  
14 I don't know. I think at this juncture, again,  
15 I'm going to overrule the objection.

16 And you'll have an opportunity to  
17 cross examine the witness on your version of  
18 these photographs. But at least for my purpose,  
19 the charging document is that it says that -- and  
20 I don't believe that -- and I had asked that  
21 earlier, I do not believe that you are disputing  
22 that an incident did occur.

23 I think what I had heard earlier is  
24 that the incident did not occur inside of the  
25 establishment. And so, because it did not occur

1 inside of the establish, the security plan  
2 violation did not occur. I think that's what I  
3 heard earlier.

4 MR. BIANCO: That's part of our  
5 argument. The other part being the severity of  
6 the incident didn't rise to the level requiring  
7 certain actions under the security plan. And  
8 this goes directly to that. And it's  
9 prejudicial, and without foundation, which is the  
10 government's burden to establish the foundation  
11 of evidence that they want to admit.

12 It's not admissible, it's not a  
13 hearsay objection, which would be lax and likely  
14 admissible, it's a foundation objection.

15 CHAIRPERSON ANDERSON: But you're  
16 aware that the council has the case report, by  
17 matter of law, it's a matter of the record, the  
18 case report. So, this is the case report. If  
19 this was a different piece of evidence that the  
20 government was trying to put in, I believe that  
21 your objection would be more relevant.

22 But this is already a part of our  
23 record, because this is the case report. The  
24 investigator went out to do his investigation,  
25 and this is a photograph that was given to him, I

1 think by the victim, to support, to say what,  
2 from the victim's perspective occurred. And I  
3 don't believe that -- it's not being taken by me  
4 that the investigator is saying that this is  
5 factual or not.

6 The investigator is just providing  
7 information that was given to him. And so,  
8 again, I'm overruling the objection. This is in  
9 the case report, and the case report is already a  
10 part of the documents that the board can rely on  
11 to make a determination. And as said, you will  
12 have an opportunity to cross examine this witness  
13 on the documents that are in his case report.  
14 I'm overruling the objection.

15 MR. SOUTHCOTT: Thank you, Mr. Chair.

16 BY MR. SOUTHCOTT:

17 Q At this point, Investigator Ruiz, I  
18 would like you to describe what you see in this  
19 photo, which has been marked as Exhibit No. 4.

20 A So, this is a hand, partial forearm,  
21 and a red mark on the palm of the hand.

22 Q Okay, I'm moving onto Exhibit No. 5,  
23 could you describe what is contained in this  
24 photograph?

25 A This is a photo of a knee injury,



1 abrasion with some blood coming from it.

2 Q Moving onto Exhibit No. 6, can you  
3 describe what you see in this photograph?

4 A Elbow, upper arm with red spots.

5 Q And finally, Exhibit No. 7?

6 A It looks like a bruise on the  
7 forehead.

8 (Whereupon, the above-referred to  
9 documents were marked as Exhibit Nos. 4 through 7  
10 for identification.)

11 BY MR. SOUTHCOTT:

12 Q And you received these images directly  
13 from Mr. Scheidt, correct?

14 A Yes.

15 Q And he indicated that these images  
16 were taken immediately after the altercation  
17 which took place on May 21st, 2023?

18 MR. BIANCO: Objection, leading,  
19 argumentative.

20 MR. SOUTHCOTT: I can rephrase.

21 CHAIRPERSON ANDERSON: Go ahead, sir.

22 MR. SOUTHCOTT: Did Mr. Scheidt tell  
23 you when these photographs were taken?

24 INVESTIGATOR RUIZ: No, he didn't tell  
25 me when.

1 BY MR. SOUTHCOTT:

2 Q Did he indicate why he was providing  
3 the photographs to you?

4 A These were the injuries that were  
5 caused from the incident, that's what he  
6 indicated.

7 Q Thank you. Based on your review of  
8 these photographs, and your review of the  
9 statement, do you believe that these injuries are  
10 consistent with the statement that was provided?

11 A Yes.

12 Q Okay. I am now going to ask you a  
13 couple of questions about this version of the  
14 events. Does Mr. Scheidt's version of the events  
15 describe a physical altercation between employees  
16 of Madam's Organ and a patron?

17 A Yes.

18 Q Did that altercation originate inside  
19 the bar?

20 A Yes.

21 Q If that altercation had taken place  
22 solely outside of the bar, would that have  
23 triggered the security plan obligations of the  
24 establishment?

25 MR. BIANCO: Objection, calls for a

1 legal opinion.

2 MR. SOUTHCOTT: It does not call for  
3 a legal opinion. The obligations of the  
4 establishment under the security plan are clear  
5 regardless of where the incident took place, so  
6 long as it involved patrons and security members  
7 acting in their official capacity.

8 MR. BIANCO: I don't think it says  
9 that at all. But what he's asking for is opinion  
10 testimony about a hypothetical situation that he  
11 claims doesn't exist.

12 MR. SOUTHCOTT: The entire purpose of  
13 this is to determine that under any hypothetical  
14 interpretation of this, the obligations that the  
15 establishment has under its security plan are  
16 triggered by a violent confrontation between  
17 staff and patrons.

18 MR. BIANCO: That's legal argument.

19 MR. SOUTHCOTT: And I will make that  
20 legal argument in my conclusion. But I am  
21 determining whether the investigator in his  
22 investigative capacity believes that there was a  
23 violation that occurred which resulted in him  
24 needing to conduct an investigation into whether  
25 the establishment's security plan was violated.

1 MR. BIANCO: So, what's being asked is  
2 a hypothetical not based on the facts that are  
3 admitted into evidence, that's what's being  
4 objected to.

5 CHAIRPERSON ANDERSON: I'm going to  
6 overrule the objection and allow the witness to  
7 answer the question if he can.

8 INVESTIGATOR RUIZ: Can you repeat the  
9 question please?

10 MR. SOUTHCOTT: Yes. An incident  
11 which only occurred on the sidewalk between  
12 security staff and a patron which led to a  
13 violent altercation, would that trigger the  
14 obligations under the establishment's security  
15 plan?

16 INVESTIGATOR RUIZ: Yes, I mean it's  
17 involving establishment employees and an  
18 individual.

19 BY MR. SOUTHCOTT:

20 Q Thank you. So, based on your  
21 evaluation of this statement, if this statement  
22 were true, would it have required the  
23 establishment to contact police and or EMS in  
24 regards -- under its security plan?

25 A Yes.

1 Q At this time I'm going to move to what  
2 has been marked in the case report as Exhibit No.  
3 11. Do you recognize this document?

4 A Yes.

5 Q Is this the establishment's security  
6 plan?

7 A It is.

8 (Whereupon, the above-referred to  
9 document was marked as Exhibit No. 11 for  
10 identification.)

11 BY MR. SOUTHCOTT:

12 Q Could you read Section A2 of the  
13 security plan?

14 A Police and or EMS are called for any  
15 emergency situation.

16 Q Do you believe that a physical  
17 altercation constitutes an emergency situation  
18 which requires calling police and or EMS?

19 A Yes.

20 Q Can you read section A1?

21 A Security are trained to recognize and  
22 de-escalate conflict.

23 Q Do you believe that the statement made  
24 that an employee telling a patron that she was a  
25 whore who was sucking dicks in that bathroom is

1 de-escalating conflict?

2 MR. BIANCO: Objection, the government  
3 has time and again said this statement is not  
4 being offered to prove the truth of the matter  
5 asserted, and then is using the content to prove  
6 the truth of the matter asserted.

7 CHAIRPERSON ANDERSON: I'm going to  
8 sustain the objection.

9 MR. SOUTHCOTT: I'll move on.

10 BY MR. SOUTHCOTT:

11 Q Investigator Ruiz, did the  
12 establishment contact police and or EMS in  
13 response to the May 21st, 2023 incident?

14 A No.

15 Q Could you read Section E of the  
16 security plan?

17 A Managers are required to make incident  
18 reports for any issues that arise inside the bar,  
19 if any matters refer to MPD or ABRA, we refer to  
20 their incident report.

21 Q Okay. Now, did you, after receiving  
22 this statement, did you go to the establishment  
23 and speak to any manager of the establishment?

24 A I went to the establishment to speak  
25 with the ABC manager that was working, yes.

1 Q And did that ABC manager provide you  
2 with an incident report related to the May 21st,  
3 2023 incident?

4 A Yes. Well, she provided me with  
5 statements from the security employees, from  
6 their version of what occurred that morning.

7 Q And when were those statements made?

8 A Only one statement was sent on June  
9 10th, via internal email, I guess.

10 Q Okay. Did the manager herself create  
11 that incident report, or did she just forward the  
12 statement made by members of the security staff?

13 A Those were email statements that were  
14 forwarded to me. Well, one was an email  
15 statement, the other one was a typed up statement  
16 that she forwarded to me.

17 Q And do you have experience in the past  
18 reviewing incident reports for establishments?

19 A Yes.

20 Q What is the time period at which  
21 incident reports are generated?

22 A Typically either immediate to first 24  
23 hours of the incident.

24 Q Is there any indication that there was  
25 an incident report that was generated immediately

1 or within 24 hours of the incident?

2 A I didn't see any indication.

3 Q And why are incident reports usually  
4 created immediately or within 24 hours of the  
5 incident?

6 A To memorialize the facts that occurred  
7 that evening.

8 Q So, was there an immediate  
9 memorialization by the establishment of the facts  
10 that occurred on the evening of May 21st, 2023?

11 A Not that I have seen, no.

12 Q The second sentence of part E states  
13 that if any matter is referred to MPD or ABRA, we  
14 refer to their incident report. Can you explain  
15 why that provision would be included in a  
16 security plan?

17 MR. BIANCO: Objection, speculation.

18 MR. SOUTHCOTT: The investigator has  
19 testified that he's been dealing with security  
20 plans, that he's been dealing with investigations  
21 related to security plans, and incident reports.  
22 This is a matter related to this establishment's  
23 security report. He's more than willing and able  
24 to testify why that language would be present.

25 MR. BIANCO: This witness didn't write



1 this report, and had nothing to do with it other  
2 than reading it. If counsel wants to present  
3 argument as to its meaning, he can do that, but  
4 the investigator's opinion as to why something is  
5 or is not included is not relevant to these  
6 proceedings.

7 CHAIRPERSON ANDERSON: I'm going to  
8 sustain the objection.

9 MR. SOUTHCOTT: Investigator Ruiz, do  
10 you know why the statements of June 10th, 2023  
11 were created by the establishment?

12 INVESTIGATOR RUIZ: They were created  
13 to be provided when the MPD detective was doing  
14 their investigation at the time.

15 BY MR. SOUTHCOTT:

16 Q So, to your knowledge, those  
17 statements were provided after MPD reached out to  
18 the establishment related to this May 21st, 2023  
19 incident?

20 A That's correct.

21 Q Okay. Is it typical for an  
22 establishment to provide an incident report only  
23 after -- or to generate an incident report  
24 rather, only after MPD has initiated its  
25 investigation?

1           A       I don't know if it's typical, usually  
2       it's done right away.

3           Q       Okay, thank you. So, at this point I  
4       would like to direct your attention to what's  
5       been marked as Exhibit No. 3. Could you identify  
6       what this is?

7           A       This is a statement from Javana Clark  
8       regarding the assault on May 21st, 2023 at  
9       Madam's Organ.

10                   (Whereupon, the above-referred to  
11       document was marked as Exhibit No. 3 for  
12       identification.)

13                   BY MR. SOUTHCOTT:

14           Q       And actually just one last question on  
15       the previous statement by Mr. Scheidt, do you  
16       believe that that statement, if the facts  
17       contained in it were true, describes an assault?

18           A       Yes.

19           Q       Okay, onto this exhibit. Who is  
20       Javana Clark?

21           A       Javana Clark was the significant other  
22       of Mr. Scheidt.

23           Q       Okay. And could you read her  
24       statement?

25                   MR. BIANCO: Mr. Chair, I have the

1 same objection to this statement. I understand  
2 the board has already ruled, but I will note my  
3 objection for the record, and that I understand  
4 the matter is being considered for reasons other  
5 than the truth of the matter asserted.

6 CHAIRPERSON ANDERSON: All right, so  
7 noted. Go ahead, Mr. Southcott.

8 INVESTIGATOR RUIZ: After ordering  
9 drinks I went to the bathroom, I was talking with  
10 a woman and a bartender in the bathroom. The  
11 bartender was clearly drunk, and complaining  
12 about the conditions of working at the bar. When  
13 I walked out, the bar was empty, I walked  
14 outside, and saw Jake standing outside and  
15 looking at his phone.

16 He told me that the bouncers wouldn't  
17 let him wait for me inside, and said I was having  
18 sex with men in the bathroom. I walked to the  
19 entrance where one of those bouncers was  
20 standing, I was on the sidewalk in front of the  
21 bouncer, and Jake was silently standing behind  
22 me, also on the sidewalk.

23 I asked the bouncer what he had said,  
24 and he leaned forward in my face, and loudly  
25 yelled quote unquote, I told him you're a whore

1 who was sucking dicks in that bathroom. I  
2 responded quote why would you say that? And  
3 before he answered, another bouncer came from  
4 behind and grabbed Jake while he was standing on  
5 the sidewalk.

6 Jake told the bouncer to get off of  
7 him until they both went down on the pavement.  
8 The bouncer was punching Jake and kicking him.  
9 Jake was holding the bouncer's legs to stop the  
10 kicking. Then the other bouncer, the one I was  
11 talking to, engaged in the altercation by hitting  
12 Jake. I was standing on the side begging the  
13 bouncers to stop, and yelling for help.

14 The bartenders from inside came out,  
15 and everyone split up while Jake and I tried to  
16 calmly walk away without creating anymore  
17 confrontation. But the bouncers continued to  
18 follow and insult us.

19 BY MR. SOUTHCOTT:

20 Q Based on this depiction of the events,  
21 does this depiction describe a violent  
22 altercation which took place between a patron and  
23 members of the establishment's security staff?

24 A Yes.

25 Q Does this depiction also provide an

1 account wherein security staff were making  
2 inflammatory comments to the victim?

3 A Yes.

4 Q Does this statement indicate that the  
5 incident originated inside the bar, and continued  
6 onto the street?

7 A Yes.

8 Q Based on your review of Javana Clark's  
9 account of how the events transpired, do you  
10 believe that this account, if true, triggered  
11 provisions of the establishment's security plan  
12 to contact MPD or EMS?

13 MR. BIANCO: I'm going to object  
14 again. The question is premised on whether the  
15 statement is true or not, which is not the  
16 purpose for which it can be considered. The  
17 government has not presented any admissible  
18 evidence as to the truth of the allegations, and  
19 yet they're trying to rely on the truth of the  
20 allegations to make their case.

21 MR. SOUTHCOTT: I am merely trying to  
22 present every statement that was provided to the  
23 investigator, and point out that under each  
24 statement, regardless of whose interpretation you  
25 believe, they triggered the response of the

1 establishment to abide by the procedures of its  
2 security plan. I will be doing the exact same  
3 thing for the statements of the employees.

4 CHAIRPERSON ANDERSON: I'm going to  
5 overrule the objection, and allow the witness to  
6 continue testifying.

7 MR. SOUTHCOTT: I'll repeat my  
8 question. Based on your review of this witness  
9 statement, do you believe that this statement  
10 describes a situation which would trigger the  
11 requirements of the establishment to abide by the  
12 provisions of its security plan to contact MPD or  
13 EMS because of an emergency situation?

14 INVESTIGATOR RUIZ: Yes.

15 BY MR. SOUTHCOTT:

16 Q Do you believe that this incident, as  
17 described, triggers the provisions of the  
18 establishment's security plan to immediately  
19 create an incident report as described -- sorry,  
20 I'll strike the question. Do you believe that  
21 this interpretation of the events triggers the  
22 establishment's obligations under the security  
23 plan to create an incident report?

24 A Yes.

25 Q Was MPD or EMS contacted by the

1 establishment?

2 A No.

3 Q Was there an incident report that was  
4 generated immediately after the incident  
5 occurred?

6 MR. BIANCO: Objection, this line of  
7 questioning has been asked and answered.

8 CHAIRPERSON ANDERSON: Let's move on,  
9 that is correct. I sustain the objection.

10 BY MR. SOUTHCOTT:

11 Q Okay. At this point I will -- sorry,  
12 does this document also describe individuals,  
13 employees making inflammatory statements to  
14 patrons?

15 A Yes.

16 Q And the previous statement also  
17 described inflammatory statements to patrons,  
18 correct?

19 A Yes.

20 Q Okay, I'm now going to move onto what  
21 has been marked as Exhibit No. 9 in the case  
22 report. Could you describe what this document  
23 is?

24 A This was a statement provided by one  
25 of the security personnel, Walter Johnson.

1 (Whereupon, the above-referred to  
2 document was marked as Exhibit No. 9 for  
3 identification.)

4 BY MR. SOUTHCOTT:

5 Q And how do you know it's provided by  
6 Mr. Johnson?

7 A It's signed below, Walter Johnson.

8 Q Is the statement dated?

9 A No.

10 Q And how did you receive this  
11 statement?

12 A It was forwarded to me via email.

13 Q Who forwarded it to you?

14 A The ABC manager.

15 Q And when did she forward it to you?

16 A Don't know the exact date, but it was  
17 within the investigation.

18 Q Did she forward it to you after you  
19 went to the establishment and spoke with her?

20 A Yes.

21 Q And what was the date that you visited  
22 the establishment?

23 A June 28th, 2023.

24 Q And this incident occurred on May  
25 21st, 2023, correct?



1           A       Yes.

2           Q       Could you read this statement?

3           A       Yes. It was closing time when we  
4           asked the gentleman to leave, he insisted that he  
5           wait on his wife, as we instructed him that he  
6           can wait on the front porch. As the wife  
7           returned to us arguing, then she got into it with  
8           us as well, pointing her finger in my face. It  
9           then got to the front porch, we were still asking  
10          him to leave the property, he is still refusing  
11          to do so at this time after closing.

12                    Then he walks over to the outside  
13          patio, where I told him it was closed, but then  
14          Aaron suggested that I go back inside, but then  
15          he started to go at it with Aaron, making  
16          comments, so we all stood there arguing. Aaron  
17          said something he didn't like, dude rushed him,  
18          and grabbed Aaron in a football clench hold by  
19          the shirt.

20                    Aaron tried to move his hand, where  
21          the drunk dude tried to tie Aaron's legs up with  
22          his arms, Aaron lost his footing and fell in the  
23          process. I'm pulling dude's arms off of him, I  
24          guess he felt embarrassed, or butthurt, because  
25          once he got to his feet, he felt like he was

1 assaulted, butthurt, but he started the whole  
2 thing. Walter Johnson.

3 Q Okay, I'm going to ask you some  
4 questions about this statement. Does this  
5 statement describe an incident which originated  
6 inside the bar?

7 A Yes.

8 Q Does this statement describe an  
9 incident which depicts a violent altercation  
10 taking place?

11 A Yes.

12 Q Does the statement describe an  
13 incident which involves the patron being hurt?  
14 I'll direct your attention to the last two lines.

15 A It says he felt like he was assaulted,  
16 butthurt.

17 Q Does the statement describe members of  
18 the establishment making inflammatory comments?

19 A It describes that there were comments  
20 made, it doesn't describe exactly the comments  
21 that were made.

22 Q Does the statement say Aaron said  
23 something he didn't like, dude rushed him, and  
24 grabbed Aaron in a football clench, did I read  
25 that correctly?

1           A       Yeah.

2           Q       Based on your interpretation, or based  
3 on this statement, do you believe that it  
4 triggers the provisions under the establishment's  
5 security plan to contact police and or EMS for an  
6 emergency situation?

7           A       Yes.

8           Q       Do you believe that this statement  
9 triggers the provisions in the establishment's  
10 security plan to generate an incident report?

11          A       Yes.

12          Q       Okay, I am now going to move to the  
13 last statement, which has been admitted as  
14 Exhibit No. 10 in the case report. Mr. Ruiz, can  
15 you describe what this document is?

16          A       This is an email sent to me by the ABC  
17 manager regarding Aaron Payton, security  
18 officer's statement.

19                   (Whereupon, the above-referred to  
20 document was marked as Exhibit No. 10 for  
21 identification.)

22                   BY MR. SOUTHCOTT:

23          Q       And who did Aaron Payton send this  
24 email to?

25          A       Ms. Reynolds, the ABC manager.

1           Q       And what is the date associated with  
2 the email?

3           A       Saturday, June 10th, 2023.

4           Q       Can I have you read this depiction of  
5 the events?

6           A       The night of the incident Walter told  
7 the gentleman to leave Madam's Organ because it  
8 was closing time. He had an issue with Walter  
9 asking him to leave because he was looking for  
10 his girlfriend. He was informed that she would  
11 be coming out shortly, as would everyone. She  
12 walked out about a minute later.

13                   Walter told her that her boyfriend was  
14 being a jerk, she got upset, and proceeded to  
15 argue with Walter on the property about what's  
16 said about her boyfriend while pointing her  
17 finger in Walter's face. The boyfriend, who was  
18 also on the property, was standing behind her in  
19 a threatening manner as if he may assault Walter.

20                   I stepped in between them, and told  
21 the boyfriend to leave, he didn't listen. I then  
22 attempted to guide him off of the property, and  
23 it turned into a tussle. He grabbed my shirt,  
24 and was trying to push me back into Walter while  
25 repeatedly screaming don't touch me. I stood my

1 ground, and walked him backwards off of the  
2 property.

3 Still holding onto my shirt, he  
4 tripped and pulled me down on top of him as he  
5 was on the ground. He wrapped his arms around my  
6 legs and wouldn't let go. Walter, and a  
7 bystander whose name I don't know had to pry his  
8 hands from around my legs so I could stand up.  
9 Once I stood up, he stood up, he screamed  
10 obscenities at us, and him and his girlfriend  
11 left.

12 Q Okay. Based on your review of this  
13 statement, does this statement describe an  
14 incident which originated inside the bar?

15 A Yes.

16 Q Does this statement describe an  
17 incident which involved a violent physical  
18 altercation?

19 A Yes.

20 Q Does this statement describe an  
21 incident which involves members of the bar making  
22 -- or employees of the bar making inflammatory  
23 comments?

24 A There was an indication that a comment  
25 was made, yeah.

1           Q       Does this statement describe an  
2 assault?

3           A       Yes.

4           Q       Do employees have an obligation to  
5 cooperate with an ABCA or MPD investigation by  
6 providing true and accurate statements of events?

7           A       Yes.

8           Q       Based on your receipt -- or rather  
9 what was this statement generated in regards to?

10          A       This statement was generated in  
11 response to be provided for MPD's investigation.

12          Q       And so, this statement didn't exist  
13 prior to MPD reaching out with respect to that  
14 investigation, did it?

15          A       That's my understanding, no.

16          Q       Does this statement -- is this  
17 statement consistent with the other three  
18 statements in describing a physical altercation?

19          A       Yes.

20          Q       Do you believe that -- sorry. If this  
21 account were correct, would this account trigger  
22 the obligations of the establishment under the  
23 security plan to contact MPD or EMS as a result  
24 of an emergency situation?

25          A       Yes.

1 Q Does this statement indicate an  
2 obligation for the establishment to generate an  
3 incident report for this situation?

4 A Yes.

5 Q At this point I'm going to direct your  
6 attention to the conversation that you had when  
7 you went to the establishment. Do you recall  
8 speaking with ABC Manager Sara Reynolds?

9 A Yes.

10 Q And when did you speak with her?

11 A June 28th, 2023.

12 Q And why did you speak with her?

13 A I met with her to discuss the  
14 incident, as well as to inspect and review their  
15 surveillance system.

16 Q And did you attempt to inspect and  
17 review their surveillance system?

18 A Yes.

19 Q Were you able to do so successfully?

20 A Yes.

21 Q Were you able to view surveillance  
22 footage of this incident?

23 A No, this incident was no longer  
24 available, the recorder was only holding a ten  
25 day retention period.

1 Q Did the establishment provide a  
2 justification for why the information was not  
3 available?

4 MR. BIANCO: I'm going to object.  
5 One, the issue of security cameras is not before  
6 the board. Two, Mr. Ruiz did not speak to the  
7 manager at the establishment until after 30 days  
8 had elapsed from the date of the incident. The  
9 testimony is not relevant, shouldn't be  
10 considered by the board.

11 MR. SOUTHCOTT: I am merely having the  
12 investigator describe the methods that he  
13 conducted in the course of his investigation.

14 MR. BIANCO: He's done that. And the  
15 length of time that their system held video for,  
16 or what he was told it did isn't relevant to this  
17 case in any way, shape, or form.

18 CHAIRPERSON ANDERSON: I'm going to  
19 sustain the objection, let's move on.

20 BY MR. SOUTHCOTT:

21 Q Did you speak to Ms. Reynolds about  
22 the physical altercation which took place on May  
23 21st, 2023?

24 A Yes.

25 Q And what did you tell her about that



1       altercation?

2               A       Basically the apparent physical  
3       altercation that took place that security  
4       described, the male physically grabbing him,  
5       pulling him down, should be documented, and  
6       surveillance footage recorded and saved going  
7       forward with any incident like that.

8               Q       And did you inform her that the  
9       establishment should have notified MPD?

10              A       Yes.

11              Q       Why did you inform her of that?

12              A       Because they should have, I mean a  
13       physical altercation took place, police should  
14       have been notified.

15              Q       Would you say it's standard procedure  
16       for police to be notified whenever a physical  
17       altercation takes place?

18              A       It should be standard procedure, but  
19       again, I mean the severity of the situation with  
20       the individual not leaving, the MPD should have  
21       been called to assist in removing him.

22              Q       Okay. I'd also direct your attention  
23       to a little further down in the case report. Did  
24       the establishment document the incident when it  
25       happened as stated in their security plan?

1 A No.

2 Q Why not?

3 MR. BIANCO: Objection, speculation.

4 INVESTIGATOR RUIZ: I don't know. My  
5 bad.

6 CHAIRPERSON ANDERSON: Well, let's  
7 move on, the witness stated that he can't answer  
8 the question.

9 BY MR. SOUTHCOTT:

10 Q Your case report states that the  
11 incident dated June 10th, 2023 by Aaron Payton  
12 was provided after MPD Detective Aligria  
13 inquired, why did you include that information in  
14 your case report?

15 A Because it was dated June 10th, not  
16 when the incident occurred. And to me, it was  
17 provided after MPD inquiry.

18 Q So, last couple bit of questions.  
19 Under any interpretation of the events as  
20 provided by the four different witness  
21 statements, did each of those interpretations  
22 trigger the establishment's obligation to contact  
23 MPD or EMS following an emergency situation?

24 MR. BIANCO: Objection, argumentative,  
25 leading, calls for a legal opinion.

1 MR. SOUTHCOTT: It's not leading, this  
2 question is one that speaks to Investigator Ruiz'  
3 competency in terms of evaluating whether a  
4 violation has occurred.

5 MR. BIANCO: It's testimony with a  
6 question mark at the end of it. It's absolutely  
7 leading, it's absolutely argumentative. This  
8 witness is here to put facts on the record, this  
9 is not a fact, it's an opinion.

10 MR. SOUTHCOTT: The investigator would  
11 be more than permitted to say not to the  
12 question, it's not a leading question.

13 CHAIRPERSON ANDERSON: All right, I'm  
14 going to overrule the objection, the investigator  
15 can respond.

16 INVESTIGATOR RUIZ: Can you repeat the  
17 question please?

18 MR. SOUTHCOTT: Does each account of  
19 the incident in question describe a situation  
20 which triggers the establishment's obligation  
21 under the security plan to contact MPD and EMS  
22 following an emergency situation?

23 INVESTIGATOR RUIZ: Yes.

24 BY MR. SOUTHCOTT:

25 Q Does each account trigger the

1 establishment's obligations under the security  
2 plan to generate an incident report following the  
3 establishment -- or in accordance with the  
4 establishment's security plant?

5 A Yes.

6 Q Does each amount describe an incident  
7 which originated inside the bar, and spilled onto  
8 the street?

9 A Yes.

10 MR. SOUTHCOTT: I have no further  
11 questions for this witness.

12 CHAIRPERSON ANDERSON: Mr. Bianco?

13 MR. BIANCO: Yes, sir. Good  
14 afternoon, investigator, I have some --

15 CHAIRPERSON ANDERSON: Can you close  
16 the screen? All right, thank you.

17 INVESTIGATOR RUIZ: Good afternoon,  
18 Mr. Bianco.

19 CROSS EXAMINATION

20 BY MR. BIANCO:

21 Q I'm going to have some questions about  
22 your report, I just went through it sort of page  
23 by page, and that's how I want to try to focus  
24 the examination. So, this incident here occurred  
25 on May 21st, 2023, but wasn't assigned to you

1 until June 27th, why is that?

2 A It was assigned to another  
3 investigator previously who abruptly had to go  
4 out on leave, and then it was forwarded over to  
5 me.

6 Q Okay, and what instructions or  
7 guidance did you receive when the case was  
8 transferred to you?

9 A To review and investigate the matter  
10 that occurred.

11 Q All right, was there anything more  
12 specific provided to you other than just review  
13 and investigate?

14 A No.

15 Q And something that is not clear to me  
16 from your report is which statements you received  
17 from Investigator Dantzler, and which statements  
18 you procured on your own. Could you clarify that  
19 please?

20 A So, I obtained the two victim  
21 statements from Ms. Clark and Mr. Scheidt, that  
22 was forwarded to me by Ms. Dantzler through our  
23 supervisor, SI Vershears from Ms. Dantzler. And  
24 Mr. Scheidt, I've had email communication with,  
25 which described the incident in his statement,

1 and the employee statements from the security  
2 members were provided to me after my visit with  
3 Ms. Reynolds discussing the incident.

4 Q And that visit was on or about June  
5 the 27th, correct?

6 A Yes, June 28th, 2023, I believe.

7 Q Okay. And so, do you know -- so, I  
8 want to focus for a minute on the statements from  
9 Scheidt and Clark, which are the complaining  
10 witnesses. Those statements are not dated, and  
11 the report doesn't indicate when they were taken.  
12 Do you know when that occurred?

13 A I do not.

14 Q Okay, but it was some time prior to  
15 you being assigned the case?

16 A Correct.

17 Q And do you know when in time, in  
18 relation to the incident Investigator Dantzler  
19 started her investigation?

20 A I do not.

21 Q And with respect to the Clark and  
22 Scheidt statements, aside from not being dated,  
23 they're not signed, do you know who prepared  
24 them?

25 A I do not.

1           Q       And were there any notes in the  
2 transmission of the file from Investigator  
3 Dantzler to you about those statements?

4           A       No.

5           Q       Now, do you know if there is any  
6 reason why -- I'm sorry, strike that. What was  
7 the time line of Investigator Dantzler going out  
8 for leave versus the case being assigned to you?

9           MR. SOUTHCOTT: Objection, relevance,  
10 I fail to see how this has anything to do with  
11 the charge.

12           MR. BIANCO: So, this witness  
13 testified about how important it was to get  
14 information close in time to the incident. What  
15 I'm developing here is the time line. So, based  
16 on the investigator's own testimony, having an  
17 idea of the time line as to when people were  
18 spoken with about what occurred in the incident  
19 is important.

20                   So, that's the reason for the  
21 testimony I'm eliciting. It develops a time line  
22 to establish the witness' recollection.

23           CHAIRPERSON ANDERSON: I'll overrule  
24 the objection.

25           MR. BIANCO: So, do you need me to

1 restate the question?

2 INVESTIGATOR RUIZ: Yes, please.

3 MR. BIANCO: So, what was the time  
4 line between when Investigator Dantzler went out  
5 for leave, and when you were assigned the case?

6 INVESTIGATOR RUIZ: I do not know.

7 MR. BIANCO: Do you know when she went  
8 out for leave?

9 INVESTIGATOR RUIZ: I don't know.

10 BY MR. BIANCO:

11 Q Do you know why Investigator Dantzler  
12 did not speak to the establishment being  
13 investigated at the same time as she spoke with  
14 the complaining witnesses?

15 A I do not know.

16 Q When was the first time the agency  
17 contacted the establishment to inform them that  
18 there was an investigation into the May 21st  
19 incident?

20 MR. SOUTHCOTT: Objection, again on  
21 relevancy grounds, I fail to see how this has  
22 anything to do with the establishment's  
23 obligations under their security plan. ABCA's  
24 investigation is separate from their obligations  
25 under their security plan, and the only matter at



1 issue here is their obligations under the  
2 security plan.

3 MR. BIANCO: The questions go to the  
4 time line, which the government went to great  
5 lengths, over objection, to develop. So, I'm  
6 entitled to inquire into it, since they put it on  
7 in their case in chief, it's within the scope of  
8 the testimony, and to the extent that the  
9 government --

10 MR. SOUTHCOTT: But that --

11 (Simultaneous speaking.)

12 MR. BIANCO: Please let me finish my  
13 argument.

14 CHAIRPERSON ANDERSON: Gentlemen, all  
15 right.

16 MR. BIANCO: So, to the extent that  
17 it's relevant for the government, it's relevant  
18 for us to inquire into as well.

19 MR. SOUTHCOTT: May I respond?

20 CHAIRPERSON ANDERSON: Yes, sir.

21 MR. SOUTHCOTT: To the extent that the  
22 time line matters, the time line matters for what  
23 the establishment was doing, not what ABCA was  
24 doing. The time line for ABCA in its  
25 investigation has no bearing on whether the

1 establishment was meeting its obligations under  
2 the security plan.

3 CHAIRPERSON ANDERSON: All right, I'll  
4 give it some leeway, at this junction I'll  
5 overrule the objection. Mr. Bianco, you know  
6 that I read the charging statement, so that's  
7 where I need us to go, all right? Go ahead.

8 MR. BIANCO: Very well. So, do you  
9 know when the first time ABCA contacted the  
10 establishment to inform them that an  
11 investigation was being done into the May 21st,  
12 2023 incident?

13 INVESTIGATOR RUIZ: I do not.

14 BY MR. BIANCO:

15 Q Now, if we look at the police report  
16 that is attached to your report, and if I need to  
17 refresh your recollection, please let me know,  
18 I'll bring up the report. The MPD report talks  
19 about an apparent assault, is that fair to say?

20 A Yes.

21 Q Okay. And do you happen to know if  
22 any charges were filed in that case?

23 A No.

24 Q Do you happen to know if any arrests  
25 were made in that case?

1           A       No.

2           Q       Do you happen to know what in the  
3 investigation --

4           MR. SOUTHCOTT:  Objection to  
5 relevance, MPD's -- objection, MPD's  
6 investigation into how MPD conducted something  
7 with respect to this matter does not have any  
8 bearing on this establishment's obligation under  
9 their security plan.

10          MR. BIANCO:  We disagree.  The  
11 government put on evidence that an assault  
12 occurred, they're using that assault as a basis  
13 to trigger obligations under our security plan.  
14 We are very much entitled to inquire into whether  
15 any assault ever took place.

16          CHAIRPERSON ANDERSON:  All right, I'm  
17 going to sustain the objection, it's irrelevant  
18 whether or not an assault occurred, at least as  
19 far -- well.

20          MR. BIANCO:  Mr. Anderson,  
21 respectfully, this witness testified quote the  
22 severity of the situation has -- I'm sorry, not  
23 all violent altercations should be reported.  So,  
24 the severity of this particular situation has  
25 bearing on whether or not their obligation to

1 report to MPD was triggered.

2 And if MPD does not consider, or did  
3 not take action on what the government has  
4 couched as an assault, it is absolutely relevant  
5 to this case.

6 MR. SOUTHCOTT: -- sorry.

7 CHAIRPERSON ANDERSON: All right. I'm  
8 going to sustain the objection, because the -- I  
9 think when you talk about the timing, at least  
10 from my perspective, how MPD responds to whatever  
11 occurs in the establishment, that's not really  
12 relevant to us.

13 We make an independent judgment about  
14 whatever investigations -- whether or not an  
15 incident occurred or whether or not that should  
16 be reported to us, and whether or not MPD decides  
17 that they're going to act on whatever decision --  
18 whatever occurred.

19 So I'm going to sustain the objection.  
20 I don't -- I don't see it's helpful. I don't see  
21 -- I don't see -- whether or not an arrest was  
22 made, whether or not MPD -- how they responded, I  
23 don't think it's -- that's relevant to what  
24 decision that I need to make or this Board needs  
25 to make on the -- on whether or not this

1 establishment had an obligation to have -- to  
2 either call MPD or have an incident report.

3 MR. BIANCO: Okay. Very well,  
4 Mr. Chair. Thank you. I'd just like my  
5 exception noted.

6 Moving on from there, you talked about  
7 the timing of the MPD report, that it was taken  
8 at 5:33 a.m. When was that in relation to the  
9 actual incident taking place?

10 INVESTIGATOR RUIZ: That was the time  
11 and date of the report, I believe. The time of  
12 the event taking place was roughly 3:00 a.m.,  
13 3:00, 3:30 a.m.

14 MR. BIANCO: And when you say "the  
15 report," you're referring to --

16 INVESTIGATOR RUIZ: MPD's report.

17 MR. BIANCO: -- MPD's report. So --  
18 okay. Very well. Moving on from there, now I  
19 want to talk about the photos that are marked as  
20 I think Exhibits 3, 4, and 5, to your -- to your  
21 report. We had some discussion about that  
22 earlier. And do you know who took those photos?

23 INVESTIGATOR RUIZ: I do not.

24 MR. BIANCO: Okay. Do you know when  
25 they were taken?

1 INVESTIGATOR RUIZ: I do not.

2 MR. BIANCO: And you mentioned, I  
3 think, that they were sent to you. When were  
4 they sent to you by the complaining witness?

5 INVESTIGATOR RUIZ: I don't recall.  
6 I would have to look that up.

7 MR. BIANCO: Okay. And you have no  
8 idea whether or not they truly and accurately  
9 depict Scheidt's condition after the incident, do  
10 you?

11 INVESTIGATOR RUIZ: No.

12 MR. BIANCO: And it's true, isn't it,  
13 that they could have taken -- been taken at any  
14 time between -- before they were produced to the  
15 agency.

16 INVESTIGATOR RUIZ: Correct.

17 MR. BIANCO: I want to go to your --  
18 page 5 of your report, and in page 5 of your  
19 report, you have a quote from a section of the  
20 security plan. And it's a standalone quote, and  
21 I think counsel had you read it into the record.  
22 It says, "Police and/or EMS are called for any  
23 emergency situation," correct?

24 INVESTIGATOR RUIZ: Correct.

25 MR. BIANCO: Okay. So I think I do at

1 this point need to bring up the report, so if  
2 you'll bear with me for a moment while I share my  
3 screen.

4 CHAIRPERSON ANDERSON: Mr. Orellana,  
5 please allow Mr. Bianco to share his screen.

6 MR. BIANCO: Thank you. Okay. So I  
7 have the security plan up on my screen, and  
8 counsel had you read Section A2 into the record,  
9 and that's the section you quoted, "Police and/or  
10 EMS are called for any emergency situation,"  
11 correct?

12 INVESTIGATOR RUIZ: Correct.

13 BY MR. BIANCO:

14 Q Okay. Could you read the top portion  
15 of the paragraph there marked Section A?

16 A "All security at Madam's Organ is  
17 trained for every location around the  
18 establishment by senior staff and management."

19 Q Okay. And then, one, two, and three  
20 follow that, correct?

21 A Correct.

22 Q Okay. And that subsection is what you  
23 used to draw your conclusion that the  
24 establishment is required to call the police in a  
25 quote/unquote "emergency situation," right?

1           A       Correct.

2           Q       Okay.  And did you ask the  
3           establishment at any point in your investigation  
4           about their training procedures?

5           A       I didn't.

6           Q       And so as we sit here today, you don't  
7           know whether or not the establishment trained  
8           their security staff to call police and/or EMS  
9           for any emergency situation.

10          A       Correct.

11          Q       Okay.  So you touched on this in your  
12          testimony as well, about this -- about this  
13          provision triggering an obligation of the  
14          establishment to call the police.  You would  
15          agree, would you not, that your reading of this  
16          provision only requires the police to be called  
17          in an emergency situation, correct?

18          A       Correct.

19          Q       Okay.  And how do you make that -- how  
20          did you, in this case, make the determination  
21          that what occurred constituted an emergency?

22          A       From the physical altercation  
23          described and the punching, the injuries.  There  
24          is bleeding described.  Just the physical  
25          altercation in itself I would determine to be an



1 emergency.

2 Q Okay. So I want to walk through some  
3 of those things. All right? You said I think  
4 first the physical altercation and punching,  
5 right?

6 A Correct.

7 Q Okay. And this notion of punching  
8 happening, where does that allegation come from  
9 in your report?

10 A I thought I read it through Mr.  
11 Scheidt's statement.

12 Q I'm sorry. I was just going to say --  
13 I was going to make it easier. The only  
14 allegations of punching comes from Mr. Scheidt  
15 and his girlfriend's statements, correct?

16 A Correct.

17 Q And they are, of course, not here to  
18 testify about that, correct?

19 A Correct.

20 Q And I think the second piece of what  
21 you said, and please correct me if I'm wrong, you  
22 described -- you said the injuries and bleeding.  
23 Is that -- is that an accurate recollection of  
24 what your testimony is?

25 A Yes.

1           Q       Okay.  And your basis for that  
2 testimony is, again, the Scheidt statement and  
3 his girlfriend's statement, correct?

4           A       Correct.

5           Q       And the photos.

6           A       Correct.

7           Q       Okay.  And the third thing you said  
8 was a little bit broader, so I want to drill down  
9 on this a bit.  The third thing you said is the  
10 altercation itself.  What about the altercation  
11 made it an emergency per se?

12          A       Anytime -- I believe anytime  
13 individuals put hands on each other, or in a  
14 threatening manner, it can make -- it becomes an  
15 emergency situation.

16          Q       Okay.

17          A       Who knows what that -- could transpire  
18 from there and security should de-escalate it  
19 from that point.

20          Q       Okay.  So is there a particular policy  
21 or standard that sets forth that definition of an  
22 emergency?

23          A       No.

24          Q       So where does that come from?

25          A       My knowledge, experience, violence

1 emergency.

2 Q So --

3 A What I'm -- what I know it to be  
4 through my experiences.

5 MR. BIANCO: Okay. So what you  
6 consider to be an emergency, if I'm to understand  
7 your testimony correctly, may be different from  
8 what another investigator would deem to be an  
9 emergency. Is that fair to say?

10 MR. SOUTHCOTT: Objection. I don't  
11 believe that this investigator can speculate as  
12 to what every investigator considers to be an  
13 emergency and why his interpretation would be  
14 different from some other investigator.

15 MR. BIANCO: So I'm asking him about  
16 his testimony.

17 MR. SOUTHCOTT: You were asking him to  
18 speculate on the testimony of every other  
19 investigator.

20 MR. BIANCO: I'm not asking him to  
21 speculate on the testimony of every other  
22 investigator. I'm asking him on cross-  
23 examination to talk about the possibilities of a  
24 differing standard within the agency in the  
25 absence of a firm policy.

1 CHAIRPERSON ANDERSON: I'm going to  
2 overrule the objection. The witness can answer  
3 the question if he can.

4 MR. BIANCO: Do you need me to restate  
5 it, Investigator Ruiz?

6 INVESTIGATOR RUIZ: No. I -- I can't  
7 speak to what other investigators would think,  
8 but I would suppose there would be a varying -- I  
9 -- I can't. I don't know. I can't say.

10 BY MR. BIANCO:

11 Q Okay. Going back to your report, I'm  
12 looking at what is page 5 of the report, and you  
13 should see it --

14 A Yes.

15 Q -- up on your screen. And the  
16 paragraph directly below the bold quote from the  
17 security plan says in relevant part, "After  
18 review of the statements, Investigator Ruiz did  
19 identify a situation that involved a physical  
20 altercation between a patron and a security  
21 employee, which resulted with both parties on the  
22 ground and a sign of bleeding injuries, which  
23 should have prompted the establishment to notify  
24 MPD." Correct?

25 A Correct.

1 Q Okay. So how do you know that the  
2 bleeding injuries were apparent at the time this  
3 altercation took place?

4 A I would have known it at the time of  
5 the incident.

6 Q And the photos that are attached to  
7 your report, based on what I see, the only  
8 bleeding injury is from the complaining witness'  
9 knee, correct?

10 A Correct.

11 Q And do you know how that witness was  
12 attired on the evening in question?

13 A I don't know.

14 Q So you don't know whether he had  
15 shorts or long pants on?

16 A No.

17 Q Okay. Now, on page 2 of the  
18 complaining witness' statement, he states that as  
19 soon as he got clear of the altercation, he  
20 walked away, right?

21 A Yes.

22 Q And in your testimony you indicated  
23 that the incident began inside of the  
24 establishment, correct?

25 A Yeah.

1           Q       And your basis for that is the  
2           supposed inappropriate comments made by one of  
3           the bar staff inside the establishment.

4           A       Yeah. The -- that was security of  
5           course closing the establishment, telling him to  
6           leave, and then the verbal back and forth  
7           happening, and then carrying out -- out of the  
8           establishment.

9           Q       Okay. So there's two parts to that,  
10          both of which I want to take in turn. One is  
11          telling him to leave the establishment. This was  
12          -- is it your understanding that this was closing  
13          time and everyone was being asked to leave the  
14          establishment?

15          A       That is my understanding, yes.

16          Q       Okay. So how would this particular  
17          person being asked to leave the establishment at  
18          the same time as everybody else be the beginning  
19          of an incident?

20          A       I think it was the comments, it was  
21          the back and forth, my understanding, with the  
22          comments being made that led to what occurred  
23          outside.

24          Q       So the beginning of the incident,  
25          then, is not necessarily everybody being asked to

1 leave the premises, but rather the allegation  
2 that certain untoward remarks were made towards  
3 this particular patron, correct?

4 A Correct.

5 Q And the only place that those remarks  
6 appear in your report are in the complaining  
7 witness' own statement. Is that correct?

8 A Correct. I think I copied and pasted  
9 those statements into the report.

10 Q I think that is accurate,  
11 Investigator. I think you did that as well.

12 Now, are you aware of whether MPD has  
13 a standard as to when they should be called in  
14 the event of an assault?

15 A No.

16 MR. SOUTHCOTT: Objection. Relevance.  
17 I don't believe that -- the investigator is not a  
18 member of MPD and doesn't need to be testifying  
19 to MPD's standards or what -- it should be  
20 conducting its business. This is a matter before  
21 ABCA. MPD standards have no bearing on this  
22 case.

23 MR. BIANCO: So I would say two  
24 things. One, he testified that he is not aware  
25 of any standards. And, two, in the absence of

1 any ABCA standards, it's absolutely relevant.  
2 Instead of having investigators on a case-by-case  
3 basis make it up out of whole cloth, the  
4 existence of a citywide standard from the  
5 policing agency is very much relevant.

6 CHAIRPERSON ANDERSON: All right. I'm  
7 going to -- I'm going to sustain the objection.

8 MR. BIANCO: So the second piece of  
9 this allegation in this case is that the -- I'm  
10 sorry. The second conclusion that you draw in  
11 your report is that the establishment violated  
12 the security plan by failing to take an incident  
13 report, correct?

14 INVESTIGATOR RUIZ: Correct.

15 BY MR. BIANCO:

16 Q Okay. And I could bring up the --  
17 we're talking about paragraph E. I think you may  
18 have read it into the record. But that  
19 particular provision specifically states that  
20 managers are required to make an incident report  
21 for any issues that occur inside the bar, right?

22 A I have to look at it again.

23 Q Okay. So we'll bring it up. Okay.  
24 So I have on my screen the security plan, and I  
25 direct your --



1 A Ah. Yes.

2 Q -- attention to paragraph E of the --

3 A Correct.

4 Q -- security plan. And that, indeed,  
5 requires managers to make incident reports for  
6 issues that occur -- or it says arrive, but occur  
7 inside of the bar, correct?

8 A Yes.

9 Q Now, counsel directed your attention  
10 to one of the security persons' statements that  
11 were taken in this case. And I'm going to scroll  
12 to it.

13 A I think it might be further up.

14 Q Sorry about that. So it's Exhibit  
15 Number 9 specifically. It's the statement of  
16 Walter Johnson. And I think some of the  
17 testimony you gave was about Mr. Johnson's  
18 statement that, when referring to the complaining  
19 witness, second-to-last line, "I guess he felt  
20 embarrassed or butthurt, because once he got to  
21 his feet he felt like he was assaulted."

22 Now, are you familiar with the term  
23 "butthurt"?

24 A Yeah.

25 Q And does that refer to physical injury

1 or hurt feelings?

2 A Hurt feelings.

3 Q Okay. Now, in your -- in the actual  
4 body of your report, you make conclusions,  
5 specifically on page 7, that the establishment  
6 violated its security plan because there was a  
7 physical altercation resulting in both parties on  
8 the ground and a sign of bleeding injuries, and  
9 then, secondarily, in the next paragraph, the  
10 establishment did not document the incident when  
11 it happened as stated in their security plan.  
12 Right?

13 A Correct.

14 Q Now, nowhere in the report do you  
15 mention that the basis of your conclusion is that  
16 something occurred inside of the establishment,  
17 correct?

18 A No.

19 Q Okay. So is there a reason why, from  
20 the date that you submitted this report back in  
21 June of 2023 to today in March of 2024, why that  
22 has now -- why that fact has now been added to  
23 the allegations here?

24 A I don't know.

25 Q Now, I believe your testimony, and

1 please correct me if I'm wrong, is that -- in  
2 this case was that all violent altercations need  
3 to be reported. Is that an accurate  
4 recollection?

5 A Let me clarify. I was looking at the  
6 severity of the altercation contact, not at all  
7 altercations.

8 Q Okay. So --

9 A I guess I'm distinguishing between an  
10 alteration that includes someone maybe being  
11 shoved and ending, walking away, or an extended  
12 altercation to where people are grabbed, hit,  
13 becomes a little more violent in nature.

14 Q Okay. So it's dependent on the -- how  
15 severe the altercation is?

16 A Yes. That's how I looked at it.

17 Q Okay. And the recitation of the  
18 altercation as given by the personnel who worked  
19 for the establishment was far less severe than  
20 the recitation by the complaining witness. Is  
21 that fair to say?

22 A Yes, it appeared that way.

23 MR. BIANCO: Okay. Okay. I don't  
24 have any further questions of this witness.  
25 Thank you.

1 CHAIRPERSON ANDERSON: Thank you, sir.  
2 Please close your screen.

3 Any questions by the Board members?  
4 Go ahead, Mr. Short.

5 MEMBER SHORT: And thank you,  
6 Investigator Ruiz. I hope I won't be an hour  
7 like the last questioning you got.

8 However, I would like -- I would like  
9 to ask you if you would -- can someone put on the  
10 screen the incident report, please?

11 MR. SOUTHCOTT: I can. I can share my  
12 -- share my screen.

13 MEMBER SHORT: Thank you very much.  
14 And please go to the police report, the 251 that  
15 was put in.

16 MR. SOUTHCOTT: Yep. Give me just a  
17 sec.

18 MEMBER SHORT: Thank you.

19 All right. Investigator Ruiz,  
20 although you weren't given this initial  
21 investigation, what date is on the police 251,  
22 which we are -- which we tried to establish is  
23 the -- it's a fact that when the MPD does  
24 reports, especially for ABRA, what does 251 stand  
25 for?

1                   INVESTIGATOR RUIZ: 251, incident  
2 report from the police department.

3                   MEMBER SHORT: Is that normally when  
4 a crime -- a crime has occurred?

5                   INVESTIGATOR RUIZ: Crime, incident  
6 that occurred. With us being notified, it's  
7 usually an ABRA violation of some sort or some  
8 ABC incident or assault.

9                   MEMBER SHORT: But the report -- the  
10 police report is dated the same date as the  
11 incident. Is that correct?

12                   INVESTIGATOR RUIZ: Correct.

13                   MEMBER SHORT: And that's a fact,  
14 correct?

15                   INVESTIGATOR RUIZ: Correct.

16                   MEMBER SHORT: Okay. Now, also on  
17 that report, it gives the name of the victims.  
18 We say victims in this case because they are  
19 alleging they were assaulted. Do they give an  
20 address for the victim or the victim who was  
21 assaulted?

22                   INVESTIGATOR RUIZ: Yes.

23                   MEMBER SHORT: What is that address?

24                   INVESTIGATOR RUIZ: It's a P.O. box.  
25 Do you want me to read the whole address?

1           MEMBER SHORT: Please do. I think it  
2 might be relevant to this case. It's a fact.

3           INVESTIGATOR RUIZ: 26 West Main  
4 Street, P.O. Box 893, Adamstown, PA 19501.

5           MEMBER SHORT: So would it be fair to  
6 say that someone who lives in Pennsylvania  
7 probably were glad to get out of Washington,  
8 D.C., after being assaulted, and probably wasn't  
9 in a big hurry to come back?

10          MR. BIANCO: Objection. Speculation,  
11 argumentative.

12          CHAIRPERSON ANDERSON: What's the  
13 question?

14          MEMBER SHORT: I'll rephrase it,  
15 Mr. Chairman.

16          CHAIRPERSON ANDERSON: Okay.

17          MEMBER SHORT: The persons on that  
18 night were from Pennsylvania, who made the  
19 complaint to ABRA and to police. Is that  
20 correct?

21          MR. BIANCO: Objection. Assumes facts  
22 not in evidence, speculation, foundation.

23          CHAIRPERSON ANDERSON: That is --

24          MEMBER SHORT: I'll rephrase that.  
25 What is the address of the victim on the police

1 report?

2 INVESTIGATOR RUIZ: It's a  
3 Pennsylvania address.

4 MEMBER SHORT: Why would someone give  
5 a Pennsylvania address if it's not relevant?

6 MR. BIANCO: Objection. Speculation.

7 MEMBER SHORT: I'll rephrase that. Is  
8 that the address that the person who was alleged  
9 to have been assaulted, is that their address?

10 MR. BIANCO: I don't know. It looks  
11 like a mailing address.

12 MEMBER SHORT: Okay. Now, I'd like --  
13 also like to ask you, this establishment is a CT.  
14 Is that correct? And give us what a CT is.

15 INVESTIGATOR RUIZ: A tavern that's  
16 allowed to sell beer, wine, and spirits.

17 MEMBER SHORT: Okay. Now, this  
18 establishment, how long have they been there?  
19 Can you tell us when they first opened up?

20 INVESTIGATOR RUIZ: I can't. I don't  
21 know off the top of my head.

22 MEMBER SHORT: You have no idea?

23 INVESTIGATOR RUIZ: No. I know a long  
24 time.

25 MEMBER SHORT: Can you talk to us

1 about the history on their ABRA license, their  
2 history on their -- on the ABRA license?

3 INVESTIGATOR RUIZ: I would have to  
4 refer to the history I provided in my report.

5 MEMBER SHORT: Can someone put that on  
6 the screen for us, please?

7 MR. SOUTHCOTT: Is this the  
8 investigative history that you're referring to?

9 MEMBER SHORT: That is correct.

10 Now, Mr. Ruiz, normally, when a 251 is  
11 written, that means the police department was  
12 called. Is that correct?

13 INVESTIGATOR RUIZ: Normally, yes.

14 MEMBER SHORT: How many times on the  
15 history of this establishment have they been  
16 called for assaults according to the history?

17 MR. BIANCO: There's no events,  
18 there's no assault --

19 MEMBER SHORT: Mr. Chair, I would --  
20 Mr. Chair, I would simply say -- Mr. Chair, I  
21 would simply say it is a fact that the police  
22 were called because someone said they had been  
23 assaulted. That is a fact.

24 MR. BIANCO: The fact is these are all  
25 NFAs. They're not relevant to this particular --



1                   MEMBER SHORT: Wait a minute. Wait a  
2 minute, please. Mr. -- I understand you are  
3 trying to answer for me, but I'd like to ask the  
4 Chairman if he would say if the -- if our  
5 investigator can answer, how many times has MPD  
6 written 251s for this establishment? I think  
7 that's a fair question.

8                   MR. BIANCO: Same objection on  
9 relevance.

10                  CHAIRPERSON ANDERSON: And, Mr. Short,  
11 you asked a question, and Mr. Bianco, as the  
12 attorney representing the establishment, he has  
13 objected to the question that you asked because  
14 he doesn't believe that it's relevant to this --  
15 to the issue at hand. And I'm in agreement with  
16 him, and so, therefore, that's not a question you  
17 should ask this witness, sir.

18                  MEMBER SHORT: Okay. I would simply  
19 say this. Have you ever been to this  
20 establishment, Investigator?

21                  INVESTIGATOR RUIZ: Yeah. I've been  
22 there.

23                  MEMBER SHORT: Have you ever  
24 personally been there?

25                  INVESTIGATOR RUIZ: Yeah. I've been

1       there.

2                   MEMBER SHORT: Can you describe what  
3 you saw the nights or -- or the times when you --  
4 when you went there? What did you see when you  
5 went there? What did you observe?

6                   INVESTIGATOR RUIZ: An operating  
7 tavern, usually has bands. Usually security is  
8 on the front doing pat-downs. Normal operation  
9 of a nightlife establishment.

10                  MEMBER SHORT: Okay. Now recently our  
11 District of Columbia government has started  
12 requiring places like CTs and nightclubs to have  
13 trained security. Is that correct? Recently.

14                  INVESTIGATOR RUIZ: Yeah. That has  
15 come up a lot recently, yes.

16                  MEMBER SHORT: Why did the District of  
17 government -- District of Columbia government  
18 decide to do that? No. There's a reason why  
19 they did that, sir. You can't speculate.

20                  CHAIRPERSON ANDERSON: I think that  
21 this investigator -- that's not a question that  
22 this investigator can answer, Mr. Short.

23                  MEMBER SHORT: Okay. I'll just ask  
24 him, if it's okay, why -- or did the District  
25 just change their laws for security? And

1 security is a problem. Security has come up time  
2 and time again in this hearing. Is that correct,  
3 Investigator?

4 INVESTIGATOR RUIZ: I can only  
5 speculate experiences. I don't know exact law  
6 changes or anything like that that have occurred.

7 MEMBER SHORT: Okay. Well, let me  
8 rephrase that. The persons who were outside of  
9 this club who are accused of assaulting a person  
10 who had been in the club, as employees of the  
11 club, what they do, isn't the club have some  
12 responsibility or does not the club have some  
13 responsibility or the CT has some responsibility  
14 for their employees?

15 INVESTIGATOR RUIZ: The establishment  
16 has some responsibility for the training -- has  
17 responsibility for the training of their staff in  
18 how to handle.

19 MEMBER SHORT: So if there are -- so  
20 if that staff is inside, and then have to go  
21 outside because of a person who is -- who has  
22 patronized them, does that give any  
23 responsibility to that establishment?

24 INVESTIGATOR RUIZ: Yes.

25 MEMBER SHORT: So security had the

1 obligation, once they went outside and someone  
2 was assaulted, to call the police, according to  
3 their security plan. Is that correct?

4 MR. BIANCO: Objection. Opinion,  
5 legal conclusion.

6 CHAIRPERSON ANDERSON: If the witness  
7 can -- I'm going to overrule the objection. If  
8 the witness can answer it, let -- if not, move  
9 on.

10 Are you able to answer the question,  
11 Mr. Ruiz?

12 INVESTIGATOR RUIZ: That's the  
13 understanding of my -- of the regulation.

14 MEMBER SHORT: Can you state that  
15 answer again? Is your -- to your knowledge about  
16 the regulation, did they have responsibility, the  
17 security?

18 INVESTIGATOR RUIZ: Yes.

19 MEMBER SHORT: So them having  
20 responsibility, shouldn't they have called the  
21 police or either done some type of report?

22 MR. BIANCO: Objection.

23 CHAIRPERSON ANDERSON: What's the  
24 nature of your objection, Mr. Bianco?

25 MR. BIANCO: It's the same objection.

1 The questions are calling for a legal conclusion.  
2 They're asking for an opinion on the ultimate  
3 issue that the Board is to decide in this case.  
4 And the investigator is neither competent to  
5 testify about that nor is his testimony on that  
6 issue relevant. It's the issue that the Board is  
7 to decide based on facts. This is a fact  
8 witness, not someone who can draw legal  
9 conclusions or give opinion testimony.

10 MEMBER SHORT: Thank you, sir.

11 CHAIRPERSON ANDERSON: I'll sustain  
12 that.

13 MEMBER SHORT: Okay. Thank you, sir.

14 Did or did we not establish that the  
15 persons who are employed by this CT have  
16 responsibility when someone is inside of that  
17 club and they have to go outside of that club to  
18 respond to them? Yes or no.

19 INVESTIGATOR RUIZ: Still part of the  
20 establishment, yes.

21 MEMBER SHORT: So they have  
22 responsibility.

23 INVESTIGATOR RUIZ: Yes.

24 MEMBER SHORT: So wouldn't that  
25 responsibility also say that they should report

1 it to MPD?

2 INVESTIGATOR RUIZ: Yes.

3 MEMBER SHORT: Did they report it to  
4 MPD?

5 INVESTIGATOR RUIZ: No.

6 MEMBER SHORT: So was that a violation  
7 of their security plan?

8 MR. BIANCO: Objection. Same -- it's  
9 the same objection. I can restate it if the  
10 Chair likes.

11 CHAIRPERSON ANDERSON: I think that  
12 the witness can answer this question, because I  
13 believe -- I'm going to overrule the objection.  
14 If the witness can answer the question, he can,  
15 because I'm not sure I -- I believe that the  
16 witness did make some conclusion I think in this  
17 report.

18 INVESTIGATOR RUIZ: It's my  
19 understanding of the security plan that they are  
20 required to call the police in this incident.

21 MEMBER SHORT: Okay. Now,  
22 Investigator Ruiz, it's very important -- very  
23 important to myself and the Board members, and  
24 hopefully the public, that a fact came up that  
25 the young lady who was along with the gentleman

1 who was assaulted was still in the female  
2 restroom when he was escorted out of the club.  
3 Is that correct?

4 MR. BIANCO: I'm going to -- I'm going  
5 to object as it's both a mischaracterization and  
6 any factual representations in the statements are  
7 not in the record.

8 CHAIRPERSON ANDERSON: Yes. I'll  
9 sustain the objection. Mr. Short, let's move on.

10 MEMBER SHORT: Investigator Ruiz, is  
11 it a fact that when men escort women, they come  
12 with them and they leave with them?

13 MR. BIANCO: Objection. Scope,  
14 speculation, competence.

15 CHAIRPERSON ANDERSON: That's not a  
16 question that Mr. Ruiz can answer, Mr. Short.  
17 Let's move on.

18 MEMBER SHORT: So, again, the history  
19 of this establishment has over -- over 10  
20 incidents. Does the history of an establishment  
21 have anything to do with the way it operates,  
22 Mr. Ruiz, or Investigator Ruiz?

23 MR. BIANCO: Objection. Same  
24 objection. I believe the Chair has previously  
25 ruled on the relevance of the investigative

1 history.

2 MEMBER SHORT: Mr. Ruiz, were there  
3 any assaults at all ever reported for this  
4 establishment?

5 CHAIRPERSON ANDERSON: Mr. Short,  
6 these are not questions that this witness can  
7 answer, sir.

8 MEMBER SHORT: All right. Thank you,  
9 Mr. Chair. I will be very brief. I know that  
10 I've been long-winded, but I see that we had  
11 other people who asked as many questions as I'm  
12 asking. I'm just trying to get so that I can  
13 make a proper opinion when I have to deliberate  
14 about this.

15 I would really like to ask  
16 Investigator Ruiz again, if I could, if he has  
17 ever visited this establishment.

18 INVESTIGATOR RUIZ: I have.

19 MEMBER SHORT: How many times?

20 INVESTIGATOR RUIZ: I'd say at least  
21 a dozen times. I can't recall. Twelve.

22 MEMBER SHORT: Have you ever had to  
23 cite them for anything during those visits?

24 INVESTIGATOR RUIZ: I can't recall.

25 CHAIRPERSON ANDERSON: Let's -- do you



1 have another question, Mr. Short?

2 MEMBER SHORT: Thank you for allowing  
3 me to ask. In that neighborhood where this  
4 establishment is, how many or are there other CTs  
5 or taverns located in that neighborhood?

6 INVESTIGATOR RUIZ: Yes.

7 MEMBER SHORT: Have you ever had to  
8 investigate any incidents at any of the other CTs  
9 in this neighborhood where this location is on  
10 18th Street?

11 INVESTIGATOR RUIZ: Yes.

12 MEMBER SHORT: What was the nature of  
13 those investigations?

14 INVESTIGATOR RUIZ: Various  
15 investigations, occupancy, took to hospital.  
16 It's very varied. It varies.

17 MEMBER SHORT: Would you say this is  
18 a very busy area?

19 INVESTIGATOR RUIZ: Yes. On the  
20 weekends, they're busy.

21 MEMBER SHORT: What day of the week  
22 was this incident on the 21st of -- on the 21st  
23 of -- May 21st, 2023? What day of the week, or  
24 would you know that?

25 INVESTIGATOR RUIZ: I'm not sure off

1 the top of my head.

2 MEMBER SHORT: Investigator Ruiz, I  
3 thank you for a very thorough report for what --  
4 filling in for another investigator, and  
5 hopefully we will not be seeing this particular  
6 establishment again anytime soon. But you did a  
7 -- you did a great job filling in, and thank you  
8 for the report you gave us. And thank you for  
9 your testimony today.

10 That's all I have, Mr. Chair.

11 INVESTIGATOR RUIZ: You're welcome,  
12 Mr. Short.

13 CHAIRPERSON ANDERSON: Thank you,  
14 Mr. Short.

15 Any other questions by any other  
16 investigators? I'm sorry. Any other Board  
17 member?

18 MEMBER GRANT: No questions.

19 CHAIRPERSON ANDERSON: Thank you,  
20 Mr. Grant.

21 Mr. Bianco, do you have any questions  
22 of the witness based on the questions that were  
23 asked by the Board?

24 MR. BIANCO: I do not, Mr. Anderson.

25 CHAIRPERSON ANDERSON: Thank you.

1 Mr. Southcott, any redirect?

2 MR. SOUTHCOTT: Briefly like to touch  
3 on a couple of matters.

4 REDIRECT EXAMINATION

5 MR. SOUTHCOTT: I'll share my screen  
6 again. Investigator Ruiz, during your cross-  
7 examination, you were asked about the security  
8 plan. Do you recall testifying about the  
9 security plan?

10 INVESTIGATOR RUIZ: (No audible  
11 response.)

12 BY MR. SOUTHCOTT:

13 Q And, specifically, you were asked  
14 about Section A of the security plan, which says  
15 that all security at Madam's Organ is trained for  
16 every location around the establishment by senior  
17 staff and management, and then Section A2 says  
18 that police and/or EMS are called for any  
19 emergency situation. Do you recall testifying  
20 about this portion?

21 A Yes.

22 Q As you read this security plan, is  
23 your understanding of it that the obligation is  
24 just for security to be trained on calling EMS in  
25 any emergency situation? Or do they actually

1 have to call EMS in an emergency situation?

2 A That they actually have to -- that  
3 they are trained to call.

4 Q And so if they did not call, it would  
5 be violating their training, correct?

6 A Correct.

7 MR. SOUTHCOTT: And would that be a  
8 violation of their security plan?

9 MR. BIANCO: Objection. Calls for a  
10 legal conclusion, opinion testimony on the  
11 ultimate issue for the Board to decide.

12 MR. SOUTHCOTT: I believe that this  
13 witness has testified to this type of question  
14 before. I believe he can testify to it again.

15 CHAIRPERSON ANDERSON: I'm going to  
16 overrule the objection and allow him to answer if  
17 he can.

18 INVESTIGATOR RUIZ: Yes. It would be  
19 a violation. That's the question, right? I'm  
20 sorry.

21 BY MR. SOUTHCOTT:

22 Q And, also, while we're talking about  
23 the security plan, do you remember the --  
24 testifying about focusing on the section that  
25 says managers are required to make incident

1 reports for any issues that arrive inside the  
2 bar? Do you remember testifying about that?

3 A Yes.

4 Q And do you recall opposing counsel  
5 emphasized that it is incidents that just arise  
6 inside of the bar, not incidents that arise  
7 outside of the bar? Do you recall that?

8 A Yes.

9 MR. SOUTHCOTT: So according to  
10 opposing counsel's interpretation of the -- if an  
11 incident occurs, regardless of the severity of  
12 the incident, between an employee and a patron,  
13 but that incident occurs outside, then according  
14 to that interpretation that would not trigger any  
15 obligation in the establishment to create an  
16 incident report. Is that right?

17 MR. BIANCO: Objection.  
18 Characterization, argument.

19 MR. SOUTHCOTT: I want the witness to  
20 testify to matters that he just testified to with  
21 respect to what the security report says about  
22 whether there is an obligation that is triggered  
23 by an incident that originates inside the bar.

24 CHAIRPERSON ANDERSON: I'm going to --  
25 I'm going to overrule the objection and allow the

1 witness to answer the question if he can.

2 INVESTIGATOR RUIZ: Can you ask the  
3 question again, please?

4 MR. SOUTHCOTT: Yeah. So according to  
5 the interpretation of the incident report where  
6 the establishment only has to make a report for  
7 an incident that arrives inside the bar, if an  
8 incident occurs between a patron and a member of  
9 security that takes place entirely outside the  
10 bar, according that interpretation, then the  
11 establishment wouldn't have to make an incident  
12 report, regardless of the severity of the  
13 incident, correct?

14 INVESTIGATOR RUIZ: Correct.

15 MR. SOUTHCOTT: Do you believe that  
16 that is a reasonable interpretation of what a  
17 security plan does?

18 MR. BIANCO: Objection. This witness'  
19 opinion on reasonableness of a security plan is  
20 not relevant to these proceedings in any way.

21 MR. SOUTHCOTT: This witness has  
22 testified that he has dealt with security plans  
23 and incident reports on dozens of occasions in  
24 the past. I believe he is more than able to  
25 testify as to a reasonable interpretation of a

1 security plan.

2 CHAIRPERSON ANDERSON: That is not the  
3 role of the investigator, so I'm going to  
4 sustain. I'm going to sustain the objection and  
5 ask -- the word "reasonableness" -- I mean, if he  
6 felt -- yeah. So I'm going to sustain the  
7 objection on the -- how the question is  
8 characterized.

9 MR. SOUTHCOTT: Okay. I'll move on.

10 BY MR. SOUTHCOTT:

11 Q So, Investigator Ruiz, during your  
12 testimony on cross-examination, you clarified  
13 some of your statements about what types of  
14 incidents are ones that trigger the requirement  
15 to -- or, rather, what constitute an emergency  
16 situation. Do you remember testifying about sort  
17 of what levels of interaction between patrons and  
18 staff constitute an emergency situation?

19 A Yes, I recall.

20 Q And during your testimony, you said  
21 that something like shoving a patron would not  
22 rise to the level of an emergency situation, but  
23 grabbing them and a prolonged conflict would rise  
24 to the level of an emergency situation. Do you  
25 recall giving that testimony?

1           A       I do.

2           Q       All right. I'm going to direct your  
3 attention to Exhibit Number 9, which is the  
4 statement provided by Walter Johnson, the member  
5 of the establishment's security. In this  
6 statement, does this statement describe a  
7 physical altercation that involves grabbing  
8 another individual?

9           A       Yes.

10           MR. SOUTHCOTT: And so based on your  
11 understanding, does this statement from the  
12 establishment trigger the obligation to contact  
13 MPD or EMS in response to an emergency situation?

14           MR. BIANCO: Same objection. I  
15 realize the Board has ruled on this, but I just  
16 want to note it. Thank you.

17           CHAIRPERSON ANDERSON: That is  
18 correct. So I'm overruling the objection, so the  
19 witness can answer the question if he can.

20           INVESTIGATOR RUIZ: Yes.

21           BY MR. SOUTHCOTT:

22           Q       Okay. Thank you. I'm actually going  
23 to go back down to the security plan, just for a  
24 second, and focus a little bit more on Section  
25 A2, which states, "Police and/or EMS are called



1 for any emergency situation."

2 Does the security plan define what an  
3 emergency situation is?

4 A No.

5 Q Is there any provision that you are  
6 aware of that defines what a quote/unquote  
7 "emergency situation" is?

8 A Not that I'm aware of.

9 Q So is there any authority that anyone  
10 can point to that definitively indicates what an  
11 emergency situation would be?

12 A No.

13 MR. SOUTHCOTT: Okay. I have no  
14 further questions for this witness. Sorry. No,  
15 I have no further questions.

16 CHAIRPERSON ANDERSON: All right.  
17 Thank you.

18 Thank you, Mr. Ruiz, for your  
19 testimony. You are free to go.

20 INVESTIGATOR RUIZ: Thank you, sir.

21 CHAIRPERSON ANDERSON: Close your  
22 screen, please.

23 MR. SOUTHCOTT: Yes.

24 CHAIRPERSON ANDERSON: Does the  
25 Government rest?

1 MR. SOUTHCOTT: The Government does  
2 rest.

3 CHAIRPERSON ANDERSON: All right.  
4 Thank you.

5 We're going to take a break. But  
6 before taking a break, I just want to know  
7 scheduling. How many witnesses do you plan to  
8 call, Mr. Bianco?

9 MR. BIANCO: Our --

10 CHAIRPERSON ANDERSON: Or does the  
11 Government wish -- I'm sorry. Or, better yet,  
12 are you going to call any witnesses?

13 MR. BIANCO: Yes. I intend, based on  
14 the presentation of the case, to call three  
15 witnesses as I think I initially indicated. And  
16 there's one other thing I think that bears a  
17 brief discussion is Mr. Southcott indicated at  
18 the outset of his case he may want to make a  
19 dispositive motion, and I indicated that I -- I  
20 may want to as well. I think we both do, and  
21 perhaps we should decide how that best be  
22 presented to the Board in terms of scheduling out  
23 the rest of this hearing today.

24 MR. SOUTHCOTT: I'll clarify, at no  
25 point did I say that I wanted to make a

1       dispositive motion, and did not then and do not  
2       now.

3                   CHAIRPERSON ANDERSON:   Okay.   That  
4       answers that I -- I thought that you, Mr. Bianco,  
5       had made and eluded to the fact that you might  
6       request a -- request for a --

7                   MR. BIANCO:   And I do -- I do wish to  
8       do that.   So, again, from a scheduling  
9       standpoint, I think we can maybe discuss quickly  
10      how we want to handle that.

11                   CHAIRPERSON ANDERSON:   So why don't  
12      you make your motion, then, sir.

13                   MR. BIANCO:   Would we be able to take  
14      the break first, so I can gather my thoughts and  
15      make it more concise?   That may be appealing to  
16      the Board.

17                   CHAIRPERSON ANDERSON:   It's 4:00.  
18      We'll take a 15-minute break.

19                   (Whereupon, the above-entitled matter  
20      went off the record at 4:00 p.m. and resumed at  
21      4:17 p.m.)

22                   CHAIRPERSON ANDERSON:   Do you have a  
23      motion, Mr. Bianco?

24                   MR. BIANCO:   I would like to make a  
25      motion.   I suppose it's in the style of a motion

1 for a directed verdict. We can also call it a  
2 motion to dismiss. I don't know exactly what to  
3 label it. But I will have brief argument on it,  
4 and we can go from there.

5 So we move that this charge against my  
6 client be dismissed, and the basis for our motion  
7 is that the Government is -- has the burden to  
8 prove all of the elements of the charge. Here  
9 the establishment is accused of violating its  
10 security plan in two ways. Number one, by  
11 failing to report a quote/unquote "emergency  
12 situation" to MPD. And, number two, by failing  
13 to take down an incident report.

14 First, there is no provision in the  
15 security plan requiring that the establishment  
16 call MPD after an emergency incident. The  
17 Government cherry-picks a subpart of an  
18 overarching paragraph that talks about how  
19 security staff is to be trained. Specifically,  
20 Section A talks about training requirements of  
21 security staff, and Subpart 2 underneath training  
22 indicates that the security staff should be  
23 trained to call MPD in the event of a  
24 quote/unquote "emergency situation."

25 Per the testimony of the Government's

1 only witness and the sole exhibit presented by  
2 the Government, there was no inquiry, let alone  
3 finding, with respect to the establishment  
4 failing to properly train their staff, since they  
5 have failed to put on any evidence that the plain  
6 language of that particular provision has been  
7 violated, the Government has failed to meet its  
8 burden on that point following their case in  
9 chief.

10 Second, my client is accused of  
11 failing to take down an incident report, and now  
12 we're dealing with paragraph E of the security  
13 plan. And, again, our argument is one of the  
14 plain language of the security agreement, which  
15 we think is how the Board has to read this. What  
16 that revision requires is the making -- the  
17 making of an incident report for situations that  
18 occur inside the establishment. It's a bright  
19 line test.

20 There is nothing in the report, in the  
21 narrative portion of the report, or in the  
22 portion prepared by the investigator, that  
23 indicates that there was anything that occurred  
24 inside of the establishment. And we need only  
25 look to his conclusions on page 7 where he

1 doesn't mention any nasty comments or rudeness  
2 with respect to that being the basis for  
3 something happening inside of the establishment.  
4 This is something new that the Government raised  
5 today, months and months after the report was  
6 filed.

7           And I think the more important piece  
8 of the argument with respect to the incident  
9 report is that there is no evidence on the record  
10 that anybody said anything to this person in any  
11 way inappropriate while inside of the  
12 establishment.

13           The Government has some tortured  
14 analysis of how the incident began inside the  
15 establishment based on the statement, the only  
16 statement of the complaining witness, which is  
17 not admitted as evidence for the purpose of any  
18 of the facts in it. There are no facts  
19 indicating anything happened inside. And that  
20 bright line test is why the Government's case  
21 fails on the second point.

22           The last thing I would note with  
23 respect to our motion is that security plans are,  
24 of course, submitted and approved by the Board,  
25 and I think your attorney does an excellent job

1 of conducting very thorough and detailed reviews,  
2 often kicks them back to attorneys and  
3 establishments for revisions, and that didn't  
4 happen here. What we're dealing with is a  
5 Board-approved security plan that was followed to  
6 its letter in this particular situation.

7 Moving on from the motion, we do have  
8 an additional argument that is not part of the  
9 motion that we will present facts on, and that  
10 will be whether or not the situation that  
11 occurred constitutes a quote/unquote "emergency."  
12 But that's not part of the motion. I think that  
13 requires development of a factual record to  
14 succeed on that defense.

15 Thank you.

16 CHAIRPERSON ANDERSON: Thank you.

17 Mr. Southcott, do you wish to respond?

18 MR. SOUTHCOTT: I have several  
19 responses. So addressing Mr. Bianco's arguments  
20 in turn, a very tortured understanding of what a  
21 security plan is, how one operates, and how one  
22 should operate under this instance, according to  
23 him the only obligation under the security plan  
24 was that the individuals had to be trained to  
25 call police and/or EMS for any emergency

1 situation.

2                   Therefore, regardless of the severity  
3 of any situation, they would not have violated  
4 the provisions of the security plan by failing to  
5 contact police or EMS, so long as they had been  
6 trained to do so. Clearly, the purpose of  
7 training is for it to be put into practice. It  
8 is a tortured understanding of how that security  
9 plan operates when, if you want to use the plain  
10 language, trying to shove a clear requirement  
11 that police and/or EMS are called for any  
12 emergency situation, under a subheading regarding  
13 training that then seems to, per the  
14 establishment, provide no further obligation.

15                   We can tell that this is tortured  
16 because this is contrary to the testimony that  
17 was given by the investigator as to what he  
18 believed the establishment's obligations were  
19 under this -- under the security plan. He  
20 testified again and again and again that  
21 according to the security plan that the personnel  
22 of the establishment have an obligation to  
23 contact police and/or EMS for emergency  
24 situations the way that it says in the security  
25 plan.



1           To say that the security plan does  
2 nothing more than lay out a training regimen, and  
3 then say that failure to abide by that training  
4 regimen does not constitute a violation of the  
5 security plan, is a somewhat preposterous  
6 argument that I argue that the Board should not  
7 adopt.

8           With respect to the provision that  
9 managers are required to make an incident report  
10 for any issues that arrive inside of the bar, we  
11 have a similarly tortured logic where the only  
12 justification per them is that there is a -- you  
13 know, apparently a clear bright line test where  
14 something either occurs inside the bar or outside  
15 the bar.

16           Now, despite the evidence that we  
17 heard from the testimony of Investigator Ruiz  
18 repeatedly referring to incidents that originated  
19 inside the bar with comments that were made which  
20 were then directed out, this is, again, contrary  
21 to the argument that Investigator -- or not  
22 Investigator, but Counsel Bianco just made that  
23 those comments were made outside.

24           We have testimony on the record,  
25 again, noting that everything in the case report,

1 including the statements of the witness, is in  
2 the record. We have testimony from a witness in  
3 the record indicating that those comments that  
4 were first made saying that Ms. -- that the --  
5 that Ms. Clark was in the bathroom sucking dicks,  
6 those comments were made, according to his  
7 statement, while he was standing outside of the  
8 bathroom waiting for her inside of the  
9 establishment.

10 So his argument that everything  
11 occurred outside of the establishment is -- are  
12 not true or even -- even under its own terms, but  
13 even -- but we take issue with the fact that it  
14 says that, nope, there is only a reporting -- an  
15 obligation to create an incident report for  
16 issues that arrive inside the bar.

17 As a quick side note, you know, Bianco  
18 -- or the opposing counsel makes hay of, you  
19 know, the great detail to which these, you know,  
20 plans are reviewed and approved. We have a clear  
21 typo in this relevant provision, which says that  
22 "for any issues that arrive inside the bar." It  
23 very clearly should be "arise," not "arrive."

24 Given that, it's hard to say that, you  
25 know, this was drafted with the exacting

1 precision that he seems to think that it implies.  
2 Even were that the case, that it would only  
3 trigger an obligation for something that occurred  
4 inside the bar and not outside of it, this is  
5 also facially ridiculous, because that, again,  
6 has nothing to do with severity and is at odds  
7 with the way that the rest of the portion of the  
8 security clearance is written.

9 Note that managers are required to  
10 make incident reports for any issues, regardless  
11 of the level of severity. Any issue is required  
12 -- a manager is required to make a security  
13 issue. But their understanding is that, well, so  
14 long as it is inside the bar, the second that you  
15 are a blade of grass outside of the  
16 establishment, regardless of whether that  
17 incident took place inside the establishment,  
18 whether that was between patrons of the  
19 establishment and members of the establishment,  
20 and regardless of the severity of that incident,  
21 then there is absolutely no obligation under the  
22 security plan for the establishment to make an  
23 incident report regardless of the severity of  
24 what happened out there.

25 So, per them, an individual who works

1 security could walk outside, produce a gun, shoot  
2 a bystander, and then that is -- there is no  
3 obligation, per them, to even make an incident  
4 report, despite the fact that if a patron were to  
5 lightly push a member of the establishment's  
6 security inside the bar, that does trigger their  
7 obligation to make an incident report for any  
8 issue that occurs inside the bar.

9 That's also a nonsensical  
10 interpretation of the security plan, and it's not  
11 what the security plan requires. The security  
12 plan requires that incident reports be made for  
13 incidents that arise inside the bar. This  
14 incident arose inside the bar. Had the patron  
15 not been -- and this is undisputed across all  
16 accounts -- had the patron not been inside the  
17 bar, there would not have been a physical  
18 altercation between the patron and bar staff.

19 It is impossible for them to escape  
20 this just by saying, "Because he was outside of  
21 it, we think, according to some interpretations  
22 of this, that does not trigger the requirements  
23 of the reporting -- the reporting requirements  
24 that exist under the security plan."

25 For these reasons, the District

1 believes it has more than amply met its burden,  
2 and it is wholly inappropriate for the Board to  
3 dismiss the case or to issue a directed verdict  
4 in favor of the establishment.

5 CHAIRPERSON ANDERSON: Thank you, sir.

6 All right. The Board is not going to  
7 make a determination. The Board will reserve our  
8 ruling on whether or not a directed verdict will  
9 be issued or to dismiss the matter at this  
10 juncture. It's more important for us to preserve  
11 the record. When the Board issues its ultimate  
12 decision, the Board will make a ruling at that  
13 time on your motion. Okay?

14 So that's the Board -- that's the  
15 decision. So I'm deferring making a decision at  
16 this juncture.

17 What the Board, however, will do at  
18 this juncture, you have made -- you have informed  
19 us, Mr. Bianco, that you have three witnesses.  
20 The Board is going to end this hearing at this  
21 juncture. We're going to end the hearing today  
22 and have the parties -- the Board will provide  
23 some dates to resume this hearing and to resume  
24 the hearing in the sense that you will present  
25 your -- call your witnesses.

1                   And it's late in the day. The Board  
2 has another full day of hearing -- of hearings  
3 tomorrow, and I think it's appropriate for us to  
4 end our day on this note today. Okay?

5                   MR. SOUTHCOTT: Thank you, members of  
6 the Board.

7                   MR. BIANCO: Thank you.

8                   CHAIRPERSON ANDERSON: Thank you. So  
9 I don't -- I'm not going to close -- so I'm not  
10 closing the record. I'm not going to read the  
11 ruling, because the Board will not be discussing  
12 this case. So, but let me close the record.

13                   I have to close the record -- I have  
14 to close the record for the day, but I am not  
15 closing this case because we are not -- we are  
16 making no decision on this case until we  
17 reconvene to hear the Respondent present its  
18 case. Okay?

19                   All right. As Chairperson of the  
20 Alcoholic Beverage and Cannabis Board for the  
21 District of Columbia, in accordance with Title 3,  
22 Chapter 45, Office of Open Government, I move  
23 that the ABC Board hold a closed meeting on  
24 March 21st for the purpose of discussing and  
25 hearing reports concerning ongoing or planned

1 investigations of alleged criminal or civil  
2 misconduct or violations of law or regulations  
3 that seek legal advice from our legal counsel,  
4 and the Board's investigative agenda, legal  
5 agenda, licensing agenda for March 21st, as  
6 published in D.C. Register on March 15th.

7 Is there a second?

8 MEMBER SHORT: Short. I'll second.

9 CHAIRPERSON ANDERSON: I will take a  
10 roll call vote on the motion before us now that  
11 it that has been properly seconded.

12 Mr. Short?

13 MEMBER SHORT: Short. I agree.

14 CHAIRPERSON ANDERSON: Mr. Grant?

15 MEMBER GRANT: (No audible response.)

16 CHAIRPERSON ANDERSON: Mr. Anderson.

17 As it appears that the motion has passed, I  
18 hereby give notice that the ABC Board will hold  
19 this closed meeting pursuant to the Open Meetings  
20 Act. Notice will also be posted on the ABC Board  
21 hearing room bulletin board, placed on the  
22 electronic calendar, and ABCA's website, and  
23 published in the D.C. Register in as timely -- as  
24 timely a manner as practical.

25 Thank you for your presentation today.

1 Our legal office will get back to the parties  
2 with a date to reconvene this hearing.

3 Thank you very much. Have a great  
4 day.

5 I'd ask all Board members to return to  
6 executive session for a brief meeting.

7 All right. Thank you. Have a great  
8 day.

9 (Whereupon, the above-entitled matter  
10 went off the record at 4:32 p.m.)  
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In the matter of: Madam's Organ

Before: DC ABCA

Date: 03-20-24

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