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ALSO PRESENT:
SIMONE ANDREWS, DC ABRA Staff
EYOB ASBEHA, Licensee
SHAHZEB ASIM, DC OAG
CAPT. DAVID AUGUSTINE, DC MPD
RICHARD BIANCO, Licensee's Counsel
MARTHA JENKINS, ABC Board Counsel
JOHN LUI, DC OAG
KEVIN PUENTE, DC ABRA Investigator
DET. PHILIP TRIDICO, DC MPD

CONTENTS

1			
2	WITNESS		PAGE
3	David Augustine		15
4	Kevin Puente		62
5	Eyob Asbeha		95
6			
7	Philip Tridico		131
8	Exhibits		PAGE
9	1 ABRA Investigative Report		66
10	4 Picture		72
11	40 Picture		74
12	Respondent		
13	1 Photo of main entrance		108
14	2 Photo of corridor		110
15	3 Photo of entrance of restaurant		112
16			
17	4 Photo of restaurant booth		115
18	5 Photo of window behind boot		115
19	6 Photo of backside of booth		116
20			
21			
22			
23			
24			
25			

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

2 11:42 a.m.

3 CHAIRPERSON ANDERSON: Our next case
4 on our calendar is case number 20-CMP-00110 and
5 20-CMP-00110(a), Kiss Tavern. Ms. Andrews, can
6 you please elevate the parties on this case,
7 please.

8 MS. ANDREWS: Sure, stand by.

9 CHAIRPERSON ANDERSON: Thank you.

10 MS. ANDREWS: Mr. Augustine, you are
11 now a panelist. Mr. Puente, you are now a
12 panelist.

13 Mr. Bianco, you are now a panelist.
14 Mr. Lui, you are now a panelist. Mr. Asim, you
15 are now a panelist. Ms. Johnson, you are now a
16 panelist. That's all, Mr. Chair.

17 CHAIRPERSON ANDERSON: All right.
18 Thank you. Let's start the introduction. I
19 will start with the Government.

20 So can I have the Government
21 introduce themselves and please spell your
22 name, please.

23 MR. ASIM: Good morning, members of
24 the Board. My name's Shahzeb Asim. I'm
25 representing the District of Columbia. And

1 that is S-H-A-H-Z-E-B, last name A-S-I-M. And
2 I have co-counsel.

3 CHAIRPERSON ANDERSON: Good morning,
4 Mr. Asim. And who is the co-counsel?

5 MR. ASIM: John Lui.

6 CHAIRPERSON ANDERSON: Can Mr. Lui
7 please introduce himself and the spelling of
8 his name, please? Please turn your microphone
9 on, Mr. Lui.

10 MR. LUI: Good morning, Board
11 Members. John Lui, that's J-O-H-N, L-U-I, on
12 behalf of the District of the Columbia.

13 CHAIRPERSON ANDERSON: All right.
14 Thank you, Mr. Lui. So let's have the licensee
15 introduce himself for the record. We can start
16 with the attorney.

17 Mr. Bianco? Turn your microphone
18 on, please, Mr. Bianco. Please also adjust
19 your camera so we can see your face.

20 MR. BIANCO: This is Richard Bianco.
21 I am representing the licensee in this matter.

22 CHAIRPERSON ANDERSON: Can you
23 please spell your name for the record, Mr.
24 Bianco?

25 MR. BIANCO: Yes, sir. Last name is

1 spelled B-I-A-N-C-O. And I am here with my
2 client, Eyob Asbeha, A-S-B-E --

3 CHAIRPERSON ANDERSON: I'm sorry,
4 who's speaking? I'm sorry. So you're there
5 with your client, Mr. -- and who's your client,
6 Mr. Bianco?

7 MR. BIANCO: Eyob Asbeha. He's
8 right here and he introduce himself and spell
9 his name.

10 MR. ABSEHA: Yes, my name is Eyob
11 Asbeha. And A-S-B-E-H-A is my last name.

12 CHAIRPERSON ANDERSON: Thank you.
13 All right. This is a summary suspension
14 hearing that we have this morning.

15 Are there any preliminary matters in
16 this case? Mr. Asim, this is your case right
17 there. Are there any preliminary matters in
18 this case?

19 MR. ASIM: Yes, Mr. Chairman. The
20 parties have conferred before the hearing and
21 agreed to certain stipulations.

22 CHAIRPERSON ANDERSON: But there's
23 no Offer in Compromise? So what is it that's
24 been presented to the Board today?

25 MR. ASIM: We have a summary

1 suspension hearing. There is no Offer in
2 Compromise.

3 CHAIRPERSON ANDERSON: All right.
4 But are you saying that there are stipulations
5 that the parties have agreed to, to stipulate
6 to? Is that what you're saying? I'm trying to
7 find out?

8 MR. ASIM: Yes, there are
9 stipulations parties agreed to.

10 CHAIRPERSON ANDERSON: All right.
11 So hold on with me. So what are the
12 stipulations that the parties have agreed to
13 and what is it that -- all right, so what are
14 the stipulations that the parties have agreed
15 to?

16 MR. ASIM: Parties have agreed that
17 Detective Philip Tridigo and Officer Michael
18 Selgas will not testify to the ongoing criminal
19 investigation of the incident in question.

20 Two, parties have agreed to the
21 authenticity and admissibility of the
22 District's exhibits, which consist of two ABRA
23 investigator reports, but Respondent has
24 reserved the right to object to the content,
25 which it finds to be --

1 CHAIRPERSON ANDERSON: Okay.

2 MR. ASIM: And number three, parties
3 have agreed to the authenticity and
4 admissibility of Respondent's exhibits, which
5 consist of photographs of the establishment.

6 CHAIRPERSON ANDERSON: Okay. Those
7 are --

8 MR. ASIM: That concludes the
9 stipulations.

10 CHAIRPERSON ANDERSON: Stipulations,
11 okay. All right. Mr. Bianco, is that -- Mr.
12 Asim has stated what the stipulations were.
13 Are you in agreement with these stipulations,
14 sir?

15 MR. BIANCO: Yes, that's correct.

16 CHAIRPERSON ANDERSON: All right.
17 All right. So are the parties ready to move
18 forward?

19 MR. ASIM: Yes.

20 MR. BIANCO: Respondent's ready.

21 CHAIRPERSON ANDERSON: Does the
22 Government wish to make an opening statement?

23 MR. ASIM: Yes, Mr. Chairman.

24 CHAIRPERSON ANDERSON: All right.
25 Go ahead, please.

1 MR. ASIM: Good morning, Members of
2 the Board. We are here today for a summary
3 suspension hearing for cases 20-CMP-00110 and
4 20-CMP-00110(a) regarding Kiss Tavern.

5 On Wednesday, October 7, 2020, the
6 Chief of Police requested under DC Code Section
7 25-827 that the Board suspend or revoke the
8 Alcoholic Beverage License licensed
9 establishment because it presented an imminent
10 danger to the public.

11 MPD shut down the establishment for
12 96 hours because a gun was discharged inside
13 the licensed establishment around 3:30 p.m.
14 This happened during a suspected illegal
15 marijuana pop-up operation.

16 The Board continued the
17 establishment's suspension after MPD's 96-hour
18 closure ended, and since then, Respondent has
19 requested a hearing.

20 Government will call two witnesses
21 today, MPD Captain David Augustine and ABRA
22 investigator Kevin Puente.

23 Based on their testimony, you will
24 hear evidence that will show that on October 7,
25 2020, a marijuana pop-up party in which vendors

1 had brought multiple marijuana products was
2 taking place inside Kiss Tavern.

3 You will also hear evidence that
4 shows a shooting occurred inside the
5 establishment, causing damage to the glass and
6 window of the establishment.

7 You will also hear evidence that
8 shows no one affiliated with the establishment
9 called 9-1-1, reported this incident to police,
10 and that the consumption and usage of illicit
11 substances, like marijuana, is expressly
12 prohibited by the establishment's security
13 plan. Thank you.

14 CHAIRPERSON ANDERSON: Mr. Bianca,
15 do you wish to make an opening statement now,
16 or do you defer?

17 MR. BIANCO: I'll make my opening
18 statement now, sir.

19 CHAIRPERSON ANDERSON: Go ahead. Go
20 ahead.

21 MR. BIANCO: It's important for the
22 Board to keep in mind in this case what we're
23 here to determine today.

24 It's not about a punishment and it's
25 not about a penalty, and it's not even really

1 to definitively decide what happened on October
2 7, 2020. There will be a time for that if and
3 when the agency files a --

4 CHAIRPERSON ANDERSON: I couldn't
5 hear you, Mr. Bianco. Mr. Bianco, I cannot
6 hear you.

7 MR. BIANCO: Is that better?

8 CHAIRPERSON ANDERSON: I can hear
9 you now, sir.

10 MR. BIANCO: Okay. Lounge --
11 presented imminent --

12 CHAIRPERSON ANDERSON: Mr. Bianco, I
13 cannot hear you. I don't know what's going on.

14 MR. BIANCO: Yes, sir. I don't
15 either. My microphone is on and I'm doing the
16 best I can to speak into it.

17 CHAIRPERSON ANDERSON: All right.

18 MR. BIANCO: Bear with me for one
19 second. Is that better?

20 CHAIRPERSON ANDERSON: Yes, sir. I
21 can hear you.

22 MR. BIANCO: Okay. Perfect. Okay.
23 So the thing that the Board needs to decide
24 today is whether the operations of Kiss Lounge
25 presents an imminent danger to the health and

1 safety of the public and whether or not that
2 danger can be ameliorated by corrective
3 measures.

4 The evidence is going to show that
5 on October 7, 2020, a person approached the
6 establishment and attempted to gain entry.

7 He was stopped by the security guard
8 stationed in the vestibule at the front of the
9 establishment who patted him down and refused
10 him entry when he felt what he believed to be a
11 weapon concealed under the man's clothes.

12 The man then pulled out a gun and
13 fired at least one shot, shattering the glass
14 entry door, going through a window behind the
15 glass entry door into the establishment, and
16 hitting the back side of a booth on the other
17 side of the glass.

18 Chaos ensued. The staff and patrons
19 ran. Evidently, the gunman absconded on foot.
20 The police, who are normally stationed at or
21 near the intersection of Seventh and T Streets
22 Northwest, responded in seconds, and to use
23 their words, performed a protective sweep of
24 the premises.

25 Thankfully, nobody was injured, and

1 it's safe to say that were it not for the
2 appropriate actions of the establishment's
3 security guard, Thomas McCoy, in denying the
4 gunman entry, the situation could have been
5 much worse. I expect that the Agency will try,
6 but they will not be able to contradict these
7 facts.

8 What occurred after the shooting is
9 heavily disputed. The owner of the
10 establishment was not working that day and he
11 learned of the incident after the fact when one
12 of his employees called him and told him about
13 it.

14 By the time he arrived on the scene,
15 the police were there and conducting an
16 investigation. Mr. Asbeha cooperated with MPD,
17 answered their questions, and even signed a
18 consent for MPD to search the licensed
19 premises, which he was under no obligation to
20 do.

21 When MPD demanded to see the
22 security video, Mr. Asbeha provided the pin
23 code to log into the system, and when the MPD
24 detective was unable to successfully log in
25 using the pin code, Mr. Asbeha offered to have

1 the technician come down and unlock the system.

2 However, instead, the police
3 detective in question, who would not identify
4 himself, pulled the DVR out of the wall and
5 left with the entire system.

6 We ask that you approach the
7 evidence that you are about to hear
8 skeptically. I feel like too often in Agency
9 practice, ALJs, Judges, and Boards, have a
10 perception that the police and investigators
11 are just charging their duties with no interest
12 to the outcome and are completely impartial.

13 If we've learned anything in these
14 strange times, it's that that is not always the
15 case. Please listen carefully and critically
16 and decide for yourself not whether this
17 establishment is good or bad but whether it
18 poses a threat of imminent harm that could not
19 be curtailed by corrective measures. Thank you
20 very much.

21 CHAIRPERSON ANDERSON: All right.
22 Thank you, Mr. Bianco. You need to address
23 your camera so we can see your face. We saw
24 your mouth. So than when you -- that's
25 perfect.

1 MR. BIANCO: Are you still able to
2 hear me? The acoustics --

3 CHAIRPERSON ANDERSON: Yes, sir. I
4 can hear you and I can see you. Before I saw
5 from your nose down, but now I can see your
6 face. All right.

7 Does the Government have a witness
8 it wishes to call?

9 MR. ASIM: Yes, at this time the
10 Government would like to call MPD Captain David
11 Augustine.

12 CHAIRPERSON ANDERSON: Mr.
13 Augustine, Detective Augustine, can you raise
14 your right hand, please? Do you swear or
15 affirm to tell the truth and nothing but the
16 truth?

17 MR. AUGUSTINE: Yes, sir.

18 CHAIRPERSON ANDERSON: All right.
19 Mr. Asim, your witness, please.

20 MR. ASIM: Thank you, Mr. Chair.
21 Captain Augustine, could you please state and
22 spell your first and last name?

23 MR. AUGUSTINE: Yes. Good morning,
24 everyone. My first name is David, D-A-V-I-D,
25 my last name is Augustine, A-U-G-U-S-T-I-N-E.

1 MR. ASIM: And where are you
2 currently employed?

3 MR. AUGUSTINE: I'm employed with
4 the Metropolitan Police Department.

5 MR. ASIM: And what is your position
6 or role at MPD?

7 MR. AUGUSTINE: I'm the patrol
8 captain at the Third District.

9 MR. ASIM: And how long have you
10 been in that position?

11 MR. AUGUSTINE: I've been a captain
12 for a little, I believe a little over three
13 years now. Currently, I was, originally when I
14 was promoted to captain, I was a captain at the
15 Third District.

16 I then went and played a role as an
17 Administrative Captain over at the recruiting
18 division. And as of July 5, I've been
19 reassigned back to the Third District.

20 MR. ASIM: And what are your duties
21 and responsibilities in this position?

22 MR. AUGUSTINE: I oversee patrol
23 functions of the sector that I'm in charge
24 with, the Third District. I'm also assistant
25 to the District Commander.

1 MR. ASIM: And does this include
2 supervising investigations?

3 MR. AUGUSTINE: I oversee, yes. I
4 more oversee the actual initial part of the
5 investigation, yes.

6 MR. ASIM: And were you previously
7 employed with MPD before this position?

8 MR. AUGUSTINE: Yes.

9 MR. ASIM: In what capacities were
10 you employed with MPD?

11 MR. AUGUSTINE: I started out as a
12 patrol officer up near Capitol Hill area. I
13 was promoted to Sergeant and was a Sergeant,
14 back in 2010 I was promoted to Sergeant within
15 the Sixth District.

16 I then became a Detective Sergeant
17 at our Youth Investigations Division. I was
18 promoted to a patrol lieutenant and was
19 actually assigned to the Fourth District.

20 I was then an Administrative
21 Lieutenant for the Executive Office of the
22 Chief of Police. And then as I stated
23 previously, I was then promoted to captain,
24 became patrol captain at the Third District.

25 I also did some time as

1 Administrative Captain at the recruiting
2 division. And I am happy to be at the Third
3 District again.

4 MR. ASIM: And as part of your role
5 at MPD, have you received any trainings?

6 MR. AUGUSTINE: I have.

7 MR. ASIM: And what kind of
8 trainings?

9 MR. AUGUSTINE: I went through the
10 Metropolitan Police Academy. I go through our
11 professional development training that we have
12 every year.

13 I've been in firearms training.
14 I've also attended investigation classes, basic
15 investigation classes. I've also attended
16 training on infant deaths.

17 And I've also attended the Federal
18 Bureau of Investigations National Academy.

19 MR. ASIM: You said you attended
20 firearms trainings. What do those trainings
21 consist of?

22 MR. AUGUSTINE: We have a,
23 obviously, a basic course we take in the
24 academy to learn about the firearm and how to
25 use it and the policies of using it, and then

1 we go for recertification twice a year.

2 MR. ASIM: Okay. And do you have
3 experience with pop-up party investigations?

4 MR. AUGUSTINE: I do.

5 MR. ASIM: What is a pop-up party?

6 MR. AUGUSTINE: Those are generally
7 illegal activities that happen within either
8 residential homes, commercial areas, and/or
9 ABRA establishments, and it's generally where
10 they'll pull a portion of that property and
11 they'll invite people in to illegally buy
12 marijuana products and also THC-type products.

13 MR. ASIM: And what are the dangers
14 of these pop-up parties?

15 MR. AUGUSTINE: Well, I'm sad to
16 report, as we talk about violence within the
17 city and these pop-up parties, we'll probably
18 discuss later through my testimony, but even as
19 recently as last night, I had to respond to a
20 homicide scene on Georgia Avenue, all right,
21 where we believe that was a pop-up party.

22 Talking with some of our homicide
23 detectives, probably at the low estimate, over
24 the last year there's been five homicides.

25 And like I said, that's a

1 conservative number related to pop-up events,
2 and that just doesn't even go into the
3 historical factor over the last few years of
4 the violence that we've seen throughout the
5 city and District.

6 And even here at the Third District
7 where we've recovered firearms from some of
8 these pop-up parties.

9 MR. ASIM: Approximately how many
10 pop-up party investigations have you been
11 involved in?

12 MR. AUGUSTINE: Right off the top of
13 my head of really involved with, I've been, I
14 would say probably three or four when I oversaw
15 my First and Third District that I actually had
16 a -- that I was actually on scene of within the
17 Adams/Morgan area.

18 And that doesn't count other ones
19 that we may have known about that other folks
20 have been helping us out with.

21 MR. ASIM: Now, Captain Augustine,
22 are you familiar with Kiss Tavern?

23 MR. AUGUSTINE: I am.

24 MR. ASIM: How are you familiar with
25 them?

1 MR. AUGUSTINE: I responded there on
2 October 7, 2020, in reference to an incident
3 that we had there.

4 MR. ASIM: And did you receive a
5 call to respond?

6 MR. AUGUSTINE: I heard a call to --
7 or I heard a call go over for a call for
8 service. Yes, through what we found out, I did
9 end up responding to that location.

10 MR. ASIM: And when did you get this
11 call?

12 MR. AUGUSTINE: It was on October 7,
13 2020. I don't know the exact time -- or, I'm
14 sorry. The initial call for service actually
15 came in around 3:30 in the afternoon.

16 Through the radio transmission set I
17 was listening to, it sounded like we had a
18 caller calling in some type of trouble within
19 that area, within the 600 block of T or 600
20 block of Florida area, which the front deck of
21 where the Kiss Lounge is located.

22 And we also had an officer come over
23 the air who also exhibited some type of
24 incident that was going on there.

25 It didn't appear he was quite sure

1 what was going on, but there was definitely
2 something amiss that he needed to go check out
3 and he did check out.

4 MR. ASIM: And what the scope of
5 your involvement with investigating this
6 establishment?

7 MR. AUGUSTINE: So I arrived there
8 probably within the first hour of when the
9 initial incident occurred. That day, I was
10 actually the field commander.

11 The duties as a field commander is I
12 oversee the operations of the entire
13 Metropolitan Police Department during that time
14 for the evening shift. So that'd been from
15 1:30 p.m. up until 10 p.m.

16 And within that, I'm just ensuring
17 that we have the amount of resources in the
18 different Districts, I'll respond to
19 significant events throughout the city, and
20 I'll make sure that the critical incident sheet
21 and the Chief of Police himself are updated as
22 needed with any facts that are needed.

23 MR. ASIM: So you said you arrived
24 at the establishment that day. Who else was
25 present from MPD there?

1 MR. AUGUSTINE: We had approximately
2 12 officers that arrived there at some point
3 during the scene. We had approximately four
4 detectives on scene to help with the
5 investigation, and then including me, we had
6 four supervisors, which included me as the
7 field commander, the Third District watch
8 commander, a detective sergeant, and a patrol
9 sergeant.

10 MR. ASIM: And what did you do when
11 you first arrived?

12 MR. AUGUSTINE: When I first
13 arrived, I actually was briefed by Detective
14 Sergeant Fenton.

15 MR. ASIM: Did you find out
16 information through any other means?

17 MR. AUGUSTINE: Yes, through all the
18 information that I'll be giving today to answer
19 these questions, it's through my on-scene
20 experience, through my body worn camera
21 footage, through photographs, and reports.

22 MR. ASIM: And so what did you
23 observe when you arrived in the establishment?

24 MR. AUGUSTINE: When I got there,
25 obviously, like I said, I was debriefed. We

1 notified ABRA. I helped get the notification
2 of ABRA to respond.

3 At one point, we did do a
4 walkthrough and I even actually, through my
5 time there, walking into the front door, what I
6 observed initially was walking in you had a --
7 the entrance front door, which is on T Street,
8 appeared to be fully intact with no damage to
9 it.

10 Walking inside into what I would
11 call a foyer area, there was a door to your
12 immediate right to walk into the bar customer
13 area. Within that foyer, there was a chair,
14 there was a cup of liquid, there was shattered
15 glass all over the place, which I assumed was
16 from the broken glass door on the inside of the
17 area.

18 Like I said, from the foyer going
19 into the customer area. And I saw a bullet
20 hole next to the chair within the foyer area.

21 Walking in, like I said, through
22 pictures, body worn camera footage of my body
23 worn camera footage and being on scene, I also
24 -- you could see that the place was disheveled.

25 You had chairs tipped over towards

1 the front of the location. It appeared you may
2 have had some type of disruption with chairs at
3 the rear of the unit, because they do have a
4 back door near -- on Florida Avenue side

5 I saw marijuana was spread
6 throughout some of the seats. There was
7 products that we later recovered that were on
8 the ground of marijuana.

9 There was one table, I think, right
10 as you walked in that had a tablecloth on it, a
11 white tablecloth, and it had trays on it, which
12 I felt was indicative to somebody offering a
13 product.

14 You could sit there and see how the
15 tables were kind of set up throughout the
16 different booths, which could be indicative to
17 somebody putting their product out.

18 I saw three hookahs that were in the
19 customer areas, that would be indicative of
20 where people were, which would simply through
21 my experience of investigations lead me to
22 believe that hookah was being used because
23 through a later walkthrough of the
24 establishment, they do store -- they have a
25 considerable amount of hookahs that are stored

1 within the back and they were separate from
2 that location.

3 We saw alcohol in the customer area
4 on a table, which would lead us to believe that
5 there was people also consuming alcohol inside.

6 In my initial going in there, there
7 was a shell casing that was recovered on the
8 inside of the establishment right as you walk
9 in that broken foyer door.

10 There was also a shell casing that
11 was recovered near the rear door. There was
12 also two live bullets that had been unfired
13 recovered near the rear door on the inside of
14 the location.

15 And at the back door, it appeared
16 the plexiglass was pulled away or broken away
17 from the doorframe or from the frame that
18 plexiglass was.

19 And I just want to clarify, when I
20 say spent shell casing, all right, when I say
21 spent shell casing, what I am saying is that is
22 a casing from a bullet that has been fired.

23 And I know this through my training
24 and experience with firearms that generally
25 when you discharge a firearm, it will send a

1 projectile out the barrel of a gun and this
2 spent shell casing, which is a brass color, in
3 this case was brass colored, ejects from the
4 port of the handgun, showing that actually
5 somebody did fire a gun.

6 MR. ASIM: Okay. So you said the
7 scene when you arrived there was disheveled and
8 there were chairs that -- what did that
9 indicate to you?

10 MR. AUGUSTINE: That there was some
11 type of commotion that happened inside. When I
12 first arrived, Detective Sergeant Fenton let me
13 know that there was an altercation inside and
14 then somebody did fire two shots.

15 So when I saw exactly what I just
16 explained with the chairs being tipped over, it
17 obviously supported there was some type of
18 inside commotion.

19 And then with the two spent shell
20 casings that we found was indicative to
21 somebody shooting inside of the location.

22 MR. ASIM: And how are you able to
23 tell that the disheveled picture of the place
24 indicated that there was some type of fight?

25 MR. AUGUSTINE: Just through my

1 training experience, when people are enjoying
2 themselves inside of an establishment, it's
3 usually, things are upright.

4 They're not just kind of pushed over
5 in a haphazard manner. When establishments are
6 closed, even through my patrol areas, when you
7 see outdoor patios closing at restaurants, the
8 chairs are usually stacked in a neat way.

9 And it did not appear that this was
10 going on in there. And it also was indicative
11 not only with what we saw, what was being
12 reported by our witnesses at the location.

13 MR. ASIM: And you also said that
14 you observed spent shell casing.

15 MR. AUGUSTINE: Yes.

16 MR. ASIM: Where was this casing
17 again?

18 MR. AUGUSTINE: So there is a -- the
19 one I personally saw was at the front of the
20 location inside.

21 So as you walk in through that front
22 door, going to the foyer, there is then a
23 bullet hole, a broken glass door, and then
24 right beyond that door going into the bar
25 customer area, there is a spent shell casing,

1 and then we recovered another one towards the
2 back door inside the location within the
3 customer bar area.

4 MR. ASIM: So there are two doors at
5 the establishment?

6 MR. AUGUSTINE: Yes, sir.

7 MR. ASIM: One basically a vestibule
8 and then you found the shell casing inside.

9 MR. AUGUSTINE: Yes, so there's
10 actually, technically, yes, there's two
11 entrances or exits from the establishment, one
12 in the front, one in the rear. And the door
13 that was broken is actually inside the
14 location.

15 MR. ASIM: And could you tell us
16 again, what is the significance of finding a
17 shell casing inside the establishment?

18 MR. AUGUSTINE: That is indicative
19 of where the shooting occurred. All right.
20 Obviously, with the commotion going on, that
21 may have even been kicked around.

22 So am I going to sit there and
23 definitively sit there and say that -- that's
24 for a forensic to really kind of come out and
25 say that's where the exact point of the

1 shooting occurred, but through my experience, I
2 know when I -- when I -- when I dispense or
3 when I -- when I fire my firearm through my
4 training, all right, my shell casing will go in
5 close proximity to me.

6 And when I say in close proximity,
7 within 12 inches. It's not going five feet
8 away, ten feet away. And also through my
9 experience of investigations, generally, people
10 are not going to bring shell casings that they
11 fired at a different location.

12 Or on the outside, if this occurred
13 on the outside, they would not be picking up
14 their shell casings and bringing them inside
15 the location. I just don't think that's
16 plausible.

17 MR. ASIM: And you said you found
18 live bullets on the scene. Where were these
19 live bullets found?

20 MR. AUGUSTINE: There was two live
21 bullets found right next to each other, next to
22 the fired bullets near the back door on the
23 inside of the location.

24 MR. ASIM: And what is the
25 significance of finding them inside the

1 location?

2 MR. AUGUSTINE: Somebody was in the
3 possession of them. I would only be guessing
4 of why there was two casings in there, but it
5 definitely shows that with the two spent shell
6 casings and two live bullets, there definitely
7 was a firearm inside of that location.

8 MR. ASIM: And how are you able to
9 tell that this was actually fired?

10 MR. AUGUSTINE: Because the
11 difference between a spent shell casing is it
12 doesn't have the projectile because that goes
13 out the barrel. These ones both had the
14 projectile still attached to the casing.

15 MR. ASIM: And you said you observed
16 broken glass as well and a bullet hole?

17 MR. AUGUSTINE: Yes, sir.

18 MR. ASIM: And taken together, what
19 did the broken glass, bullet hole, and spent
20 shell casing indicate to you?

21 MR. AUGUSTINE: That there was some
22 type of dispute that happened inside of the
23 location.

24 MR. ASIM: And you also said that
25 the front door was undamaged. It was fully

1 intact. What is the significance of the front
2 door being intact?

3 MR. AUGUSTINE: To me it shows that
4 with where the damage is and where everything
5 was, that we had an incident inside.

6 MR. ASIM: And you also said that
7 you observed a damaged back door, as well?

8 MR. AUGUSTINE: Yes, the door itself
9 was intact, but the actual -- there is a pane
10 of -- I don't know if it's plexiglass or what
11 type of material it's made of, but that came
12 detached from the doorframe.

13 MR. ASIM: And what did that
14 indicate to you?

15 MR. AUGUSTINE: That could be a
16 number of things. It was pushed on the inside,
17 so I don't know if somebody got pushed from the
18 outside and got pushed into it.

19 I don't know. I don't know how it
20 came detached, but I didn't see any bullet
21 holes through it. So I think it's not
22 plausible that the bullet took it out.

23 There was some type of physical
24 altercation or even during the chaos somebody
25 got pushed into it and it came off.

1 MR. ASIM: And you said you found
2 marijuana products at this -- what kind of
3 marijuana products?

4 MR. AUGUSTINE: So we ended up
5 recovering five containers of THC oil, which is
6 illegal in the District of Columbia. We
7 recovered one green leafy substance cigarette,
8 which we believe is plant marijuana.

9 We received four digital scales
10 throughout the location, which I can get, if
11 you want, I can get to the significance of that
12 later, various packaging, mini Ziploc with logo
13 commonly used for the sale of marijuana, four
14 marijuana packets with a combined weight total
15 with the packaging included of 85 grams, a
16 bottle of cannabis syrup 1000 mg, two live
17 rounds, like I said, and the two shell casings.

18 MR. ASIM: And what is the
19 significance of finding a scale there?

20 MR. AUGUSTINE: So with everything
21 that we've seen there and the totality of
22 circumstances, commonly when people are just
23 using marijuana for their self-consumption, I
24 don't find that they're normally weighing that
25 out.

1 Scales are traditionally known to be
2 involved in the sale of narcotics. In this
3 case, the marijuana.

4 MR. ASIM: And what did all of these
5 marijuana products signify to you?

6 MR. AUGUSTINE: I think it's very
7 probable that a marijuana party was going on
8 and it corroborated some of the information
9 that we've got from people or we received from
10 people on the scene.

11 MR. ASIM: And how are you able to
12 tell that?

13 MR. AUGUSTINE: Tell what?

14 MR. ASIM: How are you able to
15 deduce that a marijuana pop-up party was --

16 MR. AUGUSTINE: Through our on-scene
17 investigation, through information that we
18 received from people on the scene, and with the
19 evidence that we saw inside, and through my
20 training, I am very -- it very probable and I
21 am confident to say there was a marijuana --
22 going on and I can also sit there and say that
23 we do know that this -- there was an
24 advertisement for a marijuana pop-up party
25 going on.

1 MR. ASIM: And to your knowledge,
2 did anyone affiliated with the establishment
3 call 9-1-1 to report this?

4 MR. AUGUSTINE: No, I did a search
5 of our records for that day for that
6 establishment, and I did not find any calls for
7 service from somebody that was actually an
8 employee or owner from the establishment.

9 MR. ASIM: And to your knowledge, is
10 there surveillance footage of the incident?

11 MR. AUGUSTINE: We don't know.

12 MR. ASIM: Did the establishment
13 have a surveillance system, surveillance camera
14 system?

15 MR. AUGUSTINE: Yes, from my
16 knowledge, they did have a surveillance system
17 onsite.

18 MR. ASIM: And did this system
19 require some type of security to access?

20 MR. AUGUSTINE: Yes.

21 MR. ASIM: A code?

22 MR. AUGUSTINE: It did, yes.

23 MR. ASIM: And were you provided
24 with that code?

25 MR. AUGUSTINE: No, we were

1 originally told there was no footage and then,
2 yes, we were not provided the code.

3 And of today, which I believe marks
4 about three weeks from the incident time, we,
5 to my knowledge, we have not received the code
6 for that system. It's currently pending a
7 search warrant by DC Superior Court.

8 MR. ASIM: Now, Captain Augustine,
9 through your experiences and training, does
10 this establishment present an imminent danger
11 to the health, safety, or welfare of the
12 public?

13 MR. AUGUSTINE: Absolutely.

14 MR. ASIM: And why would you say
15 that?

16 MR. AUGUSTINE: On a couple notes.
17 Like, any time a business is operating outside
18 their scope, it poses obviously a danger to a
19 lot of things, because now we can't sit there
20 and ensure the safety inside.

21 But even what I spoke to earlier,
22 even as recent as last night, all right, I had
23 to unfortunately respond to a homicide that we
24 believe is related to a marijuana pop-up.

25 We have, obviously, talking to our

1 homicide detectives, all right, say that
2 they're investigating cases, multiple cases,
3 within just even the last year, of several
4 homicides that occurred because of this.

5 At the Third District ourselves,
6 we've recovered firearms related to these
7 parties. And even taking the significance of
8 all the people. So Seventh and T Street, I'm
9 not sure if the Board's familiar with it, but
10 in the Shaw neighborhood, it's a very active
11 location. You have a lot of people walking
12 through.

13 You have the Metrobus there. You
14 have the CVS. You have a bank. You have
15 Wright Proper across the street, which has
16 outdoor seating. I can sit there and say
17 during my time on the scene here that that
18 patio for Wright Proper was not empty.

19 Gosh forbid if this happened to go
20 to the outside or one of those stray bullets,
21 or one of those bullets that went through that
22 glass went all the way through and struck
23 somebody across.

24 So yes, I think having the marijuana
25 parties, acting outside of the scope of what

1 they're supposed to be doing, absolutely is an
2 immediate danger to the public, all right.

3 Obviously, I don't know all the
4 history but I know there's a significant
5 history to this place, and that was all even
6 presented to our Chief of Police who found this
7 incident combined with the history, all right,
8 enough to sit there and do an immediate
9 closure. I think that's very significant to
10 show that this is absolutely a danger.

11 MR. ASIM: Thank you, Captain
12 Augustine. No further questions.

13 CHAIRPERSON ANDERSON: Thank you.
14 Mr. Bianca, do you have any questions for --

15 MR. BIANCO: Yes, I do.

16 CHAIRPERSON ANDERSON: Okay, go
17 ahead, sir.

18 MR. BIANCO: Captain Augustine, I'm
19 looking at the police report in this matter,
20 which is Public Incident Report.

21 And the narrative portion, I don't
22 see any mention of a marijuana pop-up. Why
23 isn't that in the police report?

24 MR. AUGUSTINE: I can't sit there
25 and say why that's not in the public narrative.

1 Because all I can sit there and say is you're
2 reading a public narrative and it's common
3 knowledge that a public narrative is not going
4 to give our investigation out just for the fact
5 of the matter that it's open to the public.

6 So I wouldn't have an answer as to
7 why we didn't put that in there. But I do have
8 information to believe that, yes, absolutely,
9 unequivocally, there was a marijuana party
10 going on inside.

11 MR. BIANCO: Okay. Is there some
12 other non-public police report that we don't
13 have where it provides details about this
14 supposed pop-up party?

15 MR. AUGUSTINE: Yes.

16 MR. BIANCO: And what document is it
17 contained it?

18 MR. AUGUSTINE: And I'm going to
19 defer to the OAG, because, like I said, we do
20 have an active criminal investigation going on,
21 so I want to defer to the OAG of what we can
22 offer and what we should not -- what we should
23 keep intact for our criminal investigation.

24 MR. BIANCO: We believe this --

25 CHAIRPERSON ANDERSON: Hold on, Mr.

1 Bianco. I thought that there was a stipulation
2 that we're not going to talk about the criminal
3 investigation.

4 So I thought that was what the
5 stipulation is. So with that caveat then I
6 believe it was presented that doesn't talk
7 about the criminal investigation.

8 MR. BIANCO: Mr. Chair, due respect,
9 that stipulation was with respect to the actual
10 individuals that are charged with the
11 investigation, not Captain Augustine.

12 CHAIRPERSON ANDERSON: Okay. Fine.
13 Okay. All right, if you have an objection --
14 if there is an objection -- I don't know what
15 to issue.

16 MR. ASIM: We believe this is
17 privileged by the law enforcement privilege,
18 and Captain Augustine would not have knowledge
19 of an investigation ongoing which is being --
20 he wouldn't have knowledge of (Audio
21 interference) ongoing investigation.

22 CHAIRPERSON ANDERSON: So what was
23 the question? I mean, I think the question has
24 been asked, and I think -- I think the witness
25 was saying he's not sure if he can answer the

1 question.

2 I think that's where the objection
3 came from, the witness, not necessarily that
4 Mr. Bianco had asked a question and you had
5 objected to the question.

6 So a question was asked. The
7 witness was saying, well, I'm not sure that I
8 can answer based on your -- leading us to -- so
9 let's -- what was the question that you asked,
10 Mr. Bianco?

11 MR. BIANCO: So the question that I
12 asked is whether there is some other document
13 that talks about this marijuana -- supposed
14 marijuana pop-up since it does not appear in
15 the public incident report.

16 MR. ASIM: We believe the captain
17 can testify to the existence of the document,
18 but not necessarily the contents of the
19 document.

20 CHAIRPERSON ANDERSON: I understand
21 the question was that is there another
22 document. So, I'm sorry, please respond to the
23 question that was asked of you, sir.

24 MR. AUGUSTINE: No problem. Yes,
25 there is other documentation.

1 CHAIRPERSON ANDERSON: You have
2 another question?

3 MR. BIANCO: I do. So again,
4 turning back to the police report, under
5 property and (Audio interference), you had
6 mentioned that the DVR camera system was taken
7 into custody by MPD. Is there a reason why
8 that's not indicated on the police report?

9 MR. AUGUSTINE: On the public
10 narrative, no, I don't. And I haven't looked
11 at the actual non-public narrative, so I don't
12 know if that's in the non-public narrative, but
13 no, it wouldn't.

14 Because really, basically, and I
15 guess maybe it's just some clarification for
16 our public narrative. Our public narrative is
17 just meeting the elements, the basic elements
18 of a crime.

19 Generally, there's not going to be
20 much detail in that. As there's other
21 investigative reports, just for the integrity
22 of the investigation as the investigation kind
23 of goes through.

24 So yes, the public narrative may not
25 have a lot of information into it because it's

1 just a very basic -- meeting the elements of a
2 crime.

3 And really, the surveillance camera
4 and taking it and the relevance of that and
5 what happened and all that, that's not going to
6 be relevant to the elements of the crime.

7 MR. BIANCO: Captain Augustine, you
8 had indicated in your testimony that this
9 property has a front door and a back door,
10 correct? And you're familiar with the layout
11 of the establishment?

12 MR. AUGUSTINE: Yes, sir.

13 MR. BIANCO: And it's true, isn't
14 it, that the front door is on T Street
15 Northwest and the back door lets out to Florida
16 Avenue Northwest, is that correct?

17 MR. AUGUSTINE: Yes, sir.

18 MR. BIANCO: Okay. So in reading
19 the public narrative, it indicates that a
20 suspect was seen running from the
21 establishment.

22 And what it doesn't indicate is
23 whether he was seen running from the
24 establishment on the T Street side or the
25 Florida Avenue side. Can you tell us which

1 door he was seen running from?

2 MR. AUGUSTINE: I do not know off
3 hand.

4 MR. BIANCO: Did any of the people
5 you spoke with at the scene provide you with
6 that information?

7 MR. AUGUSTINE: Say that again. I
8 didn't hear you. I'm sorry.

9 MR. BIANCO: Any of the folks that
10 you indicated you spoke with at the scene
11 provide you with that information?

12 MR. AUGUSTINE: Not that I recall.

13 MR. BIANCO: And to be clear, your
14 testimony was that Detective Sergeant Fenton
15 told you that there was an altercation inside
16 of the establishment?

17 MR. AUGUSTINE: Yes, sir.

18 MR. BIANCO: And do you know whether
19 or not Detective Sergeant Fenton witnessed an
20 altercation in the establishment?

21 MR. AUGUSTINE: I'm not aware if he
22 witnessed.

23 MR. BIANCO: And do you know where
24 his conclusion came from that an altercation
25 took place inside the establishment?

1 MR. AUGUSTINE: Definitively, no. I
2 can only assume from his on-scene investigation
3 since he was in with -- yes, through his on-
4 scene investigation.

5 MR. BIANCO: And you also testified
6 that based on your on-scene investigation,
7 because tables and chairs were askew and
8 overturned and the like, you believe that an
9 altercation took place inside the
10 establishment, correct?

11 MR. AUGUSTINE: Yes.

12 MR. BIANCO: Isn't that also
13 consistent with patrons running from an
14 establishment after gunshots are fired?

15 MR. AUGUSTINE: Absolutely, which I
16 would sit there and say is indicative that they
17 were running out, from inside out. And so
18 you're exactly right.

19 So they are absolutely -- I think
20 it's indicative to sit there and say is that
21 could have been caused by the fight or the
22 commotion of people of leaving inside the
23 establishment because there was some type of
24 altercation going on inside.

25 MR. BIANCO: Right. And again,

1 turning back to the police report, it indicates
2 that people were running from the
3 establishment, but it does not indicate which
4 door they were running from. Do you have that
5 information, sir?

6 MR. AUGUSTINE: I don't offhand, no,
7 sir.

8 MR. BIANCO: And do you know whether
9 Detective Sergeant Fenton has that information?

10 MR. AUGUSTINE: I don't, sir.

11 MR. BIANCO: Do you know who in MPD
12 witnessed people running from the
13 establishment?

14 MR. AUGUSTINE: Not offhand, sir.

15 MR. BIANCO: You gave some fairly
16 detailed testimony about the damage to the
17 front window of the establishment and the door
18 in the vestibule, correct?

19 MR. AUGUSTINE: Yes, sir.

20 MR. BIANCO: And you concluded that
21 damage was done by bullet or bullets?

22 MR. AUGUSTINE: At least to the
23 inside window, yes.

24 MR. BIANCO: Okay. Did you find any
25 other damage to the interior of the

1 establishment consistent with a gunshot?

2 MR. AUGUSTINE: I mean, that'd be
3 hard to conclude because I'm not a forensic
4 person, but yes, I will sit there and say the
5 damage I did see inside was in the foyer area
6 on the inside of the -- there was no front
7 windows.

8 And when I say front windows, the
9 exterior windows, we did -- I did not see any
10 damage to any of those windows in the front, on
11 the T Street side.

12 The damage that I saw was on the
13 inside foyer area to a glass pane and also to
14 the door, the glass door on the inside of the
15 location to enter the customer bar area.

16 MR. BIANCO: Okay. So as I
17 understand, as you're describing it, you would
18 walk in from the street.

19 You would walk into the
20 establishment and you would be standing in a
21 vestibule. And in front of you, directly in
22 front of you, would be a glass window, correct?

23 MR. AUGUSTINE: Correct.

24 MR. BIANCO: And just to the right
25 of the glass window would be a second door that

1 would allow you to enter the establishment,
2 correct?

3 MR. AUGUSTINE: Inside the customer
4 area, yes.

5 MR. BIANCO: Yes.

6 MR. AUGUSTINE: Being that you're
7 already inside and now you're entering the
8 customer area.

9 MR. BIANCO: Correct. And the
10 bullet damage was to the window that would be
11 directly in front of you when you walk into the
12 outside street door of the establishment,
13 correct?

14 MR. AUGUSTINE: Yes.

15 MR. BIANCO: Okay. Other than that
16 bullet damage, was there any damage consistent
17 with a bullet or a gunshot inside the customer
18 area of the establishment?

19 MR. AUGUSTINE: I can't definitively
20 say yes or no. There was damage to that door.
21 I don't know of the cause of that damage to the
22 door or what the cause was of the damage to the
23 door.

24 MR. BIANCO: Okay. And just to
25 clarify, when you state that you believe an

1 altercation happened inside the establishment,
2 you mean inside the customer area of the
3 establishment and not just the vestibule,
4 correct?

5 MR. AUGUSTINE: Correct, I mean, the
6 customer bar area, yes.

7 MR. BIANCO: Okay. And you also
8 indicated, please correct me if I'm wrong, you
9 indicated that the owner of the establishment
10 was uncooperative?

11 MR. AUGUSTINE: I did not note that,
12 no.

13 MR. BIANCO: Okay. So did you have
14 occasion to deal with him on that evening?

15 MR. AUGUSTINE: I did.

16 MR. BIANCO: And did you find him to
17 be cooperative?

18 MR. AUGUSTINE: Our interaction was
19 through a parking ticket that I issued him for
20 being illegally parked in the alley while I was
21 on the scene.

22 MR. BIANCO: So you didn't have any
23 interaction with him with respect to the
24 incident that occurred?

25 MR. AUGUSTINE: No.

1 MR. BIANCO: But you wrote him a
2 parking ticket?

3 MR. AUGUSTINE: I did

4 MR. BIANCO: Okay. And do you
5 frequently have occasion to write parking
6 tickets as a captain?

7 MR. AUGUSTINE: I try to keep up and
8 yes, I try to enforce the law. And I have
9 written tickets in the past, even as a captain
10 level.

11 MR. BIANCO: So before October 7,
12 when was the last time you wrote a parking
13 ticket before that?

14 MR. AUGUSTINE: I'd have to check my
15 records of last time I've written a ticket, but
16 yes, I can definitively say, between July 5 and
17 even as of recent, on the 7th, I've written a
18 ticket at the Third District. He has not been
19 my only ticket that I've issued.

20 MR. BIANCO: So you've written one
21 other ticket between July --

22 MR. AUGUSTINE: I mean, I'd have to
23 go through my records. I'm not going to sit
24 there and say it was only one, if it was two,
25 if it was five.

1 We'd have to do a record check on
2 that. I will sit there and say he has not been
3 the only person I've issued a ticket to.

4 MR. BIANCO: So your understanding
5 of whether or not the owner of the
6 establishment was cooperative came from other
7 parties, correct?

8 MR. AUGUSTINE: Can you repeat that,
9 please?

10 MR. BIANCO: Your understanding of
11 whether or not the owner was cooperative in the
12 investigation came from other parties, correct?

13 MR. AUGUSTINE: Yes.

14 MR. BIANCO: And which other parties
15 told you that he was uncooperative?

16 MR. AUGUSTINE: I got that from the
17 detectives on the scene.

18 MR. BIANCO: Okay, all of the
19 detectives? Or just Detective Sergeant Fenton?

20 MR. AUGUSTINE: I don't even know if
21 it was from Detective Sergeant Fenton. I can't
22 be for sure of who -- I believed I talked to
23 the Detective -- I believe I've talked to
24 Detective Tridico and I want to sit there and
25 say the detective that seized the camera unit.

1 MR. BIANCO: So Detective Tridico
2 did not seize the camera unit? It was another
3 detective?

4 MR. AUGUSTINE: I believe so. I
5 guess that I can't sit there and say definitive
6 for either of them. They'll have to testify to
7 that. It was my understanding I believe it was
8 not seized by Detective Tridico.

9 MR. BIANCO: Okay. So you didn't
10 witness the interaction between the owner and
11 the detective who seized the camera unit with
12 respect to providing the code to view the
13 video, correct?

14 MR. AUGUSTINE: That is correct.

15 MR. BIANCO: And that information
16 came from one of the other detectives, but
17 you're not sure which?

18 MR. AUGUSTINE: That is correct.
19 Well, like I say, I think, I don't know the
20 detective's name who I believed seized it.

21 And like I said, I believe in
22 interaction with Detective Tridico of
23 discussing the uncooperativeness. Yes, it
24 would be between those two, yes.

25 MR. BIANCO: Is there a standard

1 operating procedure with respect to getting
2 security footage from an ABC licensee?

3 MR. AUGUSTINE: I don't understand
4 your question.

5 MR. BIANCO: So if an incident
6 occurs at an ABC licensed establishment, do you
7 have a standard operating procedure with
8 respect to how you would request video footage
9 to show evidence of an incident or a crime?

10 MR. AUGUSTINE: Do we have a written
11 policy? I don't believe we have a written
12 policy. I will sit there and say through my
13 experience, we will always seek the cooperation
14 from the establishment.

15 And then also, we have security
16 agreements. With different security
17 agreements, there are stipulations by law as to
18 when they are required to give us that
19 information, even if they don't -- on the
20 scene.

21 MR. BIANCO: Is there a practice
22 that you follow in order to request that
23 particular information? The security footage?

24 MR. AUGUSTINE: I don't understand
25 what you mean by a particular practice. Is

1 there a one policy and this is what we do every
2 time? Like I said, we don't have a written
3 policy to do that. It's going to be through
4 the on-scene investigation.

5 MR. BIANCO: Okay. Under what
6 circumstances can you simply seize the system
7 from a licensed establishment?

8 MR. AUGUSTINE: Well, it could be
9 numerous things. If we believe that it
10 contains evidence, if we believe that it's not
11 -- if we don't seize it right there and then it
12 can be destroyed, we could sit there and seize
13 it through a search warrant. Those are just a
14 few times.

15 MR. BIANCO: And in this case, can
16 you say what reason, what was the reason that
17 you seized the DVR system?

18 MR. AUGUSTINE: It was my
19 understanding that he was not being
20 cooperative.

21 MR. BIANCO: Okay. And you also
22 gave some testimony about seeking a warrant to
23 view the video. Have you applied for that
24 warrant yet?

25 MR. AUGUSTINE: Yes, the detective's

1 office has applied for a search warrant to
2 search that surveillance system, yes.

3 MR. BIANCO: Okay. And has the
4 issue been considered by any judge in D.C.
5 Superior Court?

6 MR. AUGUSTINE: It's been submitted
7 to, I believe the U.S. Attorney's Office and I
8 believe it's still under review.

9 MR. BIANCO: But there hasn't been
10 any decision on it?

11 MR. AUGUSTINE: There has not.

12 MR. BIANCO: You also mentioned that
13 my client has not since October 7 provided the
14 code to view the video, correct?

15 MR. AUGUSTINE: That is correct.
16 The information I have is we still have not
17 received a code to review that system.

18 MR. BIANCO: Following October 7,
19 are you aware of any instance in which somebody
20 from MPD requested the code?

21 MR. AUGUSTINE: I can't say offhand,
22 no. But I'd also dispute that it's the
23 obligation on him under his security agreement
24 that he needs to provide that.

25 So if he does have that, I'm not

1 aware of any communication he's also given to
2 us saying, hey, here's the code for when you
3 have the search warrant.

4 MR. BIANCO: No, I understand, but
5 from his perspective, how would he know whether
6 or not you've actually seen the footage or not?

7 MR. AUGUSTINE: Well, he said on
8 that day, from my understanding with the
9 detectives, he told the detectives initially
10 that there is no footage.

11 MR. BIANCO: Correct. And then you
12 confiscated the DVR, said we're getting a
13 warrant, and he hasn't heard anything since.
14 So how would he know whether or not you've seen
15 it and still need the code?

16 MR. AUGUSTINE: I would sit there, I
17 mean, we go back and forth, I think we're going
18 to have different positions on there. He does
19 have a security agreement, in my opinion,
20 requires him to be cooperative to that.

21 So I don't think that's -- like I
22 said, I guess we're going to sit there and
23 agree to disagree or at least have two
24 different perspectives of that agreement.

25 MR. BIANCO: Well, until you

1 testified today, I certainly didn't know that
2 you haven't seen the video yet, so I'm not sure
3 how my client would know or be expected to
4 understand that.

5 Moving forward from there, sorry,
6 brief indulgence. I'm just going through my
7 questions here to make sure I'm covering what I
8 planned to cover.

9 Okay, you gave some testimony about
10 advertisement of a pop-up party at Kiss Lounge
11 on -- I have not seen anything in the reports
12 or written materials that contain any
13 advertising of a pop-up party?

14 Did I miss something or do you not
15 have an actual copy of it?

16 MR. AUGUSTINE: I didn't hear all of
17 your question. It kind of broke in and out.

18 MR. BIANCO: Sure. You indicated in
19 your testimony that you had located
20 advertisements for a pop-up party at Kiss
21 Lounge on October 7.

22 I did not see any advertisements for
23 a pop-up party at Kiss Lounge on October 7
24 among the materials that MPD provided. Does
25 such a document exist somewhere?

1 MR. AUGUSTINE: We do have an active
2 criminal investigation going on, so I'm not --
3 I'm going to defer to the OAG's office on
4 whether we're going to sit there and give you
5 that information or the specifics of that
6 information.

7 CHAIRPERSON ANDERSON: I don't think
8 it's specifics. I think it's a yes or no
9 answer. I think it's a yes or a no. I don't
10 think there -- I don't believe that's -- please
11 answer the question.

12 I don't believe he's asking for
13 specifics. It's a yes, does it exist, or do
14 you -- you testified that -- I think I heard
15 testimony that there was some advertisements.
16 I think they were just asking -- I don't think
17 they're asking for the specifics.

18 MR. AUGUSTINE: Yes, we have
19 knowledge that we believe that this was
20 advertised, and I will defer to you that it's
21 not in the public narrative.

22 And as I stated before, I don't know
23 the relevance it would have on just the basic
24 elements of the crime of the public narrative.

25 MR. BIANCO: Now, I heard your

1 testimony about the setup and the layout of the
2 establishment on the day that you walked
3 through it.

4 Did you have any evidence or does
5 MPD have any evidence that there was any
6 transaction that took place inside the
7 establishment of marijuana for some type of
8 consideration?

9 MR. AUGUSTINE: You broke up a
10 little at the end, but if I just repeat your
11 question, what you're asking is do I have any
12 or know of any evidence of any transactions for
13 the sale of marijuana or products inside? I do
14 not.

15 MR. BIANCO: Right.

16 MR. AUGUSTINE: I do not.

17 MR. BIANCO: Brief indulgence. My
18 client needs to tell me something. Thank you
19 very much. I have nothing further.

20 CHAIRPERSON ANDERSON: Any questions
21 by the Board members of the Detective? All
22 right. Any follow-up questions, Mr. Asim?

23 MR. ASIM: Just a few, Mr. Chairman.
24 Captain Augustine, are you aware of whether MPD
25 was present near the establishment during the

1 incident?

2 MR. AUGUSTINE: I believe we were,
3 just with the, like I said, the radio
4 transmissions I heard that day of an officer
5 that was in the area that saw some type of
6 commotion going on in that area. So I think I
7 can -- it's probable that, yes, we were -- we
8 were in that area, yes.

9 MR. ASIM: And do you know if these
10 officers would have observed patrons running
11 from the establishment?

12 MR. AUGUSTINE: I believe that was
13 the type of call that they were getting out. I
14 don't want to speak for the officers that saw
15 that. But it kind of -- that would be my only
16 assumption for that.

17 There was definitely that they saw
18 some type of commotion or he saw some type of
19 commotion that he had to act on.

20 MR. ASIM: And to your knowledge,
21 did the owner provide a pin code to access the
22 surveillance footage on the day of the
23 incident?

24 MR. AUGUSTINE: No. Originally, we
25 were told that we did not -- there was no

1 video, and then we were not, after that,
2 provided a pin code to check any video that
3 day.

4 MR. ASIM: And what led you to
5 conclude that there was likely a sale of
6 marijuana at the establishment?

7 MR. AUGUSTINE: Just through my
8 training and experience with pop-up parties.
9 Pop-up parties, just the term pop-up party
10 indicates the sale of marijuana.

11 People will be notified, advertised,
12 or the like. And a pop-up party is very
13 indicative to the sale of marijuana and THC-
14 type products.

15 Because that's the whole thing, I
16 don't want to say -- we call these a lot of
17 times marijuana pop-up parties. Generally, we
18 associate marijuana with just the green leafy
19 substance, all right, but then that's the green
20 leafy substance.

21 There's all kinds of THC products,
22 like edibles, oils, and stuff like that, that
23 are actually all illegal in the District of
24 Columbia, and all those items and that term are
25 generally in these type of establishments are

1 used not for public consumption but for the
2 sale.

3 And also, like I said earlier, with
4 the digital scales and being four digital
5 scales inside, scales are also indicative to
6 the sale of narcotics.

7 MR. ASIM: No further questions.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you. Captain Augustine, thank you for
10 your testimony today. Please do not discuss
11 any of your testimony until this case is
12 completed. Thank you very much, sir.

13 MR. AUGUSTINE: Thank you. Thank
14 you for having me.

15 CHAIRPERSON ANDERSON: Thanks.
16 Thanks. Does the Government have any other
17 witnesses?

18 MR. ASIM: Yes, Mr. Chairman. We
19 would like to call ABRA investigator Kevin
20 Puente.

21 CHAIRPERSON ANDERSON: Mr. Puente,
22 can you raise your right hand, please? Do you
23 swear or affirm to tell the truth and nothing
24 but the truth?

25 MR. PUENTE: Yes, sir.

1 CHAIRPERSON ANDERSON: All right.

2 Thank you. Your witness, Mr. Asim.

3 MR. ASIM: Good morning,

4 Investigator Puente. Or good afternoon.

5 CHAIRPERSON ANDERSON: All right,
6 could I have Mr. Bianco, please mute your
7 phone, your microphone, please, if you have not
8 done so. All right, go ahead. Go ahead, Mr.
9 Asim.

10 MR. ASIM: Investigator Puente, can
11 you state and spell your first and last name?

12 MR. PUENTE: Kevin Puente, K-E-V-I-
13 N, P-U-E-N-T-E.

14 MR. ASIM: And where are you
15 currently employed?

16 MR. PUENTE: Alcoholic Beverage
17 Regulation Administration.

18 MR. ASIM: And what is your position
19 or role in ABRA?

20 MR. PUENTE: Investigator.

21 MR. ASIM: How long have you been
22 there?

23 MR. PUENTE: Approximately five and
24 a half years.

25 MR. ASIM: And what are your duties

1 and responsibilities as an investigator?

2 MR. PUENTE: I conduct inspections
3 and investigations of licensed ABC
4 establishment in the District of Columbia.

5 MR. ASIM: What types of
6 investigations?

7 MR. PUENTE: We do regulatory
8 compliance checks, regulatory investigations.
9 We also assist MPD with investigations from
10 crimes, anywhere from shootings up to
11 homicides.

12 MR. ASIM: Are there any other kinds
13 of investigations you conduct?

14 MR. PUENTE: We've also conducted
15 illegal gambling investigations as well as
16 marijuana investigations.

17 MR. ASIM: And are you familiar with
18 pop-up parties?

19 MR. PUENTE: Yes.

20 MR. ASIM: What is a pop-up party?

21 MR. PUENTE: It's commonly an event
22 where marijuana will be distributed or sold.
23 Various vendors will come into an establishment
24 and sell it.

25 MR. ASIM: And what experience do

1 you have with these investigations?

2 MR. PUENTE: Over the course of the
3 last three or four years, I've worked closely
4 with MPD specifically on 12 cases involving ABC
5 establishments where there were these marijuana
6 events inside the establishment.

7 MR. ASIM: And are you familiar with
8 Kiss Tavern?

9 MR. PUENTE: Yes.

10 MR. ASIM: How are you familiar with
11 it?

12 MR. PUENTE: I responded on the day
13 of October 7 to the establishment as well as I
14 wrote several investigative reports in the
15 past.

16 MR. ASIM: How many times have you
17 investigated this establishment in the past?

18 MR. PUENTE: I have three
19 investigation reports on file with the
20 establishment and I assisted an investigator
21 with another one.

22 MR. ASIM: And you said you
23 responded to an investigation October 7, 2020.

24 MR. PUENTE: Yes.

25 MR. ASIM: And how did you first --

1 how did you first get this -- get started in --

2 MR. PUENTE: Captain Augustine
3 telephoned me and advised me that they had a
4 shooting at Kiss Tavern and that they also
5 believe that there was a marijuana pop-up event
6 that had occurred.

7 MR. ASIM: And as part of your
8 investigation, did you draft an investigative
9 report?

10 MR. PUENTE: Yes.

11 MR. ASIM: My co-counsel, John Lui,
12 will be showing you what has been marked as
13 Government's Exhibit 1 for identification
14 purposes, which has already been escalated as
15 authenticated and admissible.

16 (Whereupon, the document referred to
17 was marked as Government's Exhibit 1 for
18 identification.)

19 MS. ANDREWS: Mr. Lui, you can now
20 share your screen.

21 MR. ASIM: Investigator Puente, can
22 you see this? Is this the investigative report
23 you drafted?

24 MR. PUENTE: Yes.

25 MR. ASIM: At this time, the

1 government would like to move Government's
2 Exhibit 1 into evidence.

3 CHAIRPERSON ANDERSON: So moved.

4 Whose microphone --

5 MR. BIANCO: Mr. Anderson, I'm not
6 able to hear any of the proceedings at this
7 point. I'm getting interference. I'm not sure
8 if everybody else is.

9 CHAIRPERSON ANDERSON: I'm trying to
10 find -- so, Mr. Puente -- Let me see. Mr.
11 Puente, is there anything that you can do with
12 what's going on with your microphone? I think
13 that the feedback is coming from your end.

14 MR. PUENTE: I can try putting it to
15 my cell phone, if that will work better.

16 CHAIRPERSON ANDERSON: Yes.

17 MR. PUENTE: How does that sound,
18 Mr. Chairman?

19 CHAIRPERSON ANDERSON: We're still
20 having some significant feedback from your end,
21 and I'm not sure what's -- I'm not sure what
22 equipment you have with you. What equipment do
23 you have with you?

24 MR. PUENTE: My laptop and my ABRA
25 cell phone.

1 MS. ANDREWS: Can you please turn
2 your volume down? And when you're not
3 speaking, just mute your mic.

4 MR. PUENTE: Yes, I turned my volume
5 down a little bit.

6 CHAIRPERSON ANDERSON: Turn it a
7 little bit down again, please. Let me hear you
8 speak now, please.

9 MR. PUENTE: Hello?

10 CHAIRPERSON ANDERSON: Yes, I think
11 it's the level of your volume. So if you turn
12 it further down, I think that we should be
13 okay.

14 All right. All right, go ahead, Mr.
15 Lui. I think you were showing some documents,
16 so.

17 MR. LUI: Now, Investigator Puente,
18 is this the investigative report that you
19 drafted?

20 MR. PUENTE: Yes.

21 MR. LUI: Mr. Chairman, we'd like to
22 move this into exhibit as Government's -- into
23 evidence as Government's Exhibit 1.

24 CHAIRPERSON ANDERSON: So moved.
25 It's my understanding there was a stipulation,

1 so, so moved.

2 (Whereupon, the document previously
3 marked as Government's Exhibit 1 for
4 identification was received into evidence.)

5 MR. BIANCO: Mr. Anderson?

6 CHAIRPERSON ANDERSON: Yes, Mr.
7 Bianco?

8 MR. BIANCO: So there is a
9 stipulation with respect to the authenticity
10 and admissibility.

11 CHAIRPERSON ANDERSON: Okay.

12 MR. BIANCO: There may be objections
13 as to the content and there is likely going to
14 be one depending on where this testimony goes.
15 So I will reserve my objection until he
16 testifies about the contents that I believe are
17 inappropriate.

18 CHAIRPERSON ANDERSON: All right.
19 So, okay. You are objecting at this moment to
20 moving the document into evidence?

21 MR. BIANCO: I am not objecting to
22 moving the document into evidence. The
23 document as a whole we have agreed is
24 admissible, but there's one portion of the
25 document that talks about a video that's not

1 going to be an exhibit in this case that I am
2 going to object to.

3 But I am going to reserve my
4 objection on that testimony until such time as
5 he gets to that testimony.

6 CHAIRPERSON ANDERSON: All right.
7 So moved. All right, go ahead, Mr. Asim.

8 MR. ASIM: Now, we're turning to the
9 call, Investigator Puente. Approximately when
10 did you get this call?

11 MR. PUENTE: Approximately 4 p.m.

12 MR. ASIM: And when did you go to
13 the establishment?

14 MR. PUENTE: I arrived at
15 approximately 4:30 p.m.

16 MR. ASIM: And who else was with you
17 at the establishment?

18 MR. PUENTE: MPD, then ABRA
19 Investigator Jeremy Zolarcoffer and ABRA
20 Supervisor Investigator John Thortnton.

21 MR. ASIM: And what did you first
22 observe when you arrived on the scene?

23 MR. PUENTE: That there was a lot of
24 police officers and detectives. MPD had crime
25 scene tape up around the establishment.

1 MR. ASIM: And what did you do after
2 making the observation?

3 MR. PUENTE: I approached Captain
4 Augustine.

5 MR. ASIM: And what did you discuss
6 with him about?

7 MR. PUENTE: He briefed me on what
8 had occurred at the establishment.

9 MR. ASIM: And what happened next?

10 MR. PUENTE: We waited a few minutes
11 then we went inside with Captain Augustine and
12 Detective Tridico.

13 MR. ASIM: And when you went inside,
14 what did you observe when you entered the
15 establishment?

16 MR. PUENTE: The front entrance is
17 on T Street. There is a vestibule on the front
18 door. It was closed. We opened it, went
19 inside.

20 Then there's a second door and a
21 little foyer area. I observed that the glass
22 was shattered and there was a bullet hole in
23 the back glass window as well.

24 MR. ASIM: Okay. And you said there
25 is -- there was shattered glass. I'm directing

1 your attention to what has been attached to
2 Government's Exhibit 1 as Exhibit 4 to the
3 investigative report.

4 (Whereupon, the document referred to
5 was marked as Government Exhibit 4 for
6 identification.)

7 I believe John Lui should be sharing
8 that with you shortly. Investigator Puente,
9 can you see this image?

10 MR. PUENTE: Yes.

11 MR. ASIM: Is this the broken glass
12 that you saw?

13 MR. PUENTE: Yes.

14 MR. ASIM: And you also said you
15 observed a bullet hole?

16 MR. PUENTE: Yes.

17 MR. ASIM: I'm directing your
18 attention to what has been attached to the
19 investigative report as Government's 5. I
20 believe my co-counsel should be sharing it
21 shortly. Now, can you see this image,
22 Investigator Puente?

23 MR. PUENTE: Yes.

24 MR. ASIM: Is this bullet hole that
25 you --

1 MR. PUENTE: Yes.

2 MR. ASIM: Now what else did you
3 find when you walked in?

4 MR. PUENTE: As soon as we passed
5 that area we walked in, I observed tables and
6 chairs were knocked over. I observed a lot of
7 green, leafy substance on the floor.

8 I observed the table to the right
9 near that window that had tablecloths on it as
10 several trays were on top of it. There was
11 packets on the floor that looked like THC oils.

12 There was loose-leaf marijuana,
13 nuggets of bud that was laid out. We observed
14 sandwich bags, digital scales, brown paper
15 bags, as well as hookah and alcohol.

16 MR. ASIM: Now John Lui should be
17 directing your attention to what has been
18 attached as Exhibit 30 to the investigative
19 report.

20 CHAIRPERSON ANDERSON: Excuse me a
21 minute. Just, I want to -- I mixed up -- in
22 testifying, if you mention some names, can you
23 also spell the names of the participants that
24 you're talking about for the record.

25 So can you please, if you have a

1 report that has the correct spelling of the
2 names, can you please, when you give the names,
3 please spell the name for the record? Okay?
4 Thank you. Go ahead, Mr. Asim.

5 MR. ASIM: Now, Investigator Puente,
6 can you see this image?

7 MR. PUENTE: Yes.

8 MR. ASIM: And is this the THC oil
9 that you saw?

10 MR. PUENTE: Yes.

11 MR. ASIM: Okay. I'm directing your
12 attention to what's been attached to the report
13 as Exhibit 40.

14 (Whereupon, the document referred to
15 was marked as Government Exhibit 40 for
16 identification.)

17 Now, is this the loose-leaf
18 marijuana that you observed? The loose
19 marijuana scattered throughout the
20 establishment?

21 MR. PUENTE: Yes.

22 MR. ASIM: I'm now directing --
23 actually, what else did you observe there,
24 Investigator Puente?

25 MR. PUENTE: As we were walking

1 through the establishment, we observed near the
2 back there was a table with a hookah that
3 looked like it was freshly burnt as well as a
4 bottle of Stella Artois beer that was open, as
5 well as two glasses that were filled with some
6 kind of liquid.

7 We observed vendor, little business
8 cards on several of the tables and on the
9 floor. And then MPD showed us where they found
10 shell casings on the floor.

11 MR. ASIM: Now, Investigator Puente,
12 I'm directing your attention to what's been
13 attached as Exhibit 14 to the investigative
14 report. Now are these some of the vendor
15 advertisements that you saw?

16 MR. PUENTE: Yes.

17 MR. ASIM: Okay. And Investigator
18 Puente, the vendor advertisements and the
19 marijuana found, what did this indicate to you?

20 MR. PUENTE: That it was a marijuana
21 pop-up event or market that was occurring.

22 MR. ASIM: And how were you able to
23 tell that?

24 MR. PUENTE: Everything that I saw
25 that day at Kiss Tavern was also what I've

1 observed through previous investigations we've
2 done at marijuana markets with MPD.

3 MR. ASIM: And what else did you
4 observe --

5 MR. PUENTE: Say that again, Mr.
6 Asim. I lost you.

7 MR. ASIM: What else did you observe
8 when you were on scene there?

9 MR. PUENTE: Kiss Tavern, they had
10 the round tables as you saw in the photo. Then
11 there was round plexiglass enclosed in wood
12 2x4s next to the tables, kind of blocking the
13 tables from each other.

14 MR. ASIM: Now what happened after
15 you made all of these observations?

16 MR. PUENTE: I went back outside
17 with Captain Augustine?

18 MR. ASIM: And what happened after
19 that?

20 MR. PUENTE: I went across the
21 street to Right Proper. I observed it was
22 open. Its sidewalk café was fairly crowded and
23 people were eating. So we went and checked to
24 see if the establishment had any surveillance
25 video.

1 MR. ASIM: And what happened after
2 you checked it?

3 MR. PUENTE: We went across the
4 street and met the managers. They didn't have
5 anything that showed Kiss Tavern so we left.
6 Shortly after, I met up with Detective Tridico.

7 CHAIRPERSON ANDERSON: How do you
8 spell that, Mr. Puente?

9 MR. PUENTE: T-D-R-I-D-I-C-O.

10 CHAIRPERSON ANDERSON: Thank you.

11 MR. ASIM: Now after you met with
12 Detective Tridico, what did you do next?

13 MR. PUENTE: Detective Tridico
14 advised me that they asked numerous times to
15 look at the surveillance video system. They
16 weren't getting nowhere with the owner so they
17 ultimately seized it pending a search warrant.

18 MR. ASIM: And to your knowledge, did
19 ABRA receive this surveillance footage?

20 MR. PUENTE: No.

21 MR. ASIM: Now after you spoke with
22 Detective Tridico, what happened?

23 MR. PUENTE: I went back to talk
24 with Captain Augustine who advised me that the
25 MPD Chief of Police was going to do a 96-hour

1 closure on the establishment.

2 MR. ASIM: And then what happened
3 after that?

4 MR. PUENTE: Myself, Investigator
5 Zolarcoffer, and Supervisor Fiorntino
6 (phonetic) left the establishment and went back
7 to the office.

8 MR. ASIM: And did you continue your
9 investigation there?

10 MR. PUENTE: Yes.

11 MR. ASIM: And what did you do as
12 part of your investigation?

13 MR. PUENTE: The next morning on
14 October 8, I conducted a social media check of
15 the vendors' that businesses cards I observed
16 inside the establishment.

17 Two of them were private but one was
18 open to the public, the Nom's (phonetic)
19 Infused Food. And I went on his page. So I
20 observed he posted a video from what appeared
21 to be inside Kiss Tavern.

22 MR. BIANCO: Mr. Chairman, this is
23 where I'm going to object to the testimony. I
24 could articulate the objection at this time if
25 it pleases the Chair.

1 CHAIRPERSON ANDERSON: What was the
2 question? I mean, you need to object to the
3 question, I mean, not to testimony. I mean, I
4 don't know the witness -- if you didn't object
5 to the question, the witness is testifying.

6 Then you're saying you're going to
7 object to the testimony. You object to the
8 question that was being asked.

9 MR. BIANCO: I object to the
10 question to the extent that it calls for the
11 investigator to testify about unauthenticated
12 video that he viewed in the course of this
13 investigation that is not going to be presented
14 as an exhibit here at the --

15 CHAIRPERSON ANDERSON: But I didn't
16 think he was saying -- I'm not aware whether or
17 not the agency has viewed any video. So, I
18 mean, I'm going to overrule.

19 I'm going to overrule the objection
20 at this juncture. All right. Because I don't
21 think he's testifying about viewing a video.
22 So I'm going to overrule the objection at this
23 juncture. Go ahead, Mr. Asim.

24 I mean, if you need to ask the
25 question again, go ahead and ask the question.

1 MR. ASIM: Investigator Puente, what
2 else did you do as part of your investigation?

3 MR. PUENTE: I reviewed the security
4 plan for the establishment.

5 MR. ASIM: And what relevant parts
6 of the security plan did you find in your
7 investigation?

8 MR. PUENTE: On Page 6, Paragraph 3,
9 there's a section that talks about what kind of
10 incidents that would be allowed in the
11 establishment.

12 It says there's some of the
13 incidents that our team members may encounter.
14 All team members are aware of these types of
15 incidents and are trained to respond
16 professionally and take appropriate course of
17 action.

18 Such common instances include but
19 are not limited to drug use, possession,
20 distribution, any patrons that engage in
21 illegal drug activity.

22 MR. ASIM: And were there any other
23 parts of the security plan that you found
24 relevant to your investigation?

25 MR. PUENTE: Yes, on Page 12,

1 Paragraph 7, it talked about the surveillance
2 video system. In the security plan it says, in
3 case of such incident, management is to burn
4 the footage onto a disk or flash drive and keep
5 it at least 30 days.

6 All videos will be made available
7 for viewing immediately to any law enforcement
8 entity or to ABRA. Copies of such video shall
9 be available to any law enforcement entity or
10 to ABRA within 48 hours upon request.

11 MR. ASIM: And did ABRA request this
12 surveillance footage?

13 MR. PUENTE: I believe Mr.
14 Zolarcoffer asked the owner for the footage.

15 MR. ASIM: And as far as you know,
16 did they provide it within 48 hours?

17 MR. PUENTE: No.

18 MR. ASIM: Have they provided you
19 with access to this surveillance footage:

20 MR. PUENTE: No.

21 MR. ASIM: Now, Investigator Puente,
22 is this place still operational?

23 MR. PUENTE: It's currently
24 suspended by the ABC Board.

25 MR. ASIM: No further questions.

1 CHAIRPERSON ANDERSON: Mr. Bianco.

2 MR. BIANCO: Yes. Investigator
3 Puente, I want to go through your investigative
4 report and ask you some questions about it.

5 In the summary section at the
6 beginning of your report, you draw several
7 conclusions right at the onset. And one of the
8 conclusions that you draw is that a shooting
9 occurred inside of Kiss Tavern. What's the
10 basis for that conclusion?

11 MR. PUENTE: Talking with Captain
12 Augustine and the detectives on scene.

13 MR. BIANCO: Okay. So that's not
14 based on your experience or observation.
15 That's just relying on MPD says on the subject,
16 correct?

17 MR. PUENTE: Yes.

18 MR. BIANCO: Okay. And I want to
19 then skip down to your conclusion that the
20 licensee was uncooperative and that he refused
21 to show video of the event to MPD. Is that
22 based on what MPD told you or based on your
23 personal observation?

24 MR. PUENTE: First on what MPD told
25 me as well as reviewing the 96-hour closure

1 letter from the Chief of Police.

2 MR. BIANCO: Okay. So that's what
3 MPD told you and it's what you read in their
4 96-hour closure letter, but you didn't witness
5 any discussion between my client and MPD,
6 correct?

7 MR. PUENTE: And who? MPD, you
8 said?

9 MR. BIANCO: You didn't witness any
10 discussion about the video between my client
11 and MPD, correct?

12 MR. PUENTE: No, when I got on
13 scene, I observed him talking with a detective.
14 I didn't go over there.

15 MR. BIANCO: Okay. And did you
16 speak with the owner of the establishment at
17 all that evening?

18 MR. PUENTE: No, Investigator
19 Zolarcoffer did.

20 MR. BIANCO: Okay. And it looks
21 like in your summary of the investigation, the
22 way you wrote this, I think I need a little bit
23 of clarification on it.

24 So specifically, you indicate that
25 the owner was uncooperative and refused to show

1 MPD officers surveillance footage.

2 Is that two separate instances or
3 are you saying that he was uncooperative
4 because he refused to show the surveillance the
5 video?

6 MR. PUENTE: He was uncooperative in
7 showing the surveillance video.

8 MR. BIANCO: Okay, so it's not like
9 he was doing something else, like refusing to
10 answer questions or something like that?

11 MR. PUENTE: No.

12 MR. BIANCO: Okay. Attached as the
13 first -- Attachment Number 2 -- Exhibit Number
14 2 of the report is the 96-hour closure letter
15 you referenced in your testimony, correct?

16 MR. PUENTE: Yes.

17 MR. BIANCO: And you reviewed that
18 for the purpose of preparing your report,
19 correct?

20 MR. PUENTE: Yes.

21 MR. BIANCO: Okay. And within that
22 letter there are six enumerated instances where
23 MPD Third District had to respond to this
24 location in the last 18 months, correct?

25 MR. PUENTE: Yes.

1 MR. BIANCO: Okay. And of those six
2 instances cited by MPD, do you know how many
3 ended in an ABC violation?

4 MR. PUENTE: I'd have to check the
5 ABRA records. I don't know offhand.

6 MR. BIANCO: Okay. But the
7 investigative history is attached to the
8 report, correct?

9 MR. PUENTE: Yes.

10 MR. BIANCO: Okay, so we could
11 cross-check those if need be.

12 MR. PUENTE: Yes.

13 MR. BIANCO: You testified that you
14 walked in the establishment and viewed the
15 damage done by the bullet in the vestibule,
16 correct?

17 MR. PUENTE: Yes.

18 MR. BIANCO: Okay. And I believe,
19 please correct me if I'm wrong, but you
20 testified that the front door glass was broken
21 and there was a bullet hole in the window
22 behind the front door, correct?

23 MR. PUENTE: Yes, inside that
24 vestibule, that second door.

25 MR. BIANCO: Correct, and you showed

1 a picture of the damage done by the bullet, and
2 that is Exhibit 4 to your report. And looking
3 in the lower right hand corner of the window, I
4 see the bullet hole that you testified about.

5 MR. PUENTE: Yes.

6 MR. BIANCO: Right. And do you
7 recall what is on the other side of that
8 window? On the other side of the
9 establishment?

10 MR. PUENTE: Like in the window
11 area? Or on the bottom of that area?

12 MR. BIANCO: In the customer seating
13 area, on the interior of the establishment, on
14 the other side of the window. So the bullet
15 went through and what would it have hit on the
16 other side?

17 MR. PUENTE: I believe to the left
18 of that, behind that, there is like a booth
19 seating right there against the wall.

20 MR. BIANCO: Okay. And did you
21 observe whether that -- glass that was damaged
22 in any way?

23 MR. PUENTE: I did not, no.

24 MR. BIANCO: If you were standing on
25 the inside of the establishment looking out

1 that front window, would you be able -- were
2 you able to see the bullet hole?

3 MR. PUENTE: I can't recall if I did
4 or not.

5 MR. BIANCO: Okay. You indicated
6 that during your walkthrough, you observed two
7 hookahs in the customer area of the
8 establishment.

9 MR. PUENTE: Yes.

10 MR. BIANCO: You didn't observe
11 anybody smoking hookah, though, did you?

12 MR. PUENTE: No, there was nobody
13 inside the establishment other than MPD.

14 MR. BIANCO: Okay. You also
15 indicated that my client has not provided
16 surveillance footage to ABRA. Did ABRA make
17 that request of my client?

18 MR. PUENTE: I believe Investigator
19 Zolarcoffer asked him to review the footage.
20 He said his system was taken by MPD.

21 Investigator Zolarcoffer asked him
22 if he had an iCloud or storage device and he
23 said he was not able to -- he didn't have one,
24 I believe.

25 MR. BIANCO: Okay. But did

1 Investigator Zolarcoffer, to your knowledge,
2 request the security code or the pin code for
3 the system?

4 MR. PUENTE: I can't speak to that.
5 I wasn't there for the conversation.

6 MR. BIANCO: Okay. And are you
7 aware whether at any point after October 7
8 anybody from ABRA requested the pin code from
9 my client to review the video?

10 MR. PUENTE: No, I'm not.

11 MR. BIANCO: And I believe it
12 indicates in your report that you had requested
13 the footage from MPD and it would take one or
14 two days for you to get that. Is it fair to
15 say that you have not received it from MPD?

16 MR. PUENTE: Yes. I spoke with
17 Detective Tridico about a week later, he said
18 the search warrant still pending, so it could
19 take anywhere from, possibly up to three weeks
20 or more.

21 MR. BIANCO: Okay. And so to your
22 knowledge, the DVR system is still in the
23 possession of MPD and not my client, correct?
24 Investigator Puente? Can you hear me?

25 MR. PUENTE: Yes.

1 MR. BIANCO: Oh. To your knowledge,
2 is the DVR still in the possession of MPD?

3 MR. PUENTE: Yes.

4 MR. BIANCO: Okay. Did you
5 personally speak with any member of my client's
6 staff or employee in the establishment on
7 October 7?

8 MR. PUENTE: No, I did not. I
9 believe we were told the security guard had
10 already left the area or left the
11 establishment.

12 MR. BIANCO: Okay. Do you know
13 whether or not the security guard spoke with
14 MPD?

15 MR. PUENTE: I'm not sure.

16 MR. BIANCO: Brief indulgence. I
17 just want to see if my client has anything
18 else. Thank you, Investigator Puente. I don't
19 have any further questions.

20 MR. PUENTE: Thank you.

21 CHAIRPERSON ANDERSON: All right.
22 Are there any questions by any Board members?

23 MEMBER SHORT: Mr. Chair, I just
24 have one question.

25 CHAIRPERSON ANDERSON: Go ahead, Mr.

1 Short.

2 MEMBER SHORT: Investigator Puente,
3 what are the legal licensed hours for sales and
4 service for alcohol for this establishment?

5 MR. PUENTE: I believe, I don't have
6 the license in front of me, sir. I believe
7 it's from 7 a.m. to 2 a.m., Sunday through
8 Thursday, then Friday and Saturday from 7 a.m.
9 to 3 a.m.

10 MEMBER SHORT: During the day of the
11 incident, were they open and operating at that
12 hour the day this incident occurred?

13 MR. PUENTE: Yes, I believe they
14 were because we saw open containers of alcohol.

15 MEMBER SHORT: Okay, that's all I
16 have. Thank you, Mr. Chair. Thank you, Mr.
17 Puente.

18 CHAIRPERSON ANDERSON: Any further
19 questions from any of the Board members? Mr.
20 Puente, specifically, what is it that the
21 security agreement speaks about turning the --
22 who should camera footage be turned over to?

23 MR. PUENTE: In the security plan,
24 it mentions that any type of ABRA or any law
25 enforcement entity requests to view the video,

1 it should be made available immediately, then a
2 copy should be provided within 48 hours.

3 CHAIRPERSON ANDERSON: Is it just to
4 ABRA or is it to other entities?

5 MR. PUENTE: ABRA and other law
6 enforcement entities.

7 CHAIRPERSON ANDERSON: So do you
8 know whether or not the security video was
9 provided to the other law enforcement entities
10 immediately?

11 MR. PUENTE: No, Detective Tridico
12 said he has not been able to view the footage.

13 CHAIRPERSON ANDERSON: Okay. All
14 right. Thank you. I don't have any other
15 questions. Mr. Asim -- I'm sorry. Mr. Bianco,
16 do you have any questions of the witness based
17 on the questions that were asked of the Board?

18 MR. BIANCO: No, Mr. Chairman, I
19 don't.

20 CHAIRPERSON ANDERSON: Mr. Asim,
21 it's your case. Do you have any follow-up
22 questions of the witness based on the questions
23 that were asked by the Board?

24 MR. ASIM: Yes, I have a few
25 questions. Investigator Puente, did you -- how

1 many times have you previously investigated
2 this establishment?

3 MR. PUENTE: I believe in the case
4 history, I have three case reports.

5 MR. ASIM: And generally, what did
6 these investigations -- what were they related
7 to?

8 MR. PUENTE: If I recall, after
9 hours. I think mainly after hours. Then I had
10 one prior to the license being issued.

11 CHAIRPERSON ANDERSON: And has there
12 been any trouble receiving surveillance footage
13 previously?

14 MR. PUENTE: I believe in the --
15 right now there was a case written in July 2020
16 where the investigator asked to view footage
17 and he never got it.

18 MR. ASIM: No further questions.

19 MR. BIANCO: Mr. Chairman, I have a
20 question based on the last question.

21 CHAIRPERSON ANDERSON: Mr. Bianco, I
22 mean, you already had your chance to ask a
23 question. This is Mr. Asim's witness. He has
24 the final word.

25 So I'm not going to have any -- I

1 can't go back and forth because if you have --
2 if you have asked a question, then I need to
3 give Mr. Asim an opportunity to ask questions
4 again. So you had your opportunity. Yes, sir?

5 MR. BIANCO: I understand, Mr.
6 Anderson, but at this point I'd like to pose an
7 objection to the last question asking about an
8 unadjudicated investigative report which is not
9 relevant to this matter, and therefore, it's
10 not appropriate for consideration.

11 CHAIRPERSON ANDERSON: You should
12 have objected to the question at the time.
13 Anyway, so I hear. However, let's move on.
14 Mr. Puente, thank you for sharing your
15 testimony, please do not discuss it with anyone
16 until the case is completed. Thank you.

17 MR. PUENTE: Thank you, sir.

18 CHAIRPERSON ANDERSON: All right.
19 Does the Government have another witness?

20 MR. ASIM: No, Mr. Chairman, the
21 Government does not.

22 CHAIRPERSON ANDERSON: So does the
23 Government rest at this juncture?

24 MR. ASIM: Yes, the Government
25 rests.

1 CHAIRPERSON ANDERSON: All right.
2 It is my understanding that both parties have
3 agreed to a 30-minute lunch break. Is that
4 still the wish of the parties?

5 MR. ASIM: Yes.

6 MR. BIANCO: That's fine.

7 CHAIRPERSON ANDERSON: I'm sorry,
8 yes? So, Mr. Asim says yes. Mr. Bianco, you
9 said that's fine? Mr. Bianco, yes? A 30-
10 minute lunch break?

11 MR. BIANCO: Yes.

12 CHAIRPERSON ANDERSON: All right.
13 Fine, thank you. Okay. So it's 1:20. We're
14 going to pause this for a 30-minute lunch
15 break. So therefore, we will be back on the
16 record at 1:50 p.m.

17 What I will ask the Board members to
18 do is for us to return to the executive session
19 and, so we can have a working lunch. All
20 right. So I will see you back at 1:50. All
21 right. Thank you.

22 CHAIRPERSON ANDERSON: All right.
23 We're back on the record. Are you ready, Mr.
24 Bianco?

25 MR. BIANCO: Yes, we're ready.

1 CHAIRPERSON ANDERSON: All right. Do
2 you have a witness?

3 MR. BIANCO: Yes, we do.

4 CHAIRPERSON ANDERSON: Who's your
5 first witness, sir?

6 MR. BIANCO: I'm calling Eyob Asbeha.

7 CHAIRPERSON ANDERSON: I'm sorry?

8 MR. BIANCO: Owner of the
9 establishment, Eyob Asbeha.

10 CHAIRPERSON ANDERSON: Mr. Asbeha, can
11 you raise your right hand, please? I think Mr.
12 Bianco, I mean, either you both need to move
13 away from the camera so I can see both of you
14 at the same time.

15 WHEREUPON,

16 EYOB ASBEHA
17 was called as a witness by Counsel for the
18 Defendant and, having been first duly sworn,
19 was examined and testified as follows:

20 CHAIRPERSON ANDERSON: All right.
21 Thank you. And Mr. Bianco, now, as attorney's
22 we're on the honor system. So therefore, your
23 client is sitting next to you and so I do hope
24 that during cross-examination, or even direct,
25 that there are no notes that's been passed

1 around between you and your client.

2 So we have to be on the honor system,
3 since you and your client are sitting side-by-
4 side in the same room.

5 All right, sir. Your witness, go
6 ahead.

7 DIRECT EXAMINATION

8 BY MR. BIANCO:

9 Q Okay. Can you state name and spell
10 your last name for the record?

11 A My names Eyob, last name Asbeha, A-S-
12 B-E-H-A.

13 Q And Eyob, where are you employed?

14 A Kiss Lounge, Kiss Tavern.

15 Q And what is your role there?

16 A I'm the owner.

17 Q And how long have you been doing that?

18 A Over the last five years.

19 Q And how long have you been in the
20 restaurant business in D.C.?

21 A About eight years.

22 Q I'd like to talk about the day of
23 October the 7th, 2020. We're you working on
24 that day?

25 A No.

1 Q Was the establishment open?

2 A Yes.

3 Q Who was running it?

4 A My cousins, Kendra and Sami.

5 Q Did there come a time on that day when
6 you went to Kiss?

7 A No, I couldn't understand. Can you
8 say it again?

9 Q Yes. Did you go to Kiss on that day?

10 A Yes. I went there after I found out -
11 - I was with my kids playing and I found out
12 there was incident happened when my cousin
13 called me and I came down from Virginia
14 straight to the establishment.

15 Q Okay. Which cousin called you?

16 A Askinder.

17 Q Askinder?

18 A Yes.

19 Q And that's the cousin who was working
20 at Kiss?

21 A Yes.

22 Q And what happened when you arrived at
23 Kiss that day?

24 A Well, I parked my car outside and the
25 police told me to park outside and there was a

1 lot of police outside and they told me -- most
2 of them I know, the police -- they told there
3 was a shooting outside Kiss and I went inside.

4 The detectives told me to come inside, and
5 he started talking to me.

6 Q Okay. And who was the detective that
7 started talking to you?

8 A I don't know the detective. He didn't
9 introduce himself. He just told me to come
10 inside and I went inside.

11 Q Okay. And can you describe the
12 detective that told you to come inside?

13 A He has black detective badge, I don't
14 know his name.

15 CHAIRPERSON ANDERSON: Hold on one
16 moment. Hold on Mr. Bianco. Can you ask your
17 client to -- he said there was a cousin there.
18 Can you repeat the name and spell the name of
19 the cousin who was there, who was running the
20 facility?

21 MR. BIANCO: Sure.

22 THE WITNESS: Sure. His name is
23 Askinder, A-S-K-I-N-D-E-R. Last name Naga,
24 that's N-A-G-A.

25 I can't hear you,

1 CHAIRPERSON ANDERSON: I'm sorry.
2 Thank you. What I'll ask is that if you're
3 going to use any names, because -- since we
4 have a court reporter. So I would ask that you
5 spell the person's name for the record so the
6 court reporter will capture the information
7 correctly. Okay?

8 THE WITNESS: Okay.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you. Go ahead.

11 MR. BIANCO: Okay.

12 BY MR. BIANCO:

13 Q And this detective that brought you
14 inside, what did he ask you?

15 A He came told me -- or they asked me
16 what was going on. I don't know, I told them I
17 wasn't here. Then he asked me for the DVR
18 password and I give him the password and the
19 password didn't work, because there was a
20 technician that was here that was fixing it.

21 I told them to wait for him so I can
22 provide the password. And right after that he
23 didn't want to wait and he just grabbed it and
24 the password I had, I gave it to him, but it
25 didn't work.

1 So after that, he took the DVR just right
2 away. He didn't wait for the technician to
3 come out.

4 Q Okay. Let's take a step back. So the
5 detective asked you for the password, right?

6 A Yes.

7 Q Did you provide the detective the
8 password?

9 A Yes.

10 Q Did the password work?

11 A It didn't because -- I think prior to
12 that he checked it, it didn't work because he
13 was trying to get inside without password
14 before I came, then it was blocked. When I
15 tried the password, it still blocked.

16 So I asked the technician then to come and
17 do the -- open this system and he said okay,
18 I'm on my way. He was on the phone, he was
19 listening to everything. And he said, I'm on
20 my way, I'm coming. And the detective didn't
21 want to wait; he just took the DVR with just
22 left.

23 Q So when you told the detective that
24 the technician would come and unlock the
25 system, what happened next?

1 A The next thing he say is that he
2 doesn't want to wait. He just took it out,
3 with the DVR, everything, he took all the wires
4 and he just forced the whole thing.

5 Q So what is the password?

6 A It's Kiss, K-I-S-S 637.

7 Q And is that the password you gave him
8 that day?

9 A Yes.

10 Q What company do you use to do the
11 video tech?

12 A It was called Flash Tech.

13 Q Flash Tech?

14 A Yes.

15 Q Okay. And why was Flash Tech there
16 earlier in the day on October the 7th?

17 A So there was incident happened outside
18 Kiss, there was people breaking a car and I
19 happened to have the video footage of that and
20 the police came, two police officers, they have
21 names.

22 They asked for video and the video was
23 not clear enough to identify the plate number
24 on those people and I told them, can you change
25 the zooming or the systems so we can find out,

1 because there's two cars left outside at least
2 -- or, empty that day and it happened to be one
3 of my car that was broken.

4 And I told him the video -- I showed
5 him the video, everything and they took a video
6 but it was not clear enough to identify those
7 thieves. So I called the technician to come
8 here and fix it.

9 Q When did that incident take place
10 where MPD previously requested video?

11 A Well, a day before -- a day before or
12 the same night. Tells them, a day before. A
13 night before the incident happened.

14 Q So October the 6th?

15 A Yes. I have their cards I can provide
16 that.

17 Q Do you know why the MPD detective took
18 the whole system if you were offering to show
19 the video?

20 A I don't know. I ask him to wait, he
21 doesn't want to wait.

22 Q Okay. Other than the detective, who's
23 name you don't know, did you have any other
24 conversations with MPD personnel that day?

25 A Well, I talked to several of them, but

1 most of them I know from the PD offices; we
2 have a good relationship with them.

3 Q Okay.

4 A So I talked to Detective Tridico after
5 that, and I talked to him in person and he even
6 asked me if I give him the consent or written
7 consent to search the place and I give him
8 right away. I didn't argue about it, I didn't
9 ask anything. I mean, he already told me that
10 I was not alleged to do that.

11 But I say, you know what, we have to
12 find anything to investigating this case, I'm
13 like, I'm willing to give you anything. And I
14 signed the consent and they start searching the
15 place.

16 Q So Detective Tridico asked you for
17 consent to search your place?

18 A Yes.

19 Q And --

20 CHAIRPERSON ANDERSON: How do you
21 spell that please?

22 THE WITNESS: T-R, I have his card.
23 T-R-I-D-I-C-O. That's the last name.

24 CHAIRPERSON ANDERSON: Thank you.

25 THE WITNESS: The first name is

1 Philip.

2 CHAIRPERSON ANDERSON: Go ahead, I'm
3 sorry.

4 MR. BIANCO: Okay.

5 BY MR. BIANCO:

6 Q So Detective Tridico asked your
7 permission to search the establishment,
8 correct?

9 A Yes. And I said yes, and I signed it.

10 Q And that permission was in writing?

11 A All in writing, yes.

12 Q Prior to October the 7th, has MPD ever
13 previously requested video from you?

14 A Yes, they did.

15 Q Okay. We talked about the one
16 instance the day before, but how about before
17 that? Were there other cases that they asked
18 you for video?

19 A I did several times, they didn't have
20 a good case or outside my establishment.
21 Anything happen outside, there was a shooting
22 outside that happened and I provide the video
23 camera and they found the guy because of the
24 video I give them.

25 And prior to that, there was a hit and

1 run on Florida Avenue and I happened to have
2 the video camera footage. And as a matter of
3 fact, it was Mister -- I mean, Investigator
4 Tridico came asking me for the video and I give
5 him the video for that.

6 And I was trying to help they --
7 whatever they ask me for.

8 Q Before today's hearing, were you aware
9 whether or not MPD was able to access the video
10 that they took from the DVR?

11 A No.

12 Q Now, there has been some testimony
13 today about the layout of the establishment and
14 I would like to discuss with you how the
15 establishment is laid out. And we previously
16 cited our exhibits to --

17 CHAIRPERSON ANDERSON: Hold on. What
18 exhibits? I mean, what exhibits did you
19 provide?

20 MR. BIANCO: We provided seven
21 photographs.

22 CHAIRPERSON ANDERSON: Did you receive
23 that Mr. Asim? Because I -- I mean, I got your
24 cover letter but I didn't see any exhibits. So
25 I'm not quite sure where the exhibits were, but

1 I did get your cover letter that lists who the
2 witnesses, are but I didn't see any exhibits
3 attached.

4 Mr. Asim, sir, do you have the
5 exhibits?

6 MR. ASIM: Yes, Mr. Chair, we do have
7 the exhibits.

8 CHAIRPERSON ANDERSON: All right.
9 Okay, fine. Okay. Go ahead.

10 MR. BIANCO: I understand that ABRA's
11 IT person is going to be putting them up on the
12 screen, as we requested they do so.

13 CHAIRPERSON ANDERSON: All right,
14 that's fine. Okay.

15 MR. BIANCO: That was the arrangement
16 we came to yesterday. Anyway, but if I could
17 inquire --

18 CHAIRPERSON ANDERSON: Go ahead.

19 MR. BIANCO: -- if that's still going
20 to happen, that'll be great.

21 CHAIRPERSON ANDERSON: If that's the
22 arrangement, then at the time whoever made the
23 arrangement will do what's necessary. I wasn't
24 aware of that so we'll see.

25 MR. BIANCO: Excellent. Could we put

1 Respondent's Exhibit Number 1 up, please?

2 Simone?

3 CHAIRPERSON ANDERSON: I just texted
4 her to find out whether or not that was her,
5 was she the person to put in the exhibit,
6 because I was not aware of that.

7 MR. BIANCO: Okay.

8 MS. ANDREWS: I'm sorry. I'll put it
9 up right --

10 CHAIRPERSON ANDERSON: Okay.

11 MR. BIANCO: Thank you very much.

12 BY MR. BIANCO:

13 Q All right, Eyob, you see that
14 photograph there?

15 A Yes, sir.

16 Q And what does that show?

17 A That's the main entrance, like, on T
18 Street.

19 Q Okay. That's the T Street entrance?

20 A Yes, sir.

21 Q And is that how the T Street entrance
22 looked on October the 7th of 2020?

23 A Yes. That's it. Black curtains.

24 Q Okay. And when your establishment is
25 open for business, is that exterior door kept

1 opened or closed?

2 A It's closed.

3 Q Okay. And it looks like there are
4 some photos or paintings on that door there.
5 Are you able to see through those?

6 A The main door you mean?

7 Q Yes, the main door.

8 A They're like food and everything they
9 clear --

10 Q You can't --

11 A That's advertisement, yes.

12 Q Okay.

13 MR. BIANCO: At this time I would move
14 admission of REX Number 1.

15 (Whereupon, the above referred to
16 document was marked as Respondent's Exhibit No.
17 1 for identification.)

18 CHAIRPERSON ANDERSON: Mr. Asim, do
19 you have any objection?

20 MR. ASIM: No objections.

21 CHAIRPERSON ANDERSON: So moved.

22 (Whereupon, the above-referred to
23 document was received into evidence as
24 Respondent's Exhibit No. 1.)

25 MR. BIANCO: If we could put up RX 2,

1 please.

2 BY MR. BIANCO:

3 Q And do you see that photo?

4 A Yes.

5 Q And what does that show?

6 A That's the, like, what do you call it?

7 Like, the corridor that you come in.

8 Q Okay.

9 A It's the main thing to come to Kiss.

10 Q So --

11 A That's where the security chair is,
12 sitting there.

13 Q Correct. That was my next question.
14 So I see a chair there, what is that chair
15 there for?

16 A That's where security sits and stands
17 all the time.

18 Q And was that there on October the 7th?

19 A Yes.

20 Q Is it usually there?

21 A Yes, sir.

22 Q And you have a security person
23 stationed there. What does that person do?

24 A Being the security, he does check ID,
25 he does bag, everybody search their bags,

1 everything. He does what any security has to
2 do. He's good guy.

3 Q And did you have a security guard
4 working on October the 7th of 2020?

5 A Yes.

6 Q What's that persons names?

7 A We call him T, but I think his name is
8 Thomas MacCoy. That's T, MacCoy is M-A-C-C-O-Y
9 and his first name is Thomas.

10 MR. BIANCO: And I'd move admission of
11 RX Number 2.

12 (Whereupon, the above-referred to
13 document was marked as Respondent's Exhibit No.
14 2 for identification.)

15 CHAIRPERSON ANDERSON: Mr. Asim, any
16 objections?

17 MR. ASIM: No objections.

18 CHAIRPERSON ANDERSON: So moved.

19 (Whereupon, the above-referred to
20 document was received into evidence as
21 Respondent's Exhibit No. 2.)

22 MR. BIANCO: If we can put up RX 3.

23 BY MR. BIANCO:

24 Q And do you recognize that photograph?

25 A Yes.

1 Q And what is that?

2 A That's the entrance to the restaurant,
3 the tavern.

4 Q Okay. So on the right-hand side, that
5 doorway is the way you enter into the customer
6 area?

7 A Yeah.

8 Q Okay. And is that how it looked on
9 October the 7th?

10 A After I came, the glass was like
11 shattered and everything on the floor.

12 Q Okay.

13 A And there was a hole like an inch.

14 Q Okay. So let's take the first part of
15 that statement first. You said when you came
16 on the 7th, the glass was shattered --

17 A Yes.

18 Q -- on the floor. What glass are you
19 referring to?

20 A The -- I don't know how to show you.
21 The main, like, the one that's like the chair
22 leaning on.

23 Q The glass in the door or the glass in
24 the window?

25 A The glass on the door.

1 Q Okay. And the door in that picture
2 appears to be intact. Have you fixed it?

3 A Yes. I just fixed it up the next day.

4 Q When did you fix it?

5 A October 9th.

6 Q Okay. Now, I want to focus on the
7 window that is behind the glass door. I see a
8 hole in the window, was that hole there on
9 October the 7th?

10 A After I came, yes, it was there.

11 Q It was there?

12 A Yes.

13 Q Okay. And is that hole still there
14 today?

15 A Yes.

16 Q Okay.

17 MR. BIANCO: So I would move to the
18 admission of RX 3.

19 (Whereupon, the above-referred to
20 document was marked as Respondent's Exhibit No.
21 3 for identification.)

22 CHAIRPERSON ANDERSON: Mr. Asim, any
23 objection?

24 MR. ASIM: No objection.

25 CHAIRPERSON ANDERSON: So moved.

1 (Whereupon, the above-referred to
2 document was received into evidence as
3 Respondent's Exhibit No. 3.)

4 MR. BIANCO: If we could move on to RX
5 No. 4?

6 BY MR. BIANCO:

7 Q Okay. Now, this is Respondent Exhibit
8 No. 4, what does that show?

9 A That's the restaurant booth.

10 Q Okay. A restaurant booth?

11 A Yes.

12 Q And where is that located?

13 A That's right behind the window of the
14 main entrance.

15 Q Behind the window of the main
16 entrance?

17 A Yes.

18 Q Okay.

19 A On the other side.

20 Q Is that booth always there?

21 A Yes.

22 Q Was it there on October the 7th?

23 A Yes.

24 Q Are there any holes or damage to the
25 cushion?

1 A No.

2 Q Have you replaced it or repaired it in
3 any way?

4 A No.

5 Q Now, when you're looking at that
6 photograph, can you see the bullet hole from
7 that side of the window?

8 A No.

9 Q Why not?

10 A Because it's covered by the booth.

11 Q It's covered by the booth?

12 A Yes.

13 Q Okay.

14 MR. BIANCO: Move admission of RX 4.

15 (Whereupon, the above-referred to
16 document was marked as Respondent's Exhibit No.
17 4 for identification.)

18 CHAIRPERSON ANDERSON: Mr. Asim?

19 MR. ASIM: No objection.

20 CHAIRPERSON ANDERSON: So moved.

21 (Whereupon, the above-referred to
22 document was received into evidence as
23 Respondent's Exhibit No. 4.)

24 MR. BIANCO: And moving on to RX 5.

25 BY MR. BIANCO:

1 Q All right. Now, what does that
2 picture show?

3 A That's the window behind the booth.

4 Q Okay, the window --

5 A From inside, yes.

6 Q Okay. And where is that picture taken
7 from?

8 A From inside.

9 Q The inside going out?

10 A Yes.

11 Q Okay. And I can see the bullet hole
12 in that picture. Did you have to do something
13 to make that bullet hole visible?

14 A Yes. You have to light it up or
15 something.

16 Q Okay. Did you have to move the booth?

17 A Yes, you had to.

18 Q All right.

19 MR. BIANCO: I would move admission of
20 RX 5.

21 (Whereupon, the above-referred to
22 document was marked as Respondent's Exhibit No.
23 5 for identification.)

24 CHAIRPERSON ANDERSON: Mr. Asim?

25 MR. ASIM: No objection.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-referred to
3 document was received into evidence as
4 Respondent's Exhibit No. 5.)

5 MR. BIANCO: Moving on to RX 6,
6 please?

7 BY MR. BIANCO:

8 Q Okay. And what does that picture
9 show?

10 A That's the wood behind the booth, the
11 booth.

12 Q Okay. The backside of the booth?

13 A Yes.

14 Q And I see in that photograph, an
15 indentation in the wood. Can you tell me how
16 that lines up with the bullet hole?

17 A It's straight from the wood, the hole
18 of the wood is straight to the wood.

19 Q Okay.

20 MR. BIANCO: Move admission of RX 6.

21 (Whereupon, the above-referred to
22 document was marked as Respondent's Exhibit No.
23 6 for identification.)

24 CHAIRPERSON ANDERSON: Mr. Asim?

25 MR. ASIM: No objection.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-referred to
3 document was received into evidence as
4 Respondent's Exhibit No. 6.)

5 BY MR. BIANCO:

6 Q Did you discover any damage to the
7 interior of the premises other than that window
8 and that booth?

9 A No.

10 Q Okay. Did you find any other bullet
11 holes anywhere?

12 A No.

13 Q Did you have a private event scheduled
14 for October the 7th of 2020?

15 A No. I don't know any.

16 Q Did you have any knowledge of a
17 marijuana pop-up party at the establishment
18 that day?

19 A No, never, no.

20 Q Did you authorize the people who
21 worked for you to book a private party for that
22 day?

23 A They manage the place because most of
24 the time, I'm daytime with my kids. But I was
25 not aware of any -- and I've never done it

1 before. So --

2 Q And --

3 A -- they never asked me to do so.

4 Q And by never done it before, it,
5 you're referring to a marijuana pop-up party?

6 A That's what you had said. Yes, to
7 what you're asking me.

8 Q And how many people work for you?

9 A Like, servers, in general, security,
10 everything?

11 Q Yes, everything all together.

12 A More than 12.

13 Q More than 12? How many of those
14 individuals are security?

15 A That day there was two security here.

16 Q And you had previously mentioned that
17 Thomas MacCoy was the security guard working at
18 the front door, correct?

19 A Yes.

20 Q Have you had occasion to speak with
21 Mr. MacCoy about the events of that day?

22 A After I came, after I talked to the
23 investigators and the investigators were asking
24 him. So I took my time when everybody finished
25 the investigation, I talked to him what

1 happened. And they explained what happened.

2 Q And what did you learn in that
3 discussion?

4 A He said, like, there was a guys who
5 tried to come in with a weapon and Thomas told
6 him you cannot bring a weapon inside and he
7 told him to go put a 81. He's going to come
8 back but he cannot come in.

9 So they have into -- like, we told him no
10 and the next thing he knows was the guy was
11 shooting at him.

12 Q Okay.

13 CHAIRPERSON ANDERSON: Mr. Asbeha,
14 when you speak, can you please raise your
15 voice, please?

16 THE WITNESS: All right, sir, I'm
17 sorry.

18 CHAIRPERSON ANDERSON: Thank you.

19 THE WITNESS: I will.

20 MR. BIANCO: Thank you. I have no
21 further questions.

22 CHAIRPERSON ANDERSON: Mr. Asim, any
23 questions?

24 MR. ASIM: Yes, Mr. Chair.

25 CROSS-EXAMINATION

1 BY MR. ASIM:

2 Q Mr. Asbeha, you were not present at
3 the establishment at the time of this incident,
4 right?

5 A Yes, I wasn't here, sir.

6 Q But your cousin was present at this
7 establishment?

8 A Yes, sir.

9 Q And your cousin was running the
10 establishment?

11 A It was the daytime, so I was with my
12 kids playing in Virginia. I live in Virginia.

13 Q But was your cousin managing affairs
14 at the establishment?

15 A Yes, sir.

16 Q And you were not aware of any event
17 that was happening at the time?

18 A There was -- we have regular events,
19 not that you guys are referring to, no.

20 Q But were you aware of any event that
21 was taking place at the time?

22 A No.

23 Q But you were aware that there were two
24 security guards present?

25 A Yes, we always have security when we

1 open.

2 Q And to your knowledge, what were the
3 security guard's hours?

4 A So my cousin, daytime he runs it, he
5 does happy hours and everything, so he told
6 them to come early. So they were there early,
7 and after I had found out what -- as the
8 shooting happened, after that and I came here.

9 Q Now, you testified that the glass was
10 shattered.

11 A Yes.

12 Q Now, was the front door also
13 shattered?

14 A The front door was not, because you
15 have to come inside. It always has to be
16 closed by security man, so he opened -- the guy
17 opened it and he went in and he did -- that's
18 where the security is, a like, the door is like
19 -- we put two doors so we don't have noise
20 coming out the establishment or so it's easy to
21 search people and everything.

22 Q So this front door was closed at the
23 time?

24 A Yes, sir.

25 Q And it was undamaged?

1 A It was undamaged because it was from
2 outside. We always keep it closed.

3 Q And as far as you know, did you find
4 any bullets inside the establishment?

5 A No, sir. I was not allowed to touch
6 anything, because they were asking me to
7 investigate whatever.

8 Q Did you find any kind of shell casings
9 inside the establishment?

10 A No, sir.

11 Q And you spoke about the couches inside
12 the establishment. Are those couches moveable?

13 A They are moveable, but they are heavy,
14 they are not small. They heavy chairs, which
15 are not small.

16 Q But they can be moved?

17 A Yes, sir.

18 Q And those booths, they're also
19 moveable.

20 A Some of them. Not all of them,
21 because they are attached to each other, so you
22 cannot move all of them.

23 Q But you can move those booths together
24 if they're attached.

25 A Of course, yes. You have to unscrew

1 them and move them. You cannot just do that,
2 because they are heavy. They are custom-made
3 booths that has to go with this feet that make
4 sure is in everything.

5 Q And Mr. Asbeha, do you have any
6 trainings with firearms?

7 A Yes, sir.

8 Q What's --

9 A What do you mean with firearms, with a
10 gun?

11 Q Do you have any official trainings in
12 firearm?

13 A No, sir. I've never held a gun in my
14 life.

15 Q Do you have official trainings in
16 ballistics?

17 A Can you -- what's the ballistics? I
18 don't know, my English is not --

19 Q The study of bullets.

20 A The -- what's the bullets? I can't
21 understand.

22 Q Do you have knowledge on bullets and
23 the --

24 A No, I've never -- I've never held a
25 gun in my life. So I have no knowledge about

1 bullets, about guns. I'm against guns and
2 everything in my life. I've never held
3 anything.

4 Q And was your cousin there with your
5 permission?

6 A Yes, sir.

7 MR. ASIM: No further questions.

8 CHAIRPERSON ANDERSON: Any questions
9 by any board members?

10 MEMBER SHORT: I have one, Mr.
11 Chairman.

12 CHAIRPERSON ANDERSON: Yes, Mr. Short.

13 MEMBER SHORT: I'd just like to ask
14 the owner, Mr. Asbeha, if his security persons
15 are licensed by the District of Columbia and
16 are they trained in security?

17 THE WITNESS: Yes, sir.

18 MEMBER SHORT: They are licensed by
19 the District of Columbia?

20 THE WITNESS: They have good
21 experience and they have license. They have
22 license, too.

23 MEMBER SHORT: Can you provide, later
24 on, for this board a license number for the
25 security that you hired for your business?

1 THE WITNESS: I'll try, sir.

2 MEMBER SHORT: You'll try? Do they
3 have a license?

4 THE WITNESS: Yes, sir.

5 MEMBER SHORT: Okay. If they have a
6 license, we'd like to have that for the Board's
7 records. Thank you.

8 CHAIRPERSON ANDERSON: Any other
9 questions from any other board members?

10 Mr. Asbeha, one is of my questions is
11 that on October the 7th, was your business open
12 for operation?

13 THE WITNESS: Yes, sir.

14 CHAIRPERSON ANDERSON: So it was open
15 for operation?

16 THE WITNESS: Yes, sir.

17 CHAIRPERSON ANDERSON: So on October
18 7th, you authorized your cousin to run your
19 business on October 2nd?

20 THE WITNESS: Most of the --

21 CHAIRPERSON ANDERSON: October 7th,
22 I'm sorry.

23 THE WITNESS: No. Most of the time
24 I'm here because of the COVID it's slow, so I -
25 -

1 CHAIRPERSON ANDERSON: Okay. During
2 the period where this --

3 THE WITNESS: Yes, sir.

4 CHAIRPERSON ANDERSON: -- this action
5 occurred, did you authorize your cousin --

6 THE WITNESS: Yes, sir.

7 CHAIRPERSON ANDERSON: -- to have an
8 event there that day?

9 THE WITNESS: He managed the place.

10 CHAIRPERSON ANDERSON: So you're
11 telling --

12 THE WITNESS: He always open it, close
13 it whenever he wants.

14 CHAIRPERSON ANDERSON: So your cousin,
15 he's the manager?

16 THE WITNESS: Yes.

17 CHAIRPERSON ANDERSON: And he manages
18 the place under your permission? So you
19 authorized him to manage the place when you're
20 not there, is that correct?

21 THE WITNESS: Yes, sir.

22 CHAIRPERSON ANDERSON: And is he the
23 ABC manager? Is he one of your ABC managers?

24 THE WITNESS: He is not. He is not.

25 CHAIRPERSON ANDERSON: So --

1 THE WITNESS: I have another cousin
2 who is the ABC manager, which is -- he was here
3 too. Both of them were here.

4 CHAIRPERSON ANDERSON: So who was the
5 ABC manager who was there that day?

6 THE WITNESS: His name is Samson.

7 CHAIRPERSON ANDERSON: Samson who?

8 THE WITNESS: Samson Bearki.

9 CHAIRPERSON ANDERSON: So can you
10 spell that please?

11 THE WITNESS: B-E-A-R-K-I.

12 CHAIRPERSON ANDERSON: So you had an
13 ABC manager working there that day, is that
14 correct?

15 THE WITNESS: Yes, sir

16 CHAIRPERSON ANDERSON: And so is it
17 correct that, was alcohol being sold during the
18 day?

19 THE WITNESS: Yes, sir.

20 CHAIRPERSON ANDERSON: All right.
21 Now, all right. But you didn't know what type
22 of event that your cousin was having that day,
23 is that correct?

24 THE WITNESS: I had no knowledge, sir.

25 CHAIRPERSON ANDERSON: All right. You

1 stated that you provided the police officer
2 with the passcode for your camera system, but
3 that it didn't work. Is that correct?

4 THE WITNESS: Yes, sir.

5 CHAIRPERSON ANDERSON: Now, do you
6 know what the passcode is currently for your
7 camera system?

8 THE WITNESS: Yes. I give him the
9 code, KISS.

10 CHAIRPERSON ANDERSON: You going to
11 have to -- so if you gave them the code -- do
12 you know whether or not, either the police or
13 anyone -- have your camera system been returned
14 to you?

15 THE WITNESS: No. I don't know where
16 it is.

17 CHAIRPERSON ANDERSON: But do you know
18 why the police still have your camera system?
19 Do you know why?

20 THE WITNESS: I don't know, sir.
21 Until now, I didn't ask, but it's still they
22 have it. They didn't have permission to take
23 it. I told him they cannot take it, because
24 you can talk to my lawyer, I have a lawyer
25 before you take it. But he did not care, he

1 just took the DVR and left.

2 CHAIRPERSON ANDERSON: But do you know
3 what they're doing with it?

4 THE WITNESS: They're trying to
5 investigate the incident, sir.

6 CHAIRPERSON ANDERSON: Now, I heard
7 Mr. Bianco had asked the question earlier, I'm
8 not sure if you were there. About other than
9 that no police had asked for a court order to
10 access the system. Are you aware of that?

11 THE WITNESS: No, sir.

12 CHAIRPERSON ANDERSON: No?

13 THE WITNESS: I mean, I'm not aware if
14 the MPD court order has happened.

15 CHAIRPERSON ANDERSON: But you're not
16 -- since they have taken the system, you have
17 not freely stated that here's the code --
18 here's the code if you want to view the video,
19 it cannot be done, that?

20 THE WITNESS: I did. I did give them
21 the code. But the code was changed by the
22 technician and I told the investigator to come
23 and wait until he comes. I was on the
24 speakerphone when I was talking to the camera
25 technician and he was listening to me. He's

1 like, I'm here, give me 20 minutes I'll be
2 there.

3 And he doesn't want to wait. He took the
4 DVR and left. I always give the video and I
5 have been an example and the experience of
6 giving the video to the MPD before several
7 times. And I have evidence in my hand too that
8 I've been compliant with them for the last four
9 or five years.

10 CHAIRPERSON ANDERSON: All right.

11 I don't have any other questions. Any
12 other questions by any of the board members?

13 All right. Mr. Asim, any questions of
14 the witness based on the questions that were
15 asked by the Board?

16 MR. ASIM: Yes, Mr. Chairman, I have a
17 few.

18 CHAIRPERSON ANDERSON: Sure.

19 RECROSS-EXAMINATION

20 BY MR. ASIM:

21 Q Mr. Asbeha, were you required under
22 your security plan to provide footage within 48
23 hours?

24 A Yes, sir.

25 Q And under your security plan, were you

1 prohibited from having illicit substances being
2 used at the establishment?

3 A Yes, sir.

4 MR. ASIM: No further questions.

5 CHAIRPERSON ANDERSON: Mr. Bianca, any
6 follow-up questions based on the questions that
7 were asked?

8 MR. BIANCO: No further questions.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you, Mr. Asbeha, thank you for your
11 testimony.

12 All right. Does -- Mr. Bianca, do you
13 have another witness?

14 MR. BIANCO: I do. We have two
15 witnesses under subpoena. I'm going to call
16 only one of them, Detective Philip Tridico.

17 CHAIRPERSON ANDERSON: Mr. --

18 MEMBER SHORT: Get out of here.

19 CHAIRPERSON ANDERSON: I'm sorry? I
20 don't know what I just heard. But anyway --

21 MR. BIANCO: It wasn't me.

22 CHAIRPERSON ANDERSON: All right. I
23 will leave it at that. We can tell whose
24 microphone is open from who's not. I know my
25 microphone is open.

1 Anyway, is that witness available?

2 MR. BIANCO: Yes, I believe so. I
3 haven't been told otherwise.

4 CHAIRPERSON ANDERSON: All right. So
5 Ms. Andrews, if the detective was -- Detective
6 whom?

7 MR. BIANCO: Philip Tridico. T-R-I-D-
8 I-C-O.

9 CHAIRPERSON ANDERSON: Is Detective
10 Tridico available to be elevated?

11 MS. ANDREWS: Mr. Chair, he has not
12 joined the meeting. He is not available to
13 testify today.

14 CHAIRPERSON ANDERSON: Thank you. I
15 don't know if -- is legal on the phone? I know
16 that subpoenas, I know that I did sign two
17 subpoenas. And I signed --

18 MS. JENKINS: Mr. Chairman?

19 CHAIRPERSON ANDERSON: Yes, Ms.
20 Jenkins.

21 MS. JENKINS: Yes, this is Martha
22 Jenkins. I can confirm that for the Board and
23 for the parties that the subpoenas that you
24 executed were served on the 3rd District
25 Metropolitan Police Department and were

1 received by the commander, who acknowledged
2 receipt and said that he would attempt to serve
3 the two detectives, or the two other officers
4 for whom the subpoenas were intended.

5 And I have no further communication
6 than that.

7 CHAIRPERSON ANDERSON: All right.
8 Thank you. Mr. Lui, do you have something to
9 add?

10 MR. LUI: Yes, if you unmute David
11 Augustine. He's actually in the same station
12 as -- Detective Tridico is next to Captain
13 Augustine, so if Simone could unmute and
14 elevate David Augustine.

15 MS. ANDREWS: David Augustine is a
16 panelist. He has to enable his camera and his
17 mic. He has that capability.

18 CAPT. AUGUSTINE: No, I do not.

19 Oh, there we go. I'm trying to get my
20 camera on. I can't get my camera on.

21 All right. Just give me the
22 opportunity. It won't let me mute myself or
23 otherwise or turn on the camera.

24 MS. ANDREWS: Okay, I'm going to make
25 you an attendee and try to bring you back as a

1 panelist. Stand by.

2 Mr. Augustine?

3 CAPT. AUGUSTINE: Yes, I'm here.

4 MS. ANDREWS: Are you able to turn on
5 your camera?

6 CAPT. AUGUSTINE: Nope. So just like
7 earlier I had that that system page and I'm
8 here now.

9 CHAIRPERSON ANDERSON: I think part of
10 the problem, I'm not quite sure if -- I'm not
11 sure who it is that we're talking to.

12 So who is --

13 CAPT. AUGUSTINE: Mr. Chairman, it's
14 Captain Augustine, I'm trying to -- we had
15 trouble with our link. So Detective Tridico
16 and Selgas aren't able to sign in. So we're
17 trying to use my link so they can sit there and
18 testify.

19 They are here. They're sitting right
20 outside my office. I'm just trying to connect
21 my video. It doesn't appear I have the same
22 connections I had earlier. The buttons I had
23 earlier where I could just turn myself on and
24 unmute myself. I'm trying to sit there and
25 work through that right now. I do apologize.

1 CHAIRPERSON ANDERSON: All right.

2 Okay, so all right.

3 CAPT. AUGUSTINE: But you can hear me,
4 correct?

5 CHAIRPERSON ANDERSON: Yes, I can hear
6 you.

7 CAPT. AUGUSTINE: We just need to get
8 the camera on?

9 CHAIRPERSON ANDERSON: Because I don't
10 know who is testifying.

11 CAPT. AUGUSTINE: Okay.

12 CHAIRPERSON ANDERSON: So if, I mean,
13 would it be -- let me ask the question. Mr.
14 Bianco, do you need to see the detective, or if
15 the detective --

16 MR. BIANCO: Yes, sir. We would like
17 to have the detective be seen to assess his
18 testimony by the Board and me as cross-
19 examining --

20 CHAIRPERSON ANDERSON: All right. So
21 let's get off the record.

22 (Whereupon, the above-entitled matter
23 went off the record at 2:46 p.m. and resumed at
24 2:49 p.m.)

25 CHAIRPERSON ANDERSON: We're back on

1 the record.

2 WHEREUPON,

3 DETECTIVE PHILIP TRIDICO

4 was called as a witness by Counsel for the
5 Respondent and, having been first duly sworn,
6 was examined and testified as follows:

7 CHAIRPERSON ANDERSON: All right, have
8 a seat. Your witness, Mr. Bianco.

9 DIRECT EXAMINATION

10 BY MR. BIANCO:

11 Q Okay. Detective Tridico, my name is
12 Richard Bianco I represent Kiss Lounge in this
13 case and I have a few questions and hope you
14 can help us with your testimony here.

15 A I'll do the best I can.

16 CHAIRPERSON ANDERSON: Can we start
17 with him spelling his -- can you please, sir,
18 state your name and spell your name for the
19 record, please?

20 THE WITNESS: I'm Detective Philip
21 Tridico. P-H-I-L-I-P, T-R-I-D, as in David, I-
22 C-O.

23 BY MR. BIANCO:

24 Q And Detective Tridico, where do you
25 work?

1 A Metropolitan Police Department,
2 Detectives Unit, Third District.

3 Q Okay. And what's your job there?

4 A I'm a detective.

5 Q How long you been doing that?

6 A Police work or detective?

7 Q Detective.

8 A I think about since, like, 2015.

9 Q Okay.

10 A Been a little while.

11 Q How about police work. How long have
12 you been doing that?

13 A 2006.

14 Q Okay. And are you familiar with Kiss
15 Lounge at 637 T Street Northwest?

16 A I am now, yes.

17 Q Okay. And did you have occasion to be
18 there on October the 7th, 2020?

19 A That's correct.

20 Q Okay. And are you conducting an
21 investigation into a shooting at that address?

22 A Yes.

23 Q Okay. And I don't want to go into the
24 specifics of the investigation. We're not
25 going to do that. What I want to focus on in

1 your testimony today is your interactions with
2 Mr. Asbeha, my client, the owner of the
3 establishment.

4 Okay? So we're going to stick to only
5 those facts.

6 A Okay.

7 Q How long were you there on October the
8 7th?

9 A You mean at the establishment?

10 Q At the establishment, correct.

11 A I couldn't even give you a ballpark
12 figure. I was there from the time we were
13 requested to come there by the officers and
14 then pretty much until we left. I don't even
15 know. It was a few hours. I would assume a
16 few hours.

17 Q Okay. And do you know Eyob Asbeha,
18 the owner of the establishment?

19 A I met him, yes.

20 Q Okay. And did you meet him for the
21 first time on October the 7th, 2020 or did you
22 know him before then?

23 A I think I have had contact with him
24 prior to that, just requesting video in the
25 block. But I can't say for certain.

1 Q Okay. And did you speak with him
2 about the incident on October the 7th, 2020?

3 A I just spoke to him, pretty much --
4 yes, I spoke to him about the incident, but
5 there were two things I guess I asked of him.

6 Q Okay. And what were those two things?

7 A I asked him for consent to search the
8 inside of the establishment, which he
9 cooperated completely. And also I asked for
10 the password for the video DVR or whatever that
11 is, his recorder system.

12 Q Okay. So let's focus on that second
13 one.

14 A Okay.

15 Q Did you just flat out ask him for it?
16 What's the passcode?

17 A I think we had a conversation. I
18 don't think I just -- there one point in time,
19 I said, can you give us the passcode. But I
20 think there was a conversation in there. I
21 don't know exactly what our entire conversation
22 entailed.

23 Q Okay. And --

24 A -- but I wasn't the first one that
25 asked him for the passcode.

1 Q Okay. When you asked him for the
2 passcode, how did he respond?

3 A He said that he at that time was
4 refusing not to give it to us based on an
5 interaction that he had with another detective.
6 He was cooperative, but he just didn't want to
7 give -- he had spoken to, I believe, an
8 attorney or someone and he said that he just
9 didn't feel comfortable giving it at that time,
10 because they had taken the system out of the,
11 you know, building.

12 Q Okay. So you asked him for the
13 passcode after the DVR had been removed from
14 the property?

15 A I believe so.

16 Q Okay. Did somebody else ask him for
17 the passcode earlier?

18 A I believe it was Detective Gatling.
19 He was the other detective that was on the
20 scene with me that day. And they had an
21 interaction prior to me talking to -- well, I
22 probably may have been talking to him, but I
23 didn't realize that that had transpired.

24 Q Okay. So you didn't witness the
25 discussion between the owner of the

1 establishment and this Detective Gatling?

2 A No.

3 Q Okay. Do you know when that took
4 place?

5 A What took place?

6 Q The discussion between my client and
7 Detective Gatling?

8 A I think it was soon after we got -- I
9 got to the scene. I don't know exactly what
10 time it was, sir. I know that I was dealing
11 with some witnesses that were possibly in the
12 establishment at the time when we believe the
13 offense occurred. But I don't know the exact
14 time.

15 Q Okay. Are you the detective that is
16 in charge of this particular investigation?

17 A Currently, I'm the lead detective in
18 the investigation, sir.

19 Q Okay. Was there a previous lead
20 detective in the investigation before you took
21 it over?

22 A No.

23 Q Okay. Did you make the decision to
24 seize the DVR in this case?

25 A I didn't seize the DVR, that was done

1 by Detective Gatling -- Detective Gatling took
2 the DVD from the location, from what I
3 understand, and then after that, we had it in
4 our possession, we took it to the 3rd District
5 and safeguarded it and it's under review of a
6 pending search warrant.

7 Q Okay. Have you ever had occasion in
8 the past to request video footage from my
9 client?

10 A I think I personally have. I think
11 that's where I met him before. I don't know
12 when or -- you have to realize how many cases
13 we have and how much video we go through. But
14 I think that I have met him before. I think
15 that's how I met him was asking video --

16 Q And in those --

17 A -- for video.

18 Q In those previous cases, did he
19 provide it in a timely manner?

20 A From what I can recall. I just don't
21 know. You know, I just get so many cases, some
22 people say, yes, they give me video they don't
23 even know. But I believe maybe he's given it
24 to me in the past. I just can't tell you
25 exactly when and where and how.

1 Q Sure. As the lead detective in the
2 case, do you happen to know how long it took
3 the police to respond in this particular
4 instance?

5 A To the location itself?

6 Q Correct. Correct. To the location
7 itself.

8 A I believe there was an officer nearby.
9 I believe there was an officer nearby. I don't
10 know how far away he was, but he was near the
11 location.

12 Q Okay. So do you know if it's 30
13 seconds, two minutes, five minutes, 15 minutes?
14 Do you have any --

15 A I don't want to assume that. I know
16 it was quick, but I can't give you an exact
17 time. You'd have to ask the officers that went
18 there.

19 MR. BIANCO: Okay. And by the time
20 that -- strike that. No further questions.
21 Thank you.

22 CHAIRPERSON ANDERSON: Mr. Asim, your
23 witness.

24 CROSS-EXAMINATION

25 BY MR. ASIM:

1 Q Detective Tridico, before today, have
2 you received this passcode to the surveillance
3 footage?

4 A No, I haven't received the passcode.
5 But I -- not that I'm aware of, I haven't
6 received the passcode. Sorry about that.
7 Excuse me. Yes.

8 Q Okay. Do you know the passcode to
9 this surveillance footage?

10 A Are you asking me?

11 Q Yes, Detective.

12 A No, I don't have the -- I don't know
13 it. Q And MPD is currently waiting for a
14 warrant to search the footage?

15 A That's correct.

16 MR. ASIM: No further questions.

17 CHAIRPERSON ANDERSON: Any questions
18 by any board members? All right, I have a
19 question.

20 Detective, why did MPD seize the DVD?

21 THE WITNESS: I believe -- you'd have
22 to ask Detective Gatling, I wasn't in the
23 conversation. But anytime that we have an
24 incident and we feel that we have a
25 vulnerability to lose the evidence, we're going

1 to do everything we can to safeguard and
2 protect and preserve that evidence.

3 And at this time, he must have felt,
4 and I'm assuming this, that maybe we weren't
5 going to get the evidence and we didn't want it
6 to be lost.

7 CHAIRPERSON ANDERSON: So do you --
8 and if you don't know the answer, just say you
9 don't. Do you know whether or not there had
10 been a conversation with MPD and the licensee
11 regarding accessing the DVD? I'm trying to --
12 I think part of the issue that we're having, at
13 least I'm having, is that did MPD ask for the
14 passcode and he refused to give it them, or
15 what? I'm just trying to find out.

16 THE WITNESS: I don't know the
17 interaction between Detective Gatling and the
18 owner. But when I asked him, and this was
19 later after we had taken the DVD or recorder
20 out of the establishment, MPD had taken it out,
21 I went back to the owner and said, hey, I said
22 I understand the videos there, can we get the
23 passcode.

24 And he just told me he wasn't
25 comfortable at the time providing the passcode

1 to the -- and he -- at first, first he said he
2 was trying to get the passcode. And then he
3 said he wasn't comfortable with giving us the
4 passcode.

5 CHAIRPERSON ANDERSON: So he
6 specifically told you that he was uncomfortable
7 providing the passcode. Is that correct?

8 THE WITNESS: He told, yes -- he said
9 he had talked to his attorney and right now,
10 because of everything that had transpired. I
11 think that was how it was taken out of the
12 establishment, I don't think he felt -- I think
13 he felt uncomfortable, and that's what he said.
14 He was uncomfortable with doing it and
15 providing it right now.

16 CHAIRPERSON ANDERSON: And I just want
17 for the record to clear, that is a conversation
18 he had with you, is that correct?

19 THE WITNESS: Yes. He had a
20 conversation with me that he wanted to get --
21 he was talking to his attorney or whatever at
22 the same time or on text or whatever, and I
23 said, hey, sir -- because I had a consent to
24 search form. And I said can we do this, you
25 know, to search the laptop and he's like, after

1 everything that happened here, I'm
2 uncomfortable with providing you that.

3 But I don't even know if he still -- I
4 don't even know if he had it, because he was
5 still working on trying to get the password
6 when I earlier talked to him.

7 CHAIRPERSON ANDERSON: All right. All
8 right. I don't have any other questions. Any
9 other questions by any of board members?

10 All right. Mr. Asim, do you have any
11 questions of the witness, based on the
12 questions that were asked by the Board?

13 MR. ASIM: I do not.

14 CHAIRPERSON ANDERSON: Mr. Bianco?

15 MR. BIANCO: No, sir.

16 CHAIRPERSON ANDERSON: All right.
17 Detective, thank you very much for your
18 testimony. Please do not discuss the nature of
19 the case, at least this aspect of the case with
20 anyone until this case is over. So thank you
21 very much, sir, for your testimony.

22 THE WITNESS: Thank you gentlemen, I
23 appreciate it.

24 CHAIRPERSON ANDERSON: All right then,
25 thank you.

1 THE WITNESS: Do you want me to send
2 the other officer in?

3 CHAIRPERSON ANDERSON: I don't -- no,
4 I don't believe that Mr. Bianco -- Mr. Bianco
5 is not calling him as a witness, that's my
6 understanding. Is that correct?

7 MR. BIANCO: That's correct, Chairman.

8 CHAIRPERSON ANDERSON: Thank you. So
9 you can log off. Thank you very much.

10 THE WITNESS: Okay. Thank you.
11 Appreciate it, have a good day.

12 CHAIRPERSON ANDERSON: You too. Thank
13 you.

14 Mr. Bianco, do you have another
15 witness?

16 MR. BIANCO: I do not. The Respondent
17 rests.

18 CHAIRPERSON ANDERSON: All right. I
19 know that the government had introduced -- did
20 both parties get to introduce all the documents
21 that they want -- move all the documents that
22 they want to moved into evidence?

23 MR. ASIM: Yes, Mr. Chairman. The
24 Government introduced Exhibit 1, which is the
25 investigative report created by Investigator

1 Puente.

2 CHAIRPERSON ANDERSON: And Mr. Bianco
3 then you moved all. So your documents were
4 just a video. So you've moved all your
5 documents into evidence?

6 MR. BIANCO: Correct, we had six
7 photographs that we moved into evidence.

8 CHAIRPERSON ANDERSON: Okay. Fine.
9 All right. Closings. Government? At the same
10 time I will tell you what it is that the
11 Government is requesting that the Board do.

12 I know that we have to make a decision
13 today, I just request at your closing, I just
14 want the Government to make a recommendation to
15 the Board at least what it is that we're
16 looking at.

17 I know that there was a 96-hour
18 closure. The Board determined to keep the
19 facility closed until this hearing. So just
20 whatever recommendations the Government wants
21 to make, I look forward to hearing that also.

22 All right. Thank you. Go ahead, sir.

23 MR. ASIM: Members of the Board, today
24 the Government has proven by a preponderance of
25 the evidence that it is more likely than not

1 that the establishment conducted an illegal
2 marijuana pop-up operation on the premises and
3 that it permitted a gun to be discharged
4 inside.

5 Accordingly, the Government has met
6 its burden under D.C. Code Section 25-826, that
7 the establishment presents an imminent danger
8 to the health and safety of the public and
9 should remain summarily suspended.

10 You heard testimony from Captain
11 Augustine who told you, based on his
12 observations and knowledge, that there was a
13 marijuana pop-up party unlawfully taking place
14 at the establishment.

15 You heard from him that this is a very
16 dangerous event to take place, and that even
17 yesterday, he investigate a homicide relating
18 to a marijuana pop-up party.

19 You heard testimony from him that
20 there was likely a shooting inside because of
21 the spent shell casings that were found inside
22 the establishment and the live bullets that
23 were found in the establishment.

24 Through his trainings, through his
25 experiences with firearms, Captain Augustine

1 testified that when a firearm is discharged, a
2 spent shell casing lands close to the firearm
3 that was discharged.

4 You heard from him that the front door
5 of the establishment was undamaged, indicating
6 that whatever incident happened occurred inside
7 the establishment.

8 You heard from him that a fight or
9 struggle likely took place inside the
10 establishment because of the disarray that he
11 witnessed inside.

12 You heard that MPD attempted to
13 receive a passcode to view the establishment's
14 video, but that the owner has not yet provided
15 this passcode more than three weeks later.

16 You heard from Captain Augustine that
17 no one affiliated with the establishment called
18 9-1-1, and you also heard that the
19 establishment presents a danger to the public
20 from these marijuana operations.

21 And I would like the Board to take
22 judicial notice of the Mayor's orders regarding
23 the COVID pandemic; especially in this climate
24 and environment, the dangers of a marijuana
25 pop-up party are amplified.

1 You heard today from Investigator
2 Puente, based on his observations and his
3 knowledge, that there was a marijuana pop-up
4 party that had been taking place at the
5 establishment.

6 You heard that there was extensive
7 damage to the windows and glass doors. You
8 heard that ABRA did not receive video
9 recordings of the incident from the Respondent.
10 And that the establishment had violated its own
11 security plan, which required them to provide
12 the footage within 48 hours.

13 And furthermore, they violated the
14 security plan by allowing for the consumption
15 of marijuana.

16 Members of the Board, none of the
17 Respondents testimony contradicts the
18 District's clear evidence, which shows that
19 there was a shooting inside.

20 Mr. Asbeha testified that he knew his
21 cousin was managing the establishment, and we
22 saw from evidence from MPD and ABRA that a
23 marijuana pop-up operation happened.

24 Regardless of whether Mr. Asbeha knew
25 or approved, there was a marijuana pop-up

1 operation occurring in his establishment
2 because of his management. His management was
3 allowing this to take place.

4 And you heard testimony that it's
5 possible that there was a shooting that could
6 have taken place inside the vestibule and not
7 further inside the establishment.

8 However, regardless of whether there
9 was a shooting in the vestibule or further into
10 the establishment, there was a shooting that
11 likely took place here in the establishment and
12 not outside.

13 Therefore, this establishment poses a
14 danger to the public. And the Government has
15 met its burden and asks the Board to continue
16 Kiss Tavern's summary suspension under D.C.
17 Code Section 25-826. Thank you.

18 CHAIRPERSON ANDERSON: Thank you. Mr.
19 Bianco, the same question and what it is that
20 you're asking the Board to do.

21 MR. BIANCO: Sure. On behalf of the
22 Respondent, we're asking that the Board lift
23 the summary suspension.

24 What we're here to decide today is
25 whether the establishment presents an imminent

1 danger to the health and welfare of the public,
2 which cannot be cured by any corrective
3 measures. And that's not the case that we have
4 here today.

5 It's important to note that when the
6 Chief of Police summarily closes an
7 establishment, the Chief is statutorily
8 required to base the summary closing on
9 objective criteria, including incident reports,
10 arrests, and reported crime within the previous
11 18 months and 1,000 feet of the establishment.

12 Here the Chief included some of these
13 incidents in the closure notice. In the 18-
14 month period they listed six incidents. Five
15 of them are more than a year old. Zero of them
16 resulted in a ABRA violation. Zero.

17 Of the six, only two even resulted in
18 an investigation by ABRA of any kind. This is
19 not the type of record which merits a finding
20 of imminent danger, which cannot be ameliorated
21 by presently available measures.

22 In the years that I've been doing
23 this, it is in very rare cases that the Board
24 actually makes that finding and indefinitely
25 keeps an establishment closed without allowing

1 a reopening, even when corrective measures are
2 necessary, and there's two that come to mind in
3 particular.

4 One within the last couple of years
5 and one a little bit older, and I think they
6 bear mentioning. And the first one that comes
7 to mind is in the case of Cedar Hill in
8 Uniontown in which there was a series of
9 events, such as concealing evidence in a
10 stabbing, cleaning up a crime scene, and all of
11 the misdeeds that went on culminated in the
12 attempt to bribe an ABC official. That's a
13 very different record than we have here.

14 The other one that comes to mind is a
15 little bit older. It's from back in 2009.
16 It's Club H2O down on the waterfront. And in
17 that case the Board decided to summarily
18 revoke, indefinitely suspend the establishment
19 where two stabbings and a third violent
20 incident all occurred within the same day.
21 This is not the case that we have here.

22 This is not a case where whatever it
23 is the Government tried to prove today would
24 merit a summary closing to be continued
25 indefinitely.

1 Although it's not the Respondent's
2 burden to prove, we have shown that Thomas
3 MacCoy, the security guard acted appropriately
4 in stopping the entry of an armed gunman, who
5 upon being rejected, took out a firearm and
6 fired into the establishment.

7 I don't know where the Government gets
8 its argument that a shooting clearly took place
9 inside the establishment. There's no evidence
10 of that. The only evidence is a bullet hole
11 through the front window into the back of a
12 couch, which was not damaged on the front side
13 of the couch.

14 There's no way, there's just no way
15 and it does not take a ballistics expert. It's
16 just a simple matter of common sense that
17 bullet could not have been fired from inside
18 the establishment and broken a window in the
19 manner that the photographs show.

20 There's no additional bullet damage
21 inside and according to MPD, there were some
22 shell casings and rounds found, which their
23 witness testified absolutely could have been
24 kicked, moved, or otherwise pushed further
25 inside the establishment in the ensuing

1 scuffle.

2 The agency attempts to pin additional
3 violations on my client with specifically the
4 claims that the police -- that my client didn't
5 cooperate with MPD's investigation and wouldn't
6 provide a PIN number to access certain video
7 footage.

8 But you didn't hear that from the
9 person who my client allegedly refused it to.
10 In fact, MPD and none of their documents or
11 testimony was even able to identify a person
12 who my client allegedly refused to provide a
13 video PIN number to in this process.

14 What you did hear directly from my
15 client is that he did provide it, and when it
16 didn't work, he offered to have the technician
17 come down, access the video immediately.
18 Instead of taking him up on that offer, the
19 Detective pulled the DVR out of the wall and
20 left with it.

21 Didn't get my clients permission, and
22 in fact, did not even tender a written request
23 until after he had absconded with the system.
24 This is not how this is supposed to work.

25 My client had previously cooperated

1 with MPD on video requests and there was no
2 reason to believe in this case that he would
3 not have done the exact same thing.

4 And with respect to the claim that
5 there was a marijuana pop-up event being held
6 at the establishment, again, zero direct
7 evidence. Zero direct evidence based on -- MPD
8 testified based on their training, this is what
9 these things look like.

10 No transactions, no individuals in the
11 establishment at all at the time of the walk
12 through and merely some remnants of marijuana
13 or marijuana products. Both of which are
14 illegal for individuals to carry, whether
15 they're in ABC establishments or not.

16 At the end of the day, the Board has a
17 very difficult calendar today. There are a
18 number of, dozens in fact, cases where
19 establishments are closing and the industry, as
20 a whole, is dying right in front of our eyes.
21 Nobody's helping, and it's really sad.

22 And even though you can't do anything
23 about the establishments that can't pay their
24 bills, or renew their licenses, or make it work
25 anymore, you can do something here.

1 You don't need to close this
2 establishment and put another dozen people out
3 of work. Even if you believe my client did
4 something wrong here, even if you believe that,
5 you're not required to close him forever.

6 You're not required to put these
7 people out of work. You merely have to find
8 some corrective measure that's appropriate to
9 allow him to reopen, to allow his employees to
10 make money, to allow him to feed his family.
11 And that's what we ask that you do. Thank you.

12 CHAIRPERSON ANDERSON: All right.
13 Thank you, Mr. Bianco. Thank you, Mr. Asim for
14 your presentation. As you aware this is a
15 summary suspension hearing and so the Board
16 will have to make a decision today and we will
17 make this decision. All right.

18 As Chairperson of the Alcohol Beverage
19 Control Board for the District of Columbia, in
20 accordance with D.C. Official Code Section 2-
21 574(B) of the Open Meetings Act, I move that
22 ABC Board hold a closed meeting for the purpose
23 of seeking legal advice from our counsel on
24 case number 20CMP00110 and 20CMP00110A Kiss
25 Tavern, pursuant to D.C. Official Code Section

1 2-574(B)(4) of Open Meetings Act and deliberate
2 upon case number 20CMP00110 and 20CMP00110A
3 Kiss Tavern for the reasons cited in D.C.
4 Official Code Section 2-574(B)(13) after Open
5 Meetings Act. Is there a second?

6 MEMBER SHORT: Mr. Short, I second.

7 CHAIRPERSON ANDERSON: Mr. Short has
8 second the motion. We will now have a roll
9 call both on the motion that has been properly
10 seconded by Mr. Short.

11 Mr. Short?

12 MEMBER SHORT: Mr. Short, I agree.

13 CHAIRPERSON ANDERSON: Mr. Cato?

14 MEMBER CATO: Cato, I agree.

15 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

16 MEMBER WAHABZADAH: Wahabzadah, I
17 agree.

18 CHAIRPERSON ANDERSON: Ms. Crockett?

19 MEMBER CROCKETT: Rafi Crockett, I
20 agree.

21 CHAIRPERSON ANDERSON: Ms. Hansen?

22 MEMBER HANSEN: Jeni Hansen, I agree.

23 CHAIRPERSON ANDERSON: And Mr.

24 Anderson, I agree. As it appears the motion
25 has passed 6-0-0 I give notice that the ABC

1 Board will recess these proceedings to hold a
2 closed meeting in the ABC Board conference room
3 pursuant to Section 2-574B of the Open Meetings
4 Act.

5 It is 3:19 p.m. I would say give us
6 about half an hour. So I would say 3:50 --
7 let's try to get back on the record at 3:50.
8 If we need more than, if need more time than
9 3:50, I will notify you that we need more time,
10 but we will -- you know what, let's reconvene
11 at 4:00.

12 I believe that should give the Board
13 enough time to make a decision. I don't want
14 to make a rushed decision and I still want to
15 give you some idea of how long you should wait.
16 So I will try my best that we can make a
17 decision by 4:00.

18 If we need more time than that, I will
19 send notice to let you know how much more time,
20 but say 4:00. So we will recess to adjourn at
21 4:00. And so the Board now will go and exit
22 into session and I would say do not logoff but
23 you can go get yourself some coffee knowing
24 that at least by 4:00 we'll come back. Okay?
25 All right. Thank you.

1 (Whereupon, the above-entitled matter
2 went off the record at 3:20 p.m. and resumed at
3 4:05 p.m.)

4 CHAIRPERSON ANDERSON: All right.
5 We're back on the record. Mr. Bianco, is your
6 client with you?

7 MR. BIANCO: Yes.

8 CHAIRPERSON ANDERSON: All right.
9 We're back on the record. All right, we're
10 back on the record for the summary suspension
11 hearing for Kiss Tavern, case number 20CMP00110
12 and case number 20CMP00110A.

13 As you know this is a summary
14 suspension hearing. When we have our
15 suspension hearing, we issue a decision and the
16 Board, by law we have three days to issue a
17 written decision.

18 And so what the recommendation that
19 I'm going to make to the Board in this matter
20 is that we're going to order that the
21 establishment provide us with an updated
22 security plan. The written order will specify
23 what needs to be provided in the security plan.

24 The establishment will not be able to
25 reopen until this updated security plan has

1 been provided to the agency and the agency has
2 approved of the security plan. And once the
3 agency has approved the security plan, then the
4 establishment can be reopened.

5 So that's my motion. The motion to
6 the Board is that the licensee be ordered to
7 provide us an updated security plan. There is
8 no timeline when the security plan it needs to
9 be provided to the agency.

10 But in the written decision that the
11 Board will provide -- will provide the licensee
12 with what this security plan needs to consist
13 of, and also that the establishment will not be
14 able to reopen until the agency has signed off
15 on this security plan.

16 Is there a second?

17 MEMBER SHORT: Mr. Short, I.

18 CHAIRPERSON ANDERSON: Mr. Short has
19 second the motion. I will now take a roll call
20 vote on the motion that has been second by Mr.
21 Short.

22 Mr. Short?

23 MEMBER SHORT: Mr. Short, I.

24 CHAIRPERSON ANDERSON: Mr. Cato?

25 MEMBER CATO: Bobby Cato, I agree.

1 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

2 MEMBER WAHABZADAH: Rema Wahabzadah, I
3 agree.

4 CHAIRPERSON ANDERSON: Ms. Crockett?

5 MEMBER CROCKETT: Rafi Crockett, I
6 agree.

7 CHAIRPERSON ANDERSON: Ms. Hansen?

8 MEMBER HANSEN: Jeni Hansen, I agree.

9 CHAIRPERSON ANDERSON: And Mr.
10 Anderson? I agree. The matter passes 6-0-0.

11 I would like to thank both parties for
12 their presentation today. And as this is the
13 first hearing -- this is the first full
14 hearing, or is it? I believe this is -- yes,
15 this is the first full hearing that we've had
16 since COVID, and it has worked out well with
17 just some minor technical issues.

18 So I want to thank the parties for
19 cooperating and that the technology allows us
20 to do this. So you will get a written decision
21 within three days that will have the specific
22 guidance that's required to be in the security
23 plan.

24 All right? Thank you very much.

25 MR. BIANCO: Thank you very much.

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MR. ASIM: Thank you.

CHAIRPERSON ANDERSON: All right then.
Bye. Take care.

MR. BIANCO: Thank you.

(Whereupon, the above-entitled matter
went off the record at 4:09 p.m.)

A	
A-S- 96:11	42:11 57:15
A-S-B-E 6:2	Adams/Morgan 20:17
A-S-B-E-H-A 6:11	add 133:9
A-S-I-M 5:1	additional 156:20 157:2
A-S-K-I-N-D-E-R 98:23	address 14:22 137:21
A-U-G-U-S-T-I-N-E	adjourn 161:20
15:25	adjust 5:18
a.m 4:2 90:7,7,8,9	Administration 63:17
ABC 1:10 2:4 53:2,6	Administrative 16:17
64:3 65:4 81:24 85:3	17:20 18:1
126:23,23 127:2,5,13	admissibility 7:21 8:4
155:12 158:15 159:22	69:10
160:25 161:2	admissible 66:15 69:24
able 13:6 15:1 27:22	admission 108:14
31:8 34:11,14 67:6	110:10 112:18 114:14
75:22 87:1,2,23 91:12	115:19 116:20
105:9 108:5 134:4,16	advertised 58:20 61:11
157:11 162:24 163:14	advertisement 34:24
above-entitled 135:22	57:10 108:11
162:1 165:5	advertisements 57:20
above-referred 108:22	57:22 58:15 75:15,18
110:12,19 112:19	advertising 57:13
113:1 114:15,21	advice 159:23
115:21 116:2,21	advised 66:3 77:14,24
117:2	affairs 120:13
ABRA 2:2,5 3:9 7:22	affiliated 10:8 35:2
9:21 19:9 24:1,2	151:17
62:19 63:19 67:24	affirm 15:15 62:23
70:18,19 77:19 81:8	afternoon 21:15 63:4
81:10,11 85:5 87:16	agency 11:3 13:5 14:8
87:16 88:8 90:24 91:4	79:17 157:2 163:1,1,3
91:5 152:8,22 154:16	163:9,14
154:18	agree 56:23 160:12,14
ABRA's 106:10	160:17,20,22,24
absconded 12:19	163:25 164:3,6,8,10
157:23	agreed 6:21 7:5,9,12,14
ABSEHA 6:10	7:16,20 8:3 69:23
absolutely 36:13 38:1	94:3
38:10 39:8 45:15,19	agreement 8:13 55:23
156:23	56:19,24 90:21
academy 18:10,18,24	agreements 53:16,17
access 35:19 60:21	ahead 8:25 10:19,20
81:19 105:9 129:10	38:17 63:8,8 68:14
157:6,17	70:7 74:4 79:23,25
accessing 145:11	89:25 96:6 99:10
acknowledged 133:1	104:2 106:9,18
acoustics 15:2	149:22
act 60:19 159:21 160:1	air 21:23
160:5 161:4	alcohol 26:3,5 73:15
acted 156:3	90:4,14 127:17
acting 37:25	159:18
action 80:17 126:4	Alcoholic 1:2,14 9:8
actions 13:2	63:16
active 37:10 39:20 58:1	ALIYA 1:19
activities 19:7	ALJs 14:9
activity 80:21	alleged 103:10
actual 17:4 32:9 40:9	allegedly 157:9,12
	alley 49:20
	allow 48:1 159:9,9,10
	allowed 80:10 122:5
	allowing 152:14 153:3
	154:25
	allows 164:19
	altercation 27:13 32:24
	44:15,20,24 45:9,24
	49:1
	ameliorated 12:2
	154:20
	amiss 22:2
	amount 22:17 25:25
	amplified 151:25
	ANC 1:8
	and/or 19:8
	Andrews 2:2 4:5,8,10
	66:19 68:1 107:8
	132:5,11 133:15,24
	134:4
	answer 23:18 39:6
	40:25 41:8 58:9,11
	84:10 145:8
	answered 13:17
	anybody 87:11 88:8
	anymore 158:25
	anytime 144:23
	anyway 93:13 106:16
	131:20 132:1
	apologize 134:25
	appear 21:25 28:9
	41:14 134:21
	appeared 24:8 25:1
	26:15 78:20
	appears 112:2 160:24
	applied 54:23 55:1
	appreciate 147:23
	148:11
	approach 14:6
	approached 12:5 71:3
	appropriate 13:2 80:16
	93:10 159:8
	appropriately 156:3
	approved 152:25 163:2
	163:3
	approximately 20:9
	23:1,3 63:23 70:9,11
	70:15
	area 17:12 20:17 21:19
	21:20 24:11,13,17,19
	24:20 26:3 28:25 29:3
	47:5,13,15 48:4,8,18
	49:2,6 60:5,6,8 71:21
	73:5 86:11,11,13 87:7
	89:10 111:6
	areas 19:8 25:19 28:6
	aren't 134:16
	argue 103:8
	argument 156:8
	armed 156:4
	arrangement 106:15,22
	106:23
	arrests 154:10
	arrived 13:14 22:7,23
	23:2,11,13,23 27:7,12
	70:14,22 97:22
	articulate 78:24
	Artois 75:4
	Asbeha 2:2 3:5 6:2,7,11
	13:16,22,25 95:6,9,10
	95:16 96:11 119:13
	120:2 123:5 124:14
	125:10 130:21 131:10
	138:2,17 152:20,24
	Asim's 92:23
	asked 40:24 41:4,6,9,12
	41:23 77:14 79:8
	81:14 87:19,21 91:17
	91:23 92:16 93:2
	99:15,17 100:5,16
	101:22 103:6,16
	104:6,17 118:3 129:7
	129:9 130:15 131:7
	139:5,7,9,25 140:1,12
	145:18 147:12
	asked 45:7
	Askander 97:16,17
	98:23
	asking 58:12,16,17
	59:11 93:7 105:4
	118:7,23 122:6
	142:15 144:10 153:20
	153:22
	asks 153:15
	aspect 147:19
	assess 135:17
	assigned 17:19
	assist 64:9
	assistant 16:24
	assisted 65:20
	associate 61:18
	assume 45:2 138:15
	143:15
	assumed 24:15
	assuming 145:4
	assumption 60:16
	attached 31:14 72:1,18
	73:18 74:12 75:13
	84:12 85:7 106:3
	122:21,24
	Attachment 84:13
	attempt 133:2 155:12
	attempted 12:6 151:12
	attempts 157:2
	attended 18:14,15,17
	18:19
	attendee 133:25

attention 72:1,18 73:17
74:12 75:12
attorney 5:16 140:8
146:9,21
attorney's 55:7 95:21
Audio 40:20 42:5
authenticated 66:15
authenticity 7:21 8:3
69:9
authorize 117:20 126:5
authorized 125:18
126:19
available 81:6,9 91:1
132:1,10,12 154:21
Avenue 19:20 25:4
43:16,25 105:1
aware 44:21 55:19 56:1
59:24 79:16 80:14
88:7 105:8 106:24
107:6 117:25 120:16
120:20,23 129:10,13
144:5 159:14

B

B-E-A-R-K-I 127:11
B-E-H-A 96:12
B-I-A-N-C-O 6:1
back 12:16 16:19 17:14
25:4 26:1,15 29:2
30:22 32:7 42:4 43:9
43:15 46:1 56:17
71:23 75:2 76:16
77:23 78:6 93:1 94:15
94:20,23 100:4 119:8
133:25 135:25 145:21
155:15 156:11 161:7
161:24 162:5,9,10
backside 3:15 116:12
bad 14:17
badge 98:13
bag 109:25
bags 73:14,15 109:25
ballistics 123:16,17
156:15
ballpark 138:11
bank 37:14
bar 24:12 28:24 29:3
47:15 49:6
barrel 27:1 31:13
base 154:8
based 9:23 41:8 45:6
82:14,22,22 91:16,22
92:20 130:14 131:6
140:4 147:11 150:11
152:2 158:7,8
basic 18:14,23 42:17
43:1 58:23
basically 29:7 42:14

basis 82:10
bear 11:18 155:6
Bearki 127:8
beer 75:4
beginning 82:6
behalf 5:12 153:21
believe 16:12 19:21
25:22 26:4 33:8 36:3
36:24 39:8,24 40:6,16
41:16 45:8 48:25
51:23 52:4,7,21 53:11
54:9,10 55:7,8 58:10
58:12,19 60:2,12 66:5
69:16 72:7,20 81:13
85:18 86:17 87:18,24
88:11 89:9 90:5,6,13
92:3,14 132:2 140:7
140:15,18 141:12
142:23 143:8,9
144:21 148:4 158:2
159:3,4 161:12
164:14
believed 12:10 51:22
52:20
best 11:16 136:15
161:16
better 11:7,19 67:15
Beverage 1:2,14 9:8
63:16 159:18
beyond 28:24
Bianca 10:14 38:14
131:5,12
bills 158:24
bit 68:5,7 83:22 155:5
155:15
black 98:13 107:23
block 21:19,20 138:25
blocked 100:14,15
blocking 76:12
board 1:2,10,14 2:4
4:24 5:10 6:24 9:2,7
9:16 10:22 11:23
59:21 81:24 89:22
90:19 91:17,23 94:17
124:9,24 125:9
130:12,15 132:22
135:18 144:18 147:9
147:12 149:11,15,18
149:23 151:21 152:16
153:15,20,22 154:23
155:17 158:16 159:15
159:19,22 161:1,2,12
161:21 162:16,19
163:6,11
Board's 37:9 125:6
Boards 14:9
Bobby 1:18 163:25
body 23:20 24:22,22

book 117:21
boot 3:14
booth 3:14,15 12:16
86:18 113:9,10,20
114:10,11 115:3,16
116:10,11,12 117:8
booths 25:16 122:18,23
123:3
bottle 33:16 75:4
bottom 86:11
brass 27:2,3
break 94:3,10,15
breaking 101:18
bribe 155:12
brief 57:6 59:17 89:16
briefed 23:13 71:7
bring 30:10 119:6
133:25
bringing 30:14
broke 57:17 59:9
broken 24:16 26:9,16
28:23 29:13 31:16,19
72:11 85:20 102:3
156:18
brought 10:1 99:13
brown 73:14
bud 73:13
building 140:11
bullet 24:19 26:22
28:23 31:16,19 32:20
32:22 46:21 48:10,16
48:17 71:22 72:15,24
85:15,21 86:1,4,14
87:2 114:6 115:11,13
116:16 117:10 156:10
156:17,20
bullets 26:12 30:18,19
30:21,22 31:6 37:20
37:21 46:21 122:4
123:19,20,22 124:1
150:22
burden 150:6 153:15
156:2
Bureau 18:18
burn 81:3
burnt 75:3
business 36:17 75:7
96:20 107:25 124:25
125:11,19
businesses 78:15
buttons 134:22
buy 19:11
Bye 165:3

C

C-O 136:22
café 76:22
calendar 4:4 158:17

call 9:20 15:8,10 21:5,6
21:7,7,11,14 24:11
35:3 60:13 61:16
62:19 70:9,10 109:6
110:7 131:15 160:9
163:19
called 10:9 13:12 95:17
97:13,15 101:12
102:7 136:4 151:17
caller 21:18
calling 21:18 95:6
148:5
calls 35:6 79:10
camera 5:19 14:23
23:20 24:22,23 35:13
42:6 43:3 51:25 52:2
52:11 90:22 95:13
104:23 105:2 128:2,7
128:13,18 129:24
133:16,20,20,23
134:5 135:8
can't 36:19 38:24 48:19
51:21 52:5 55:21 87:3
88:4 93:1 98:25
108:10 123:20 133:20
138:25 142:24 143:16
158:22,23
cannabis 33:16
capability 133:17
capacities 17:9
Capitol 17:12
CAPT 2:3 133:18 134:3
134:6,13 135:3,7,11
captain 9:21 15:10,21
16:8,11,14,14,17
17:23,24 18:1 20:21
36:8 38:11,18 40:11
40:18 41:16 43:7 50:6
50:9 59:24 62:9 66:2
71:3,11 76:17 77:24
82:11 133:12 134:14
150:10,25 151:16
capture 99:6
car 97:24 101:18 102:3
card 103:22
cards 75:8 78:15
102:15
care 128:25 165:3
carefully 14:15
carry 158:14
cars 102:1
case 1:9 4:3,4,6 6:16,16
6:18 10:22 14:15 27:3
34:3 54:15 62:11 70:1
81:3 91:21 92:3,4,15
93:16 103:12 104:20
136:13 141:24 143:2
147:19,19,20 154:3

155:7,17,21,22 158:2
159:24 160:2 162:11
162:12
cases 9:3 37:2,2 65:4
104:17 142:12,18,21
154:23 158:18
casings 26:7,10,20,21
26:22 27:2 28:14,16
28:25 29:8,17 30:4
31:11,14,20 151:2
casings 27:20 30:10,14
31:4,6 33:17 75:10
122:8 150:21 156:22
Cato 1:18 160:13,14,14
163:24,25,25
cause 48:21,22
caused 45:21
causing 10:5
caveat 40:5
Cedar 155:7
cell 67:15,25
certain 6:21 138:25
157:6
certainly 57:1
chair 4:16 15:20 24:13
24:20 40:8 78:25
89:23 90:16 106:6
109:11,14,14 111:21
119:24 132:11
Chairman 6:19 8:23
59:23 62:18 67:18
68:21 78:22 91:18
92:19 93:20 124:11
130:16 132:18 134:13
148:7,23
chairs 24:25 25:2 27:8
27:16 28:8 45:7 73:6
122:14
chance 92:22
change 101:24
changed 129:21
chaos 12:18 32:24
charge 16:23 141:16
charged 40:10
charging 14:11
check 22:2,3 50:14 51:1
61:2 78:14 85:4
109:24
checked 76:23 77:2
100:12
checks 64:8
Chief 9:6 17:22 22:21
38:6 77:25 83:1 154:6
154:7,12
cigarette 33:7
circumstances 33:22
54:6
cited 85:2 105:16 160:3

city 19:17 20:5 22:19
claim 158:4
claims 157:4
clarification 42:15
83:23
clarify 26:19 48:25
classes 18:14,15
cleaning 155:10
clear 44:13 101:23
102:6 108:9 146:17
152:18
clearly 156:8
client 6:2,5,5 55:13
57:3 59:18 83:5,10
87:15,17 88:9,23
89:17 95:23 96:1,3
98:17 138:2 141:6
142:9 157:3,4,9,12,15
157:25 159:3 162:6
client's 89:5
clients 157:21
climate 151:23
close 30:5,6 126:12
151:2 159:1,5
closed 28:6 71:18
108:1,2 121:16,22
122:2 149:19 154:25
159:22 161:2
closely 65:3
closes 154:6
closing 28:7 149:13
154:8 155:24 158:19
Closings 149:9
closure 1:10 9:18 38:9
78:1 82:25 83:4 84:14
149:18 154:13
clothes 12:11
Club 155:16
co-counsel 5:2,4 66:11
72:20
code 9:6 13:23,25
35:21,24 36:2,5 52:12
55:14,17,20 56:2,15
60:21 61:2 88:2,2,8
128:9,11 129:17,18
129:21,21 150:6
153:17 159:20,25
160:4
coffee 161:23
color 27:2
colored 27:3
Columbia 1:1 4:25 5:12
33:6 61:24 64:4
124:15,19 159:19
combined 33:14 38:7
come 14:1 21:22 29:24
64:23 97:5 98:4,9,12
100:3,16,24 102:7

109:7,9 119:5,7,8
121:6,15 129:22
138:13 155:2 157:17
161:24
comes 129:23 155:6,14
comfortable 140:9
145:25 146:3
coming 67:13 100:20
121:20
commander 16:25
22:10,11 23:7,8 133:1
commercial 19:8
common 39:2 80:18
156:16
commonly 33:13,22
64:21
commotion 27:11,18
29:20 45:22 60:6,18
60:19
communication 56:1
133:5
company 101:10
completed 62:12 93:16
completely 14:12 139:9
compliance 64:8
compliant 130:8
Compromise 6:23 7:2
concealed 12:11
concealing 155:9
conclude 47:3 61:5
concluded 46:20
concludes 8:8
conclusion 44:24 82:10
82:19
conclusions 82:7,8
conduct 64:2,13
conducted 64:14 78:14
150:1
conducting 13:15
137:20
conference 161:2
conferred 6:20
confident 34:21
confirm 132:22
confiscated 56:12
connect 134:20
connections 134:22
consent 13:18 103:6,7
103:14,17 139:7
146:23
conservative 20:1
considerable 25:25
consideration 59:8
93:10
considered 55:4
consist 7:22 8:5 18:21
163:12
consistent 45:13 47:1

48:16
consuming 26:5
consumption 10:10
62:1 152:14
contact 138:23
contain 57:12
contained 39:17
containers 33:5 90:14
contains 54:10
content 7:24 69:13
contents 3:1 41:18
69:16
continue 78:8 153:15
continued 9:16 155:24
contradict 13:6
contradicts 152:17
Control 1:2,14 159:19
conversation 88:5
139:17,20,21 144:23
145:10 146:17,20
conversations 102:24
cooperate 157:5
cooperated 13:16
139:9 157:25
cooperating 164:19
cooperation 53:13
cooperative 49:17 51:6
51:11 54:20 56:20
140:6
Copies 81:8
copy 57:15 91:2
corner 86:3
correct 8:15 43:10,16
45:10 46:18 47:22,23
48:2,9,13 49:4,5,8
51:7,12 52:13,14,18
55:14,15 56:11 74:1
82:16 83:6,11 84:15
84:19,24 85:8,16,19
85:22,25 88:23 104:8
109:13 118:18 126:20
127:14,17,23 128:3
135:4 137:19 138:10
143:6,6 144:15 146:7
146:18 148:6,7 149:6
corrective 12:2 14:19
154:2 155:1 159:8
correctly 99:7
corridor 3:12 109:7
corroborated 34:8
couch 156:12,13
couches 122:11,12
couldn't 11:4 97:7
138:11
counsel 2:4,4 95:17
136:4 159:23
count 20:18
couple 36:16 155:4

course 18:23 65:2
79:12 80:16 122:25
court 36:7 55:5 99:4,6
129:9,14
cousin 97:12,15,19
98:17,19 120:6,9,13
121:4 124:4 125:18
126:5,14 127:1,22
152:21
cousins 97:4
cover 57:8 105:24
106:1
covered 114:10,11
covering 57:7
COVID 125:24 151:23
164:16
created 148:25
crime 42:18 43:2,6 53:9
58:24 70:24 154:10
155:10
crimes 64:10
criminal 7:18 39:20,23
40:2,7 58:2
criteria 154:9
critical 22:20
critically 14:15
Crockett 1:19 160:18
160:19,19 164:4,5,5
cross- 135:18
cross-check 85:11
cross-examination
95:24 119:25 143:24
crowded 76:22
CT 1:8
culminated 155:11
cup 24:14
cured 154:2
currently 16:2,13 36:6
63:15 81:23 128:6
141:17 144:13
curtailed 14:19
curtains 107:23
cushion 113:25
custody 42:7
custom-made 123:2
customer 24:12,19
25:19 26:3 28:25 29:3
47:15 48:3,8,17 49:2
49:6 86:12 87:7 111:5
CVS 37:14

D

D-A-V-I-D 15:24
D.C 55:4 96:20 150:6
153:16 159:20,25
160:3
damage 10:5 24:8 32:4
46:16,21,25 47:5,10

47:12 48:10,16,16,20
48:21,22 85:15 86:1
113:24 117:6 152:7
156:20
damaged 32:7 86:21
156:12
danger 9:10 11:25 12:2
36:10,18 38:2,10
150:7 151:19 153:14
154:1,20
dangerous 150:16
dangers 19:13 151:24
David 2:3 3:3 9:21
15:10,24 133:10,14
133:15 136:21
day 13:10 22:9,24 35:5
56:8 59:2 60:4,22
61:3 65:12 75:25
90:10,12 96:22,24
97:5,9,23 101:8,16
102:2,11,11,12,24
104:16 112:3 117:18
117:22 118:15,21
126:8 127:5,13,18,22
140:20 148:11 155:20
158:16
days 81:5 88:14 162:16
164:21
daytime 117:24 120:11
121:4
DC 2:2,3,3,5,5,6 9:6
36:7
deal 49:14
dealing 141:10
deaths 18:16
debriefed 23:25
decide 11:1,23 14:16
153:24
decided 155:17
decision 55:10 141:23
149:12 159:16,17
161:13,14,17 162:15
162:17 163:10 164:20
deck 21:20
deduce 34:15
Defendant 95:18
defer 10:16 39:19,21
58:3,20
definitely 22:1 31:5,6
60:17
definitive 52:5
definitively 11:1 29:23
45:1 48:19 50:16
deliberate 160:1
demand 13:21
denying 13:3
Department 16:4 22:13
132:25 137:1

depending 69:14
describe 98:11
describing 47:17
destroyed 54:12
DET 2:6
detached 32:12,20
detail 42:20
detailed 46:16
details 39:13
detective 7:17 13:24
14:3 15:13 17:16 23:8
23:13 27:12 44:14,19
46:9 51:19,21,23,24
51:25 52:1,3,8,11,22
59:21 71:12 77:6,12
77:13,22 83:13 88:17
91:11 98:6,8,12,13
99:13 100:5,7,20,23
102:17,22 103:4,16
104:6 131:16 132:5,5
132:9 133:12 134:15
135:14,15,17 136:3
136:11,20,24 137:4,6
137:7 140:5,18,19
141:1,7,15,17,20
142:1,1 143:1 144:1
144:11,20,22 145:17
147:17 157:19
detective's 52:20 54:25
detectives 19:23 23:4
37:1 51:17,19 52:16
56:9,9 70:24 82:12
98:4 133:3 137:2
determine 10:23
determined 149:18
development 18:11
device 87:22
didn't 21:25 32:20 39:7
44:8 49:22 52:9 57:1
57:16 77:4 79:4,15
83:4,9,14 87:10,23
98:8 99:19,23,25
100:2,11,12,20 103:8
103:8 104:19 105:24
106:2 127:21 128:3
128:21,22 140:6,9,23
140:24 141:25 145:5
157:4,8,16,21
difference 31:11
different 22:18 25:16
30:11 53:16 56:18,24
155:13
difficult 158:17
digital 33:9 62:4,4
73:14
direct 95:24 96:7 136:9
158:6,7
directing 71:25 72:17

73:17 74:11,22 75:12
directly 47:21 48:11
157:14
disagree 56:23
disarray 151:10
discharge 26:25
discharged 9:12 150:3
151:1,3
discover 117:6
discuss 19:18 62:10
71:5 93:15 105:14
147:18
discussing 52:23
discussion 83:5,10
119:3 140:25 141:6
disheveled 24:24 27:7
27:23
disk 81:4
dispense 30:2
dispute 31:22 55:22
disputed 13:9
disruption 25:2
distributed 64:22
distribution 80:20
District 1:1 4:25 5:12
16:8,15,19,24,25
17:15,19,24 18:3 20:5
20:6,15 23:7 33:6
37:5 50:18 61:23 64:4
84:23 124:15,19
132:24 137:2 142:4
159:19
District's 7:22 152:18
Districts 22:18
division 16:18 17:17
18:2
document 39:16 41:12
41:17,19,22 57:25
66:16 69:2,20,22,23
69:25 72:4 74:14
108:16,23 110:13,20
112:20 113:2 114:16
114:22 115:22 116:3
116:22 117:3
documentation 41:25
documents 68:15
148:20,21 149:3,5
157:10
doesn't 20:2,18 31:12
40:6 43:22 101:2
102:21 130:3 134:21
doing 11:15 38:1 84:9
96:17 129:3 137:5,12
146:14 154:22
don't 11:13,14 21:13
30:15 32:10,17,19,19
33:24 35:11 38:3,21
39:12 40:14 42:10,11

46:6,10 48:21 51:20
 52:19 53:3,11,19,24
 54:2,11 56:21 58:7,9
 58:10,12,16,22 60:14
 61:16 79:4,20 85:5
 89:18 90:5 91:14,19
 98:8,13 99:16 102:20
 102:23 111:20 117:15
 121:19 123:18 128:15
 128:20 130:11 131:20
 132:15 135:9 137:23
 138:14 139:18,21
 141:9,13 142:11,20
 142:22 143:9,15
 144:12,12 145:8,9,16
 146:12 147:3,4,8
 148:3,4 156:7 159:1
 161:13
Donovan 1:15,18
door 12:14,15 24:5,7,11
 24:16 25:4 26:9,11,13
 26:15 28:22,23,24
 29:2,12 30:22 31:25
 32:2,7,8 43:9,9,14,15
 44:1 46:4,17 47:14,14
 47:25 48:12,20,22,23
 71:18,20 85:20,22,24
 107:25 108:4,6,7
 111:23,25 112:1,7
 118:18 121:12,14,18
 121:22 151:4
doorframe 26:17 32:12
doors 29:4 121:19
 152:7
doorway 111:5
dozen 159:2
dozens 158:18
draft 66:8
drafted 66:23 68:19
draw 82:6,8
drive 81:4
drug 80:19,21
due 40:8
duly 95:18 136:5
duties 14:11 16:20
 22:11 63:25
DVD 142:2 144:20
 145:11,19
DVR 14:4 42:6 54:17
 56:12 88:22 89:2
 99:17 100:1,21 101:3
 105:10 129:1 130:4
 139:10 140:13 141:24
 141:25 157:19
dying 158:20

E

earlier 36:21 62:3

101:16 129:7 134:7
 134:22,23 140:17
 147:6
early 121:6,6
easy 121:20
eating 76:23
edibles 61:22
eight 96:21
either 11:15 19:7 52:6
 95:12 128:12
ejects 27:3
elements 42:17,17 43:1
 43:6 58:24
elevate 4:6 133:14
elevated 132:10
employed 16:2,3 17:7
 17:10 63:15 96:13
employee 35:8 89:6
employees 13:12 159:9
empty 37:18 102:2
enable 133:16
enclosed 76:11
encounter 80:13
ended 9:18 33:4 85:3
enforce 50:8
enforcement 40:17
 81:7,9 90:25 91:6,9
engage 80:20
English 123:18
enjoying 28:1
ensued 12:18
ensuing 156:25
ensure 36:20
ensuring 22:16
entailed 139:22
enter 47:15 48:1 111:5
entered 71:14
entering 48:7
entire 14:5 22:12
 139:21
entities 91:4,6,9
entity 81:8,9 90:25
entrance 3:11,13 24:7
 71:16 107:17,19,21
 111:2 113:14,16
entrances 29:11
entry 12:6,10,14,15
 13:4 156:4
enumerated 84:22
environment 151:24
equipment 67:22,22
escalated 66:14
especially 151:23
establishment's 9:17
 10:12 13:2 151:13
establishments 19:9
 28:5 61:25 65:5
 158:15,19,23

estimate 19:23
evening 22:14 49:14
 83:17
event 64:21 66:5 75:21
 82:21 117:13 120:16
 120:20 126:8 127:22
 150:16 158:5
events 20:1 22:19 65:6
 118:21 120:18 155:9
everybody 67:8 109:25
 118:24
evidence 9:24 10:3,7
 12:4 14:7 34:19 53:9
 54:10 59:4,5,12 67:2
 68:23 69:4,20,22
 108:23 110:20 113:2
 114:22 116:3 117:3
 130:7 144:25 145:2,5
 148:22 149:5,7,25
 152:18,22 155:9
 156:9,10 158:7,7
Evidently 12:19
exact 21:13 29:25
 141:13 143:16 158:3
exactly 27:15 45:18
 139:21 141:9 142:25
EXAMINATION 96:7
 136:9
examined 95:19 136:6
examining 135:19
example 130:5
Excellent 106:25
Excuse 73:20 144:7
executed 132:24
executive 17:21 94:18
exhibit 66:13,17 67:2
 68:22,23 69:3 70:1
 72:2,2,5 73:18 74:13
 74:15 75:13 79:14
 84:13 86:2 107:1,5
 108:16,24 110:13,21
 112:20 113:3,7
 114:16,23 115:22
 116:4,22 117:4
 148:24
exhibited 21:23
exhibits 3:8 7:22 8:4
 105:16,18,18,24,25
 106:2,5,7
exist 57:25 58:13
existence 41:17
exit 161:21
exits 29:11
expect 13:5
expected 57:3
experience 19:3 23:20
 25:21 26:24 28:1 30:1
 30:9 53:13 61:8 64:25

82:14 124:21 130:5
experiences 36:9
 150:25
expert 156:15
explained 27:16 119:1
expressly 10:11
extensive 152:6
extent 79:10
exterior 47:9 107:25
eyes 158:20
Eyob 2:2 3:5 6:2,7,10
 95:6,9,16 96:11,13
 107:13 138:17

F

face 5:19 14:23 15:6
facility 98:20 149:19
fact 13:11 39:4 105:3
 157:10,22 158:18
factor 20:3
facts 13:7 22:22 138:5
fair 88:14
fairly 46:15 76:22
familiar 20:22,24 37:9
 43:10 64:17 65:7,10
 137:14
family 159:10
far 81:15 122:3 143:10
Federal 18:17
feed 159:10
feedback 67:13,20
feel 14:8 140:9 144:24
feet 30:7,8 123:3
 154:11
felt 12:10 25:12 145:3
 146:12,13
Fenton 23:14 27:12
 44:14,19 46:9 51:19
 51:21
field 22:10,11 23:7
fight 27:24 45:21 151:8
figure 138:12
file 65:19
files 11:3
filled 75:5
final 92:24
find 7:7 23:15 33:24
 35:6 46:24 49:16
 67:10 73:3 80:6
 101:25 103:12 107:4
 117:10 122:3,8
 145:15 159:7
finding 29:16 30:25
 33:19 154:19,24
finds 7:25
fine 40:12 94:6,9,13
 106:9,14 149:8
finished 118:24

Fiorntino 78:5
fire 27:5,14 30:3
firearm 18:24 26:25
 30:3 31:7 123:12
 151:1,2 156:5
firearms 18:13,20 20:7
 26:24 37:6 123:6,9
 150:25
fired 12:13 26:22 30:11
 30:22 31:9 45:14
 156:6,17
first 15:22,24 20:15
 22:8 23:11,12 27:12
 63:11 65:25 66:1
 70:21 82:24 84:13
 95:5,18 103:25 110:9
 111:14,15 136:5
 138:21 139:24 146:1
 146:1 155:6 164:13
 164:13,15
five 19:24 30:7 33:5
 50:25 63:23 96:18
 130:9 143:13 154:14
fix 102:8 112:4
fixed 112:2,3
fixing 99:20
flash 81:4 101:12,13,15
flat 139:15
floor 73:7,11 75:9,10
 111:11,18
Florida 21:20 25:4
 43:15,25 105:1
focus 112:6 137:25
 139:12
folks 20:19 44:9
follow 53:22
follow-up 59:22 91:21
 131:6
Following 55:18
follows 95:19 136:6
food 78:19 108:8
foot 12:19
footage 23:21 24:22,23
 35:10 36:1 53:2,8,23
 56:6,10 60:22 77:19
 81:4,12,14,19 84:1
 87:16,19 88:13 90:22
 91:12 92:12,16
 101:19 105:2 130:22
 142:8 144:3,9,14
 152:12 157:7
forbid 37:19
forced 101:4
forensic 29:24 47:3
forever 159:5
form 146:24
forth 56:17 93:1
forward 8:18 57:5

149:21
found 21:8 27:20 29:8
 30:17,19,21 33:1 38:6
 75:9,19 80:23 97:10
 97:11 104:23 121:7
 150:21,23 156:22
four 20:14 23:3,6 33:9
 33:13 62:4 65:3 130:8
Fourth 17:19
foyer 24:11,13,18,20
 26:9 28:22 47:5,13
 71:21
frame 26:17
freely 129:17
frequently 50:5
freshly 75:3
Friday 90:8
front 12:8 21:20 24:5,7
 25:1 28:19,21 29:12
 31:25 32:1 43:9,14
 46:17 47:6,8,10,21,22
 48:11 71:16,17 85:20
 85:22 87:1 90:6
 118:18 121:12,14,22
 151:4 156:11,12
 158:20
full 164:13,15
fully 24:8 31:25
functions 16:23
further 38:12 59:19
 62:7 68:12 81:25
 89:19 90:18 92:18
 119:21 124:7 131:4,8
 133:5 143:20 144:16
 153:7,9 156:24
furthermore 152:13

G

gain 12:6
gambling 64:15
Gatling 140:18 141:1,7
 142:1,1 144:22
 145:17
general 118:9
generally 19:6,9 26:24
 30:9 42:19 61:17,25
 92:5
gentlemen 147:22
Georgia 19:20
getting 53:1 56:12
 60:13 67:7 77:16
give 39:4 53:18 58:4
 74:2 93:3 99:18 103:6
 103:7,13 104:24
 105:4 128:8 129:20
 130:1,4 133:21
 138:11 139:19 140:4
 140:7 142:22 143:16

145:14 160:25 161:5
 161:12,15
given 56:1 142:23
giving 23:18 130:6
 140:9 146:3
glass 10:5 12:13,15,17
 24:15,16 28:23 31:16
 31:19 37:22 47:13,14
 47:22,25 71:21,23,25
 72:11 85:20 86:21
 111:10,16,18,23,23
 111:25 112:7 121:9
 152:7
glasses 75:5
Gosh 37:19
government 4:19,20
 8:22 9:20 15:7,10
 62:16 67:1 72:5 74:15
 93:19,21,23,24
 148:19,24 149:9,11
 149:14,20,24 150:5
 153:14 155:23 156:7
Government's 66:13,17
 67:1 68:22,23 69:3
 72:2,19
grabbed 99:23
grams 33:15
green 33:7 61:18,19
 73:7
ground 25:8
guard 12:7 13:3 89:9,13
 110:3 118:17 156:3
guard's 121:3
guards 120:24
guess 42:15 52:5 56:22
 139:5
guessing 31:3
guidance 164:22
gun 9:12 12:12 27:1,5
 123:10,13,25 150:3
gunman 12:19 13:4
 156:4
guns 124:1,1
gunshot 47:1 48:17
gunshots 45:14

H

H2O 155:16
half 63:24 161:6
hand 15:14 44:3 62:22
 86:3 95:11 130:7
handgun 27:4
Hansen 1:19 160:21,22
 160:22 164:7,8,8
haphazard 28:5
happen 19:7 104:21
 106:20 143:2
happened 9:14 11:1

27:11 31:22 37:19
 43:5 49:1 71:9 76:14
 76:18 77:1,22 78:2
 97:12,22 100:25
 101:17,19 102:2,13
 104:22 105:1 119:1,1
 121:8 129:14 147:1
 151:6 152:23
happening 120:17
happy 18:2 121:5
hard 47:3
harm 14:18
hasn't 55:9 56:13
haven't 42:10 57:2
 132:3 144:4,5
he's 6:7 40:25 56:1
 58:12 79:21 110:2
 119:7 126:15 129:25
 133:11 142:23 146:25
head 20:13
health 11:25 36:11
 150:8 154:1
hear 9:24 10:3,7 11:5,6
 11:8,13,21 14:7 15:2
 15:4 44:8 57:16 67:6
 68:7 88:24 93:13
 98:25 135:3,5 157:8
 157:14
heard 21:6,7 56:13
 58:14,25 60:4 129:6
 131:20 150:10,15,19
 151:4,8,12,16,18
 152:1,6,8 153:4
hearing 1:7 6:14,20 7:1
 9:3,19 105:8 149:19
 149:21 159:15 162:11
 162:14,15 164:13,14
 164:15
heavily 13:9
heavy 122:13,14 123:2
held 123:13,24 124:2
 158:5
Hello 68:9
help 23:4 105:6 136:14
helped 24:1
helping 20:20 158:21
here's 56:2 129:17,18
hey 56:2 145:21 146:23
Hill 17:12 155:7
hired 124:25
historical 20:3
history 38:4,5,7 85:7
 92:4
hit 86:15 104:25
hitting 12:16
hold 7:11 39:25 98:15
 98:16 105:17 159:22
 161:1

hole 24:20 28:23 31:16
31:19 71:22 72:15,24
85:21 86:4 87:2
111:13 112:8,8,13
114:6 115:11,13
116:16,17 156:10
holes 32:21 113:24
117:11
homes 19:8
homicide 19:20,22
36:23 37:1 150:17
homicides 19:24 37:4
64:11
honor 95:22 96:2
hookah 25:22 73:15
75:2 87:11
hookahs 25:18,25 87:7
hope 95:23 136:13
hour 22:8 90:12 161:6
hours 9:12 81:10,16
90:3 91:2 92:9,9
121:3,5 130:23
138:15,16 152:12

I

I 136:21
I-C-O 132:8
I'd 50:14,22 55:22 85:4
93:6 96:22 110:10
124:13
I'll 10:17 22:18,20 23:18
99:2 107:8 125:1
130:1 136:15
I'm 4:24 6:3,4 7:6 11:15
16:3,7,23,24 19:15
21:13 22:16 37:8
38:18 39:18 41:7,22
44:8,21 47:3 49:8
50:23 55:25 57:2,6,7
58:2,3 67:5,7,9,21
67:21 71:25 72:17
74:11,22 75:12 78:23
79:16,18,19,22 85:19
88:10 89:15 91:15
92:25 94:7 95:6,7
96:16 99:1 100:18,19
100:20 103:12,13
104:2 105:25 107:8
117:24 119:16 124:1
125:22,24 129:7,13
130:1 131:15,19
133:19,24 134:3,7,10
134:10,14,20,24
136:20 137:4 141:17
144:5 145:4,11,13,15
147:1 162:19
I've 16:11,18 18:13,14
18:15,17 20:13 50:15

50:17,19 51:3,23 65:3
75:25 117:25 123:13
123:24,24 124:2
130:8 154:22
iCloud 87:22
ID 109:24
idea 161:15
identification 66:13,18
69:4 72:6 74:16
108:17 110:14 112:21
114:17 115:23 116:23
identify 14:3 101:23
102:6 157:11
illegal 9:14 19:7 33:6
61:23 64:15 80:21
150:1 158:14
illegally 19:11 49:20
illicit 10:10 131:1
image 72:9,21 74:6
immediate 24:12 38:2,8
immediately 81:7 91:1
91:10 157:17
imminent 9:9 11:11,25
14:18 36:10 150:7
153:25 154:20
impartial 14:12
important 10:21 154:5
inappropriate 69:17
inch 111:13
inches 30:7
incident 7:19 10:9
13:11 21:2,24 22:9,20
32:5 35:10 36:4 38:7
38:20 41:15 49:24
53:5,9 60:1,23 81:3
90:11,12 97:12
101:17 102:9,13
120:3 129:5 139:2,4
144:24 151:6 152:9
154:9 155:20
incidents 80:10,13,15
154:13,14
include 17:1 80:18
included 23:6 33:15
154:12
including 23:5 154:9
indefinitely 154:24
155:18,25
indentation 116:15
indicate 27:9 31:20
32:14 43:22 46:3
75:19 83:24
indicated 27:24 42:8
43:8 44:10 49:8,9
57:18 87:5,15
indicates 43:19 46:1
61:10 88:12
indicating 151:5

indicative 25:12,16,19
27:20 28:10 29:18
45:16,20 61:13 62:5
individuals 40:10
118:14 158:10,14
indulgence 57:6 59:17
89:16
industry 158:19
infant 18:16
information 23:16,18
34:8,17 39:8 42:25
44:6,11 46:5,9 52:15
53:19,23 55:16 58:5,6
99:6
Infused 78:19
initial 17:4 21:14 22:9
26:6
initially 24:6 56:9
injured 12:25
inquire 106:17
inside 9:12 10:2,4
24:10,16 26:5,8,13
27:11,13,18,21 28:2
28:20 29:2,8,13,17
30:14,23,25 31:7,22
32:5,16 34:19 36:20
39:10 44:15,25 45:9
45:17,22,24 46:23
47:5,6,13,14 48:3,7
48:17 49:1,2 59:6,13
62:5 65:6 71:11,13,19
78:16,21 82:9 85:23
86:25 87:13 98:3,4,10
98:10,12 99:14
100:13 115:5,8,9
119:6 121:15 122:4,9
122:11 139:8 150:4
150:20,21 151:6,9,11
152:19 153:6,7 156:9
156:17,21,25
inspections 64:2
instance 55:19 104:16
143:4
instances 80:18 84:2
84:22 85:2
intact 24:8 32:1,2,9
39:23 112:2
integrity 42:21
intended 133:4
interaction 49:18,23
52:10,22 140:5,21
145:17
interactions 138:1
interest 14:11
interference 40:21 42:5
67:7
interior 46:25 86:13
117:7

intersection 12:21
introduce 4:21 5:7,15
6:8 98:9 148:20
introduced 148:19,24
introduction 4:18
investigate 122:7 129:5
150:17
investigated 65:17 92:1
investigating 22:5 37:2
103:12
investigation 7:19
13:16 17:5 18:14,15
23:5 34:17 39:4,20,23
40:3,7,11,19,21 42:22
42:22 45:2,4,6 51:12
54:4 58:2 65:19,23
66:8 78:9,12 79:13
80:2,7,24 83:21
118:25 137:21,24
141:16,18,20 154:18
157:5
investigations 17:2,17
18:18 19:3 20:10
25:21 30:9 64:3,6,8,9
64:13,15,16 65:1 76:1
92:6
investigative 3:9 42:21
65:14 66:8,22 68:18
72:3,19 73:18 75:13
82:3 85:7 93:8 148:25
investigator 2:5 7:23
9:22 62:19 63:4,10,20
64:1 65:20 66:21
68:17 70:9,19,20 72:8
72:22 74:5,24 75:11
75:17 78:4 79:11 80:1
81:21 82:2 83:18
87:18,21 88:1,24
89:18 90:2 91:25
92:16 105:3 129:22
148:25 152:1
investigators 14:10
118:23,23
invite 19:11
involved 20:11,13 34:2
involvement 22:5
involving 65:4
isn't 38:23 43:13 45:12
issue 40:15 55:4 145:12
162:15,16
issued 49:19 50:19
51:3 92:10
issues 164:17
it's 10:21,24,24,25 13:1
14:14 19:9 23:19 28:2
30:7 32:10,11,21 34:6
36:6 37:10 39:2,5
42:15,25 43:13 45:20

54:3,10 55:6,8,22
58:8,9,13,20 60:7
64:21 68:11,25 81:23
83:3 84:8 90:7 91:21
93:9 94:13 101:6
108:2 109:9 114:10
114:11 116:17 121:20
125:24 128:21 134:13
142:5 143:12 153:4
154:5 155:15,16
156:1,15 158:21

items 61:24

J

J-O-H-N 5:11
JAMES 1:20
Jeni 1:19 160:22 164:8
Jenkins 2:4 132:18,20
132:21,22
Jeremy 70:19
job 137:3
John 2:5 5:5,11 66:11
70:20 72:7 73:16
Johnson 4:15
joined 132:12
JR 1:18,20
judge 55:4
Judges 14:9
judicial 151:22
July 16:18 50:16,21
92:15
juncture 79:20,23 93:23

K

K-E-V-I- 63:12
K-I-S-S 101:6
keep 10:22 39:23 50:7
81:4 122:2 149:18
keeps 154:25
Kendra 97:4
kept 107:25
Kevin 2:5 3:4 9:22
62:19 63:12
kicked 29:21 156:24
kids 97:11 117:24
120:12
kinds 61:21 64:12
Kiss 1:6,6 4:5 9:4 10:2
11:24 20:22 21:21
57:10,20,23 65:8 66:4
75:25 76:9 77:5 78:21
82:9 96:14,14 97:6,9
97:20,23 98:3 101:6
101:18 109:9 128:9
136:12 137:14 153:16
159:24 160:3 162:11
knew 152:20,24
knocked 73:6

knowing 161:23
knowledge 35:1,9,16
36:5 39:3 40:18,20
58:19 60:20 77:18
88:1,22 89:1 117:16
121:2 123:22,25
127:24 150:12 152:3
known 20:19 34:1
knows 119:10

L

L-U-I 5:11
laid 73:13 105:15
lands 151:2
laptop 67:24 146:25
law 40:17 50:8 53:17
81:7,9 90:24 91:5,9
162:16
lawyer 128:24,24
layout 43:10 59:1
105:13
lead 25:21 26:4 141:17
141:19 143:1
leading 41:8
leafy 33:7 61:18,20 73:7
leaning 111:22
learn 18:24 119:2
learned 13:11 14:13
leave 131:23
leaving 45:22
led 61:4
left 14:5 77:5 78:6
86:17 89:10,10
100:22 102:1 129:1
130:4 138:14 157:20
legal 90:3 132:15
159:23
let's 4:18 5:14 41:9
93:13 100:4 111:14
135:21 139:12 161:7
161:10
letter 83:1,4 84:14,22
105:24 106:1
level 50:10 68:11
license 1:7 9:8 90:6
92:10 124:21,22,24
125:3,6
licensed 9:8,13 13:18
53:6 54:7 64:3 90:3
124:15,18
licensee 2:2 5:14,21
53:2 82:20 145:10
163:6,11
Licensee's 2:4
licenses 158:24
lieutenant 17:18,21
life 123:14,25 124:2
lift 153:22

light 115:14
limited 80:19
lines 116:16
link 134:15,17
liquid 24:14 75:6
listed 154:14
listen 14:15
listening 21:17 100:19
129:25
lists 106:1
little 16:12,12 59:10
68:5,7 71:21 75:7
83:22 137:10 155:5
155:15
live 26:12 30:18,19,20
31:6 33:16 120:12
150:22
LLC 1:6
located 21:21 57:19
113:12
location 21:9 25:1 26:2
26:14 27:21 28:12,20
29:2,14 30:11,15,23
31:1,7,23 33:10 37:11
47:15 84:24 142:2
143:5,6,11
log 13:23,24 148:9
logo 33:12
logoff 161:22
long 16:9 63:21 96:17
96:19 137:5,11 138:7
143:2 161:15
look 77:15 149:21
158:9
looked 42:10 73:11
75:3 107:22 111:8
looking 38:19 86:2,25
114:5 149:16
looks 83:20 108:3
loose 74:18
loose-leaf 73:12 74:17
lose 144:25
lost 76:6 145:6
lot 36:19 37:11 42:25
61:16 70:23 73:6 98:1
Lounge 11:10,24 21:21
57:10,21,23 96:14
136:12 137:15
low 19:23
lower 86:3
Lui 2:5 4:14 5:5,6,9,10
5:11,14 66:11,19
68:15,17,21 72:7
73:16 133:8,10
lunch 94:3,10,14,19

M

M-A-C-C-O-Y 110:8

MacCoy 110:8,8 118:17
118:21 156:3
main 3:11 107:17 108:6
108:7 109:9 111:21
113:14,15
making 71:2
man 12:12 121:16
man's 12:11
manage 117:23 126:19
managed 126:9
management 81:3
153:2,2
manager 126:15,23
127:2,5,13
managers 77:4 126:23
manages 126:17
managing 120:13
152:21
manner 28:5 142:19
156:19
marijuana 9:15,25 10:1
10:11 19:12 25:5,8
33:2,3,8,13,14,23
34:3,5,7,15,21,24
36:24 37:24 38:22
39:9 41:13,14 59:7,13
61:6,10,13,17,18
64:16,22 65:5 66:5
73:12 74:18,19 75:19
75:20 76:2 117:17
118:5 150:2,13,18
151:20,24 152:3,15
152:23,25 158:5,12
158:13
marked 66:12,17 69:3
72:5 74:15 108:16
110:13 112:20 114:16
115:22 116:22
market 75:21
markets 76:2
marks 36:3
Martha 2:4 132:21
material 32:11
materials 57:12,24
matter 1:5 5:21 38:19
39:5 93:9 105:2
135:22 156:16 162:1
162:19 164:10 165:5
matters 6:15,17
Mayor's 151:22
McCoy 13:3
mean 40:23 47:2 49:2,5
50:22 53:25 56:17
79:2,3,3,18,24 92:22
95:12 103:9 105:3,18
105:23 108:6 123:9
129:13 135:12 138:9
means 23:16

measure 159:8
measures 12:3 14:19
 154:3,21 155:1
media 78:14
meet 138:20
meeting 1:3 42:17 43:1
 132:12 159:22 161:2
Meetings 159:21 160:1
 160:5 161:3
member 1:18,19,19,20
 1:20 89:5,23 90:2,10
 90:15 124:10,13,18
 124:23 125:2,5
 131:18 160:6,12,14
 160:16,19,22 163:17
 163:23,25 164:2,5,8
members 4:23 5:11 9:1
 59:21 80:13,14 89:22
 90:19 94:17 124:9
 125:9 130:12 144:18
 147:9 149:23 152:16
mention 38:22 73:22
mentioned 42:6 55:12
 118:16
mentioning 155:6
mentions 90:24
merely 158:12 159:7
merit 155:24
merits 154:19
met 1:15 77:4,6,11
 138:19 142:11,14,15
 150:5 153:15
Metrobus 37:13
Metropolitan 16:4
 18:10 22:13 132:25
 137:1
mg 33:16
mic 68:3 133:17
Michael 7:17
microphone 5:8,17
 11:15 63:7 67:4,12
 131:24,25
mind 10:22 155:2,7,14
mini 33:12
minor 164:17
minute 73:21 94:10
minutes 71:10 130:1
 143:13,13,13
misdeeds 155:11
Mister 105:3
mixed 73:21
moment 69:19 98:16
money 159:10
month 154:14
months 84:24 154:11
morning 4:23 5:3,10
 6:14 9:1 15:23 63:3
 78:13

motion 160:8,9,24
 163:5,5,19,20
mouth 14:24
move 8:17 67:1 68:22
 93:13 95:12 108:13
 110:10 112:17 113:4
 114:14 115:16,19
 116:20 122:22,23
 123:1 148:21 159:21
moveable 122:12,13,19
moved 67:3 68:24 69:1
 70:7 108:21 110:18
 112:25 114:20 116:1
 117:1 122:16 148:22
 149:3,4,7 156:24
moving 57:5 69:20,22
 114:24 116:5
MPD 2:3,6 9:11,21
 13:16,18,21,23 15:10
 16:6 17:7,10 18:5
 22:25 42:7 46:11
 55:20 57:24 59:5,24
 64:9 65:4 70:18,24
 75:9 76:2 77:25 82:15
 82:21,22,24 83:3,5,7
 83:11 84:1,23 85:2
 87:13,20 88:13,15,23
 89:2,14 102:10,17,24
 104:12 105:9 129:14
 130:6 144:13,20
 145:10,13,20 151:12
 152:22 156:21 157:10
 158:1,7
MPD's 9:17 157:5
multiple 10:1 37:2
mute 63:6 68:3 133:22

N

N 63:13
N-A-G-A 98:24
Naga 98:23
name 4:22 5:1,8,23,25
 6:9,10,11 15:22,24,25
 52:20 63:11 74:3 96:9
 96:10,11 98:14,18,18
 98:22,23 99:5 102:23
 103:23,25 110:7,9
 127:6 136:11,18,18
name's 4:24
names 73:22,23 74:2,2
 96:11 99:3 101:21
 110:6
narcotics 34:2 62:6
narrative 38:21,25 39:2
 39:3 42:10,11,12,16
 42:16,24 43:19 58:21
 58:24
National 18:18

nature 147:18
near 12:21 17:12 25:4
 26:11,13 30:22 59:25
 73:9 75:1 143:10
nearby 143:8,9
neat 28:8
necessarily 41:3,18
necessary 106:23
 155:2
need 14:22 56:15 79:2
 79:24 83:22 85:11
 93:2 95:12 135:7,14
 159:1 161:8,8,9,18
needed 22:2,22,22
needs 11:23 55:24
 59:18 162:23 163:8
 163:12
neighborhood 37:10
never 92:17 117:19,25
 118:3,4 123:13,24,24
 124:2
night 19:19 36:22
 102:12,13
Nobody's 158:21
noise 121:19
Nom's 78:18
non-public 39:12 42:11
 42:12
Nope 134:6
normally 12:20 33:24
Northwest 12:22 43:15
 43:16 137:15
nose 15:5
note 49:11 154:5
notes 36:16 95:25
notice 151:22 154:13
 160:25 161:19
notification 24:1
notified 24:1 61:11
notify 161:9
nuggets 73:13
number 4:4 8:2 20:1
 32:16 84:13,13
 101:23 107:1 108:14
 110:11 124:24 157:6
 157:13 158:18 159:24
 160:2 162:11,12
numerous 54:9 77:14
NW 1:7

O

OAG 2:3,5 39:19,21
OAG's 58:3
object 7:24 70:2 78:23
 79:2,4,7,7,9
objected 41:5 93:12
objecting 69:19,21
objection 40:13,14 41:2
 69:15 70:4 78:24
 79:19,22 93:7 108:19
 112:23,24 114:19
 115:25 116:25
objections 69:12
 108:20 110:16,17
objective 154:9
obligation 13:19 55:23
observation 71:2 82:14
 82:23
observations 76:15
 150:12 152:2
observe 23:23 70:22
 71:14 74:23 76:4,7
 86:21 87:10
observed 24:6 28:14
 31:15 32:7 60:10
 71:21 72:15 73:5,6,8
 73:13 74:18 75:1,7
 76:1,21 78:15,20
 83:13 87:6
obviously 18:23 23:25
 27:17 29:20 36:18,25
 38:3
occasion 49:14 50:5
 118:20 137:17 142:7
occurred 10:4 30:8
 22:9 29:19 30:1,12
 37:4 49:24 66:6 71:8
 82:9 90:12 126:5
 141:13 151:6 155:20
occurring 75:21 153:1
occurs 53:6
October 1:11,13 9:5,24
 11:1 12:5 21:2,12
 50:11 55:13,18 57:21
 57:23 65:13,23 78:14
 88:7 89:7 96:23
 101:16 102:14 104:12
 107:22 109:18 110:4
 111:9 112:5,9 113:22
 117:14 125:11,17,19
 125:21 137:18 138:7
 138:21 139:2
offense 141:13
offer 6:23 7:1 39:22
 157:18
offered 13:25 157:16
offering 25:12 102:18
offhand 46:6,14 55:21
 85:5
office 17:21 55:1,7 58:3
 78:7 134:20
officer 7:17 17:12 21:22
 60:4 128:1 143:8,9
 148:2
officers 23:2 60:10,14
 70:24 84:1 101:20

133:3 138:13 143:17
offices 103:1
official 123:11,15
 155:12 159:20,25
 160:4
oil 33:5 74:8
oils 61:22 73:11
old 154:15
older 155:5,15
on- 45:3
on-scene 23:19 34:16
 45:2,6 54:4
once 163:2
ones 20:18 31:13
ongoing 7:18 40:19,21
onset 82:7
onsite 35:17
open 39:5 75:4 76:22
 78:18 90:11,14 97:1
 100:17 107:25 121:1
 125:11,14 126:12
 131:24,25 159:21
 160:1,4 161:3
opened 71:18 108:1
 121:16,17
opening 8:22 10:15,17
operating 36:17 53:1,7
 90:11
operation 9:15 125:12
 125:15 150:2 152:23
 153:1
operational 81:22
operations 11:24 22:12
 151:20
opinion 56:19
opportunity 93:3,4
 133:22
order 53:22 129:9,14
 162:20,22
ordered 163:6
orders 151:22
originally 16:13 36:1
 60:24
outcome 14:12
outdoor 28:7 37:16
outside 30:12,13 32:18
 36:17 37:20,25 48:12
 76:16 97:24,25 98:1,3
 101:17 102:1 104:20
 104:21,22 122:2
 134:20 153:12
override 79:18,19,22
oversaw 20:14
oversee 16:22 17:3,4
 22:12
overturned 45:8
owner 13:9 35:8 49:9
 51:5,11 52:10 60:21

77:16 81:14 83:16,25
 95:8 96:16 124:14
 138:2,18 140:25
 145:18,21 151:14

P

P-H-I-L-I-P 136:21
P-R-O-C-E-E-D-I-N-G-S
 4:1
P-U-E-N-T-E 63:13
p.m 9:13 22:15,15
 70:11,15 94:16
 135:23,24 161:5
 162:2,3 165:6
packaging 33:12,15
packets 33:14 73:11
page 3:2,8 78:19 80:8
 80:25 134:7
paintings 108:4
pandemic 151:23
pane 32:9 47:13
panelist 4:11,12,13,14
 4:15,16 133:16 134:1
paper 73:14
Paragraph 80:8 81:1
park 97:25
parked 49:20 97:24
parking 49:19 50:2,5,12
part 17:4 18:4 66:7
 78:12 80:2 111:14
 134:9 145:12
participants 73:23
particular 53:23,25
 141:16 143:3 155:3
parties 4:6 6:20 7:5,9
 7:12,14,16,20 8:2,17
 19:14,17 20:8 37:7,25
 51:7,12,14 61:8,9,17
 64:18 94:2,4 132:23
 148:20 164:11,18
parts 80:5,23
party 9:25 19:3,5,21
 20:10 34:7,15,24 39:9
 39:14 57:10,13,20,23
 61:9,12 64:20 117:17
 117:21 118:5 150:13
 150:18 151:25 152:4
passcode 128:2,6
 139:16,19,25 140:2
 140:13,17 144:2,4,6,8
 145:14,23,25 146:2,4
 146:7 151:13,15
passed 73:4 95:25
 160:25
passes 164:10
password 99:18,18,19
 99:22,24 100:5,8,10
 100:13,15 101:5,7

139:10 147:5
patio 37:18
patios 28:7
patrol 16:7,22 17:12,18
 17:24 23:8 28:6
patrons 12:18 45:13
 60:10 80:20
patted 12:9
pause 94:14
pay 158:23
PD 103:1
penalty 10:25
pending 36:6 77:17
 88:18 142:6
people 19:11 25:20
 26:5 28:1 30:9 33:22
 34:9,10,18 37:8,11
 44:4 45:22 46:2,12
 61:11 76:23 101:18
 101:24 117:20 118:8
 121:21 142:22 159:2
 159:7
perception 14:10
perfect 11:22 14:25
performed 12:23
period 126:2 154:14
permission 104:7,10
 124:5 126:18 128:22
 157:21
permitted 150:3
person 12:5 47:4 51:3
 103:5 106:11 107:5
 109:22,23 157:9,11
person's 99:5
personal 82:23
personally 28:19 89:5
 142:10
personnel 102:24
persons 110:6 124:14
perspective 56:5
perspectives 56:24
Philip 2:6 3:6 7:17
 104:1 131:16 132:7
 136:3,20
phone 63:7 67:15,25
 100:18 132:15
phonetic 78:6,18
photo 3:11,12,13,14,14
 3:15 76:10 109:3
photograph 107:14
 110:24 114:6 116:14
photographs 8:5 23:21
 105:21 149:7 156:19
photos 108:4
physical 32:23
picking 30:13
picture 3:9,10 27:23
 86:1 112:1 115:2,6,12

116:8
pictures 24:22
pin 13:22,25 60:21 61:2
 88:2,8 157:2,6,13
place 10:2 24:15,24
 27:23 38:5 44:25 45:9
 59:6 81:22 102:9
 103:7,15,17 117:23
 120:21 126:9,18,19
 141:4,5 150:13,16
 151:9 152:4 153:3,6
 153:11 156:8
plan 10:13 80:4,6,23
 81:2 90:23 130:22,25
 152:11,14 162:22,23
 162:25 163:2,3,7,8,12
 163:15 164:23
planned 57:8
plant 33:8
plate 101:23
plausible 30:16 32:22
played 16:16
playing 97:11 120:12
please 4:6,7,21,22 5:7,8
 5:8,18,18,23 8:25
 14:15 15:14,19,21
 41:22 49:8 51:9 58:10
 62:10,22 63:6,7 68:1
 68:7,8 73:25 74:2,3
 85:19 93:15 95:11
 103:21 107:1 109:1
 116:6 119:14,15
 127:10 136:17,19
 147:18
pleases 78:25
plexiglass 26:16,18
 32:10 76:11
point 23:2 24:3 29:25
 67:7 88:7 93:6 139:18
police 9:6 10:9 12:20
 13:15 14:2,10 16:4
 17:22 18:10 22:13,21
 38:6,19,23 39:12 42:4
 42:8 46:1 70:24 77:25
 83:1 97:25 98:1,2
 101:20,20 128:1,12
 128:18 129:9 132:25
 137:1,6,11 143:3
 154:6 157:4
policies 18:25
policy 53:11,12 54:1,3
pop-up 9:15,25 19:3,5
 19:14,17,21 20:1,8,10
 34:15,24 36:24 38:22
 39:14 41:14 57:10,13
 57:20,23 61:8,9,12
 61:17 64:18,20 66:5
 75:21 117:17 118:5

150:2,13,18 151:25
152:3,23,25 158:5
port 27:4
portion 19:10 38:21
69:24
pose 93:6
poses 14:18 36:18
153:13
position 16:5,10,21
17:7 63:18
positions 56:18
possession 31:3 80:19
88:23 89:2 142:4
possible 153:5
possibly 88:19 141:11
posted 78:20
practice 14:9 53:21,25
preliminary 6:15,17
premises 12:24 13:19
117:7 150:2
preparing 84:18
preponderance 149:24
present 1:17 2:1 22:25
36:10 59:25 120:2,6
120:24
presentation 159:14
164:12
presented 6:24 9:9
11:11 38:6 40:6 79:13
presently 154:21
presents 11:25 150:7
151:19 153:25
preserve 145:2
presiding 1:15
pretty 138:14 139:3
previous 76:1 141:19
142:18 154:10
previously 17:6,23 69:2
92:1,13 102:10
104:13 105:15 118:16
157:25
prior 92:10 100:11
104:12,25 138:24
140:21
private 78:17 117:13,21
privilege 40:17
privileged 40:17
probable 34:7,20 60:7
probably 19:17,23
20:14 22:8 140:22
problem 41:24 134:10
procedure 53:1,7
proceedings 67:6
161:1
process 157:13
product 25:13,17
products 10:1 19:12,12
25:7 33:2,3 34:5

59:13 61:14,21
158:13
professional 18:11
professionally 80:16
prohibited 10:12 131:1
projectile 27:1 31:12,14
promoted 16:14 17:13
17:14,18,23
Proper 37:15,18 76:21
properly 160:9
property 19:10 42:5
43:9 140:14
protect 145:2
protective 12:23
prove 155:23 156:2
proven 149:24
provide 44:5,11 55:24
60:21 81:16 99:22
100:7 102:15 104:22
105:19 124:23 130:22
142:19 152:11 157:6
157:12,15 162:21
163:7,11,11
provided 13:22 35:23
36:2 55:13 57:24 61:2
81:18 87:15 91:2,9
105:20 128:1 151:14
162:23 163:1,9
provides 39:13
providing 52:12 145:25
146:7,15 147:2
proximity 30:5,6
public 9:10 12:1 36:12
38:2,20,25 39:2,3,5
41:15 42:9,16,16,24
43:19 58:21,24 62:1
78:18 150:8 151:19
153:14 154:1
pull 19:10
pulled 12:12 14:4 26:16
157:19
punishment 10:24
purpose 84:18 159:22
purposes 66:14
pursuant 159:25 161:3
pushed 28:4 32:16,17
32:18,25 156:24
put 39:7 106:25 107:5,8
108:25 110:22 119:7
121:19 159:2,6
putting 25:17 67:14
106:11

Q

question 7:19 14:3
40:23,23 41:1,4,5,6,9
41:11,21,23 42:2 53:4
57:17 58:11 59:11

79:2,3,5,8,10,25,25
89:24 92:20,20,23
93:2,7,12 109:13
129:7 135:13 144:19
153:19
questions 13:17 23:19
38:12,14 57:7 59:20
59:22 62:7 81:25 82:4
84:10 89:19,22 90:19
91:15,16,17,22,22,25
92:18 93:3 119:21,23
124:7,8 125:9,10
130:11,12,13,14
131:4,6,6,8 136:13
143:20 144:16,17
147:8,9,11,12
quick 143:16
quite 21:25 105:25
134:10

R

radio 21:16 60:3
Rafi 1:19 160:19 164:5
raise 15:13 62:22 95:11
119:14
ran 12:19
rare 154:23
read 83:3
reading 39:2 43:18
ready 8:17,20 94:23,25
realize 140:23 142:12
rear 25:3 26:11,13
29:12
reason 42:7 54:16,16
158:2
reasons 160:3
reassigned 16:19
recall 44:12 86:7 87:3
92:8 142:20
receipt 133:2
receive 21:4 77:19
105:22 151:13 152:8
received 18:5 33:9 34:9
34:18 36:5 55:17 69:4
88:15 108:23 110:20
113:2 114:22 116:3
117:3 133:1 144:2,4,6
receiving 92:12
recertification 19:1
recess 161:1,20
recognize 110:24
recommendation
149:14 162:18
recommendations
149:20
reconvene 161:10
record 5:15,23 51:1
73:24 74:3 94:16,23

96:10 99:5 135:21,23
136:1,19 146:17
154:19 155:13 161:7
162:2,5,9,10 165:6
recorder 139:11 145:19
recordings 152:9
records 35:5 50:15,23
85:5 125:7
recovered 20:7 25:7
26:7,11,13 29:1 33:7
37:6
recovering 33:5
RECROSS-EXAMINA...
130:19
recruiting 16:17 18:1
reference 21:2
referenced 84:15
referred 66:16 72:4
74:14 108:15
referring 111:19 118:5
120:19
refused 12:9 82:20
83:25 84:4 145:14
157:9,12
refusing 84:9 140:4
regarding 9:4 145:11
151:22
regardless 152:24
153:8
regular 120:18
Regulation 63:17
regulatory 64:7,8
rejected 156:5
related 20:1 36:24 37:6
92:6
relating 150:17
relationship 103:2
relevance 43:4 58:23
relevant 43:6 80:5,24
93:9
relying 82:15
Rema 1:20 164:2
remain 150:9
remnants 158:12
removed 140:13
renew 158:24
reopen 159:9 162:25
163:14
reopened 163:4
reopening 155:1
repaired 114:2
repeat 51:8 59:10 98:18
replaced 114:2
report 3:9 19:16 35:3
38:19,20,23 39:12
41:15 42:4,8 46:1
66:9,22 68:18 72:3,19
73:19 74:1,12 75:14

82:4,6 84:14,18 85:8
86:2 88:12 93:8
148:25
reported 10:9 28:12
154:10
reporter 99:4,6
reports 7:23 23:21
42:21 57:11 65:14,19
92:4 154:9
represent 136:12
representing 4:25 5:21
request 53:8,22 81:10
81:11 87:17 88:2
142:8 149:13 157:22
requested 9:6,19 55:20
88:8,12 102:10
104:13 106:12 138:13
requesting 138:24
149:11
requests 90:25 158:1
require 35:19
required 53:18 130:21
152:11 154:8 159:5,6
164:22
requires 56:20
reserve 69:15 70:3
reserved 7:24
residential 19:8
resources 22:17
respect 40:8,9 49:23
52:12 53:1,8 69:9
158:4
respond 19:19 21:5
22:18 24:2 36:23
41:22 80:15 84:23
140:2 143:3
responded 12:22 21:1
65:12,23
Respondent 3:11 7:23
9:18 113:7 136:5
148:16 152:9 153:22
Respondent's 8:4,20
107:1 108:16,24
110:13,21 112:20
113:3 114:16,23
115:22 116:4,22
117:4 156:1
Respondents 152:17
responding 21:9
responsibilities 16:21
64:1
rest 93:23
restaurant 3:13,14
96:20 111:2 113:9,10
restaurants 28:7
rests 93:25 148:17
resulted 154:16,17
resumed 135:23 162:2

Retailer 1:8
return 94:18
returned 128:13
review 55:8,17 87:19
88:9 142:5
reviewed 80:3 84:17
reviewing 82:25
revoke 9:7 155:18
REX 108:14
Richard 2:4 5:20
136:12
right-hand 111:4
role 16:6,16 18:4 63:19
96:15
roll 160:8 163:19
room 96:4 161:2
round 76:10,11
rounds 33:17 156:22
run 105:1 125:18
running 43:20,23 44:1
45:13,17 46:2,4,12
60:10 97:3 98:19
120:9
runs 121:4
rushed 161:14
RX 108:25 110:11,22
112:18 113:4 114:14
114:24 115:20 116:5
116:20

S

S-H-A-H-Z-E-B 5:1
sad 19:15 158:21
safe 13:1
safeguard 145:1
safeguarded 142:5
safety 12:1 36:11,20
150:8
sale 33:13 34:2 59:13
61:5,10,13 62:2,6
sales 90:3
Sami 97:4
Samson 127:6,7,8
sandwich 73:14
Saturday 90:8
saw 14:23 15:4 24:19
25:5,18 26:3 27:15
28:11,19 34:19 47:12
60:5,14,17,18 72:12
74:9 75:15,24 76:10
90:14 152:22
saying 7:4,6 26:21
40:25 41:7 56:2 79:6
79:16 84:3
says 80:12 81:2 82:15
94:8
scale 33:19
scales 33:9 34:1 62:4,5

62:5 73:14
scattered 74:19
scene 13:14 19:20
20:16 23:3,4 24:23
27:7 30:18 34:10,18
37:17 44:5,10 45:4
49:21 51:17 53:20
70:22,25 76:8 82:12
83:13 140:20 141:9
155:10
scheduled 117:13
scope 22:4 36:18 37:25
screen 66:20 106:12
scuffle 157:1
search 13:18 35:4 36:7
54:13 55:1,2 56:3
77:17 88:18 103:7,17
104:7 109:25 121:21
139:7 142:6 144:14
146:24,25
searching 103:14
seat 136:8
seating 37:16 86:12,19
seats 25:6
second 11:19 47:25
71:20 85:24 139:12
160:5,6,8 163:16,19
163:20
seconded 160:10
seconds 12:22 143:13
section 9:6 80:9 82:5
150:6 153:17 159:20
159:25 160:4 161:3
sector 16:23
security 10:12 12:7
13:3,22 35:19 53:2,15
53:16,23 55:23 56:19
80:3,6,23 81:2 88:2
89:9,13 90:21,23 91:8
109:11,16,22,24
110:1,3 118:9,14,15
118:17 120:24,25
121:3,16,18 124:14
124:16,25 130:22,25
152:11,14 156:3
162:22,23,25 163:2,3
163:7,8,12,15 164:22
seek 53:13
seeking 54:22 159:23
seen 20:4 33:21 43:20
43:23 44:1 56:6,14
57:2,11 135:17
seize 52:2 54:6,11,12
141:24,25 144:20
seized 51:25 52:8,11,20
54:17 77:17
self-consumption
33:23

Selgas 7:18 134:16
sell 64:24
send 26:25 148:1
161:19
sense 156:16
separate 26:1 84:2
sergeant 17:13,13,14
17:16 23:8,9,14 27:12
44:14,19 46:9 51:19
51:21
series 155:8
serve 133:2
served 132:24
servers 118:9
service 21:8,14 35:7
90:4
session 94:18 161:22
set 21:16 25:15
setup 59:1
seven 105:20
Seventh 12:21 37:8
Shahzeb 2:3 4:24
share 66:20
sharing 72:7,20 93:14
shattered 24:14 71:22
71:25 111:11,16
121:10,13
shattering 12:13
Shaw 37:10
sheet 22:20
shell 26:7,10,20,21 27:2
27:19 28:14,25 29:8
29:17 30:4,10,14 31:5
31:11,20 33:17 75:10
122:8 150:21 151:2
156:22
shift 22:14
shooting 10:4 13:8
27:21 29:19 30:1 66:4
82:8 98:3 104:21
119:11 121:8 137:21
150:20 152:19 153:5
153:9,10 156:8
shootings 64:10
Short 1:20 89:23 90:1,2
90:10,15 124:10,12
124:13,18,23 125:2,5
131:18 160:6,6,7,10
160:11,12,12 163:17
163:17,18,21,22,23
163:23
shortly 72:8,21 77:6
shot 12:13
shots 27:14
show 9:24 12:4 38:10
53:9 82:21 83:25 84:4
102:18 107:16 109:5
111:20 113:8 115:2

116:9 156:19
showed 75:9 77:5
 85:25 102:4
showing 27:4 66:12
 68:15 84:7
shown 156:2
shows 10:4,8 31:5 32:3
 152:18
shut 9:11
side 12:16,17 25:4
 43:24,25 47:11 86:7,8
 86:14,16 96:4 111:4
 113:19 114:7 156:12
side-by- 96:3
sidewalk 76:22
sign 132:16 134:16
signed 13:17 103:14
 104:9 132:17 163:14
significance 29:16
 30:25 32:1 33:11,19
 37:7
significant 22:19 38:4,9
 67:20
signify 34:5
Simone 2:2 107:2
 133:13
simple 156:16
simply 25:20 54:6
sir 5:25 8:14 10:18 11:9
 11:14,20 15:3,17 29:6
 31:17 38:17 41:23
 43:12,17 44:17 46:5,7
 46:10,14,19 62:12,25
 90:6 93:4,17 95:5
 96:5 106:4 107:15,20
 109:21 119:16 120:5
 120:8,15 121:24
 122:5,10,17 123:7,13
 124:6,17 125:1,4,13
 125:16 126:3,6,21
 127:15,19,24 128:4
 128:20 129:5,11
 130:24 131:3 135:16
 136:17 141:10,18
 146:23 147:15,21
 149:22
sit 25:14 29:22,23 34:22
 36:19 37:16 38:8,24
 39:1 45:16,20 47:4
 50:23 51:2,24 52:5
 53:12 54:12 56:16,22
 58:4 134:17,24
sits 109:16
sitting 95:23 96:3
 109:12 134:19
situation 13:4
six 84:22 85:1 149:6
 154:14,17

Sixth 17:15
skeptically 14:8
skip 82:19
slow 125:24
small 122:14,15
smoking 87:11
social 78:14
sold 64:22 127:17
somebody 25:12,17
 27:5,14,21 31:2 32:17
 32:24 35:7 37:23
 55:19 140:16
soon 73:4 141:8
sorry 6:3,4 21:14 41:22
 44:8 57:5 91:15 94:7
 95:7 99:1 104:3 107:8
 119:17 125:22 131:19
 144:6
sound 67:17
sounded 21:17
speak 11:16 60:14 68:8
 83:16 88:4 89:5
 118:20 119:14 139:1
speakerphone 129:24
speaking 6:4 68:3
speaks 90:21
specific 164:21
specifically 65:4 83:24
 90:20 146:6 157:3
specifics 58:5,8,13,17
 137:24
specify 162:22
spell 4:21 5:23 6:8
 15:22 63:11 73:23
 74:3 77:8 96:9 98:18
 99:5 103:21 127:10
 136:18
spelled 6:1
spelling 5:7 74:1
 136:17
spent 26:20,21 27:2,19
 28:14,25 31:5,11,19
 150:21 151:2
spoke 36:21 44:5,10
 77:21 88:16 89:13
 122:11 139:3,4
spoken 140:7
spread 25:5
stabbing 155:10
stabblings 155:19
stacked 28:8
staff 2:2 12:18 89:6
stand 4:8 134:1
standard 52:25 53:7
standing 47:20 86:24
stands 109:16
start 4:18,19 5:15
 103:14 136:16

started 17:11 66:1 98:5
 98:7
state 15:21 48:25 63:11
 96:9 136:18
stated 8:12 17:22 58:22
 128:1 129:17
statement 8:22 10:15
 10:18 111:15
station 133:11
stationed 12:8,20
 109:23
statutorily 154:7
Stella 75:4
step 100:4
stick 138:4
stipulate 7:5
stipulation 40:1,5,9
 68:25 69:9
stipulations 6:21 7:4,9
 7:12,14 8:9,10,12,13
 53:17
stopped 12:7
stopping 156:4
storage 87:22
store 25:24
stored 25:25
straight 97:14 116:17
 116:18
strange 14:14
stray 37:20
street 1:7 24:7 37:8,15
 43:14,24 47:11,18
 48:12 71:17 76:21
 77:4 107:18,19,21
 137:15
Streets 12:21
strike 143:20
struck 37:22
struggle 151:9
study 123:19
stuff 61:22
subject 82:15
submitted 55:6
subpoena 131:15
subpoenas 132:16,17
 132:23 133:4
substance 33:7 61:19
 61:20 73:7
substances 10:11
 131:1
successfully 13:24
summarily 150:9 154:6
 155:17
summary 1:7 6:13,25
 9:2 82:5 83:21 153:16
 153:23 154:8 155:24
 159:15 162:10,13
Sunday 90:7

Superior 36:7 55:5
supervising 17:2
Supervisor 70:20 78:5
supervisors 23:6
supported 27:17
supposed 38:1 39:14
 41:13 157:24
surveillance 35:10,13
 35:13,16 43:3 55:2
 60:22 76:24 77:15,19
 81:1,12,19 84:1,4,7
 87:16 92:12 144:2,9
suspect 43:20
suspected 9:14
suspend 9:7 155:18
suspended 81:24 150:9
suspension 1:7 6:13
 7:1 9:3,17 153:16,23
 159:15 162:10,14,15
swear 15:14 62:23
sweep 12:23
sworn 95:18 136:5
syrup 33:16
system 13:23 14:1,5
 35:13,14,16,18 36:6
 42:6 54:6,17 55:2,17
 77:15 81:2 87:20 88:3
 88:22 95:22 96:2
 100:17,25 102:18
 128:2,7,13,18 129:10
 129:16 134:7 139:11
 140:10 157:23
systems 101:25

T

T 1:7 12:21 21:19 24:7
 37:8 43:14,24 47:11
 71:17 107:17,19,21
 110:7,8 137:15
T-D-R-I-D-I-C-O 77:9
T-R 103:22
T-R-I-D 136:21
T-R-I-D- 132:7
T-R-I-D-I-C-O 103:23
t/a 1:6
table 25:9 26:4 73:8
 75:2
tablecloth 25:10,11
tablecloths 73:9
tables 25:15 45:7 73:5
 75:8 76:10,12,13
taken 31:18 42:6 87:20
 115:6 129:16 140:10
 145:19,20 146:11
 153:6
talk 19:16 40:2,6 77:23
 96:22 128:24
talked 51:22,23 81:1

102:25 103:4,5
 104:15 118:22,25
 146:9 147:6
talking 19:22 36:25
 73:24 82:11 83:13
 98:5,7 129:24 134:11
 140:21,22 146:21
talks 41:13 69:25 80:9
tape 70:25
tavern 1:6 4:5 9:4 10:2
 20:22 65:8 66:4 75:25
 76:9 77:5 78:21 82:9
 96:14 111:3 159:25
 160:3 162:11
Tavern's 153:16
team 80:13,14
tech 101:11,12,13,15
technical 164:17
technically 29:10
technician 14:1 99:20
 100:2,16,24 102:7
 129:22,25 157:16
technology 164:19
telephoned 66:3
tell 15:15 27:23 29:15
 31:9 34:12,13 43:25
 59:18 62:23 75:23
 116:15 131:23 142:24
 149:10
telling 126:11
Tells 102:12
ten 30:8
tender 157:22
term 61:9,24
testified 45:5 57:1
 58:14 85:13,20 86:4
 95:19 121:9 136:6
 151:1 152:20 156:23
 158:8
testifies 69:16
testify 7:18 41:17 52:6
 79:11 132:13 134:18
testifying 73:22 79:5,21
 135:10
testimony 9:23 19:18
 43:8 44:14 46:16
 54:22 57:9,19 58:15
 59:1 62:10,11 69:14
 70:4,5 78:23 79:3,7
 84:15 93:15 105:12
 131:11 135:18 136:14
 138:1 147:18,21
 150:10,19 152:17
 153:4 157:11
text 146:22
texted 107:3
thank 4:9,18 5:14 6:12
 10:13 14:19,22 15:20

38:11,13 59:18 62:9,9
 62:12,13,13 63:2 74:4
 77:10 89:18,20 90:16
 90:16 91:14 93:14,16
 93:17 94:13,21 95:21
 99:2,10 103:24
 107:11 119:18,20
 125:7 131:10,10
 132:14 133:8 143:21
 147:17,20,22,25
 148:8,9,10,12 149:22
 153:17,18 159:11,13
 159:13 161:25 164:11
 164:18,24,25 165:1,4
Thankfully 12:25
Thanks 62:15,16
that'd 22:14 47:2
that'll 106:20
that's 4:16 5:11 6:23
 8:15 14:24 19:25
 29:23,25 30:15 38:9
 38:25 41:2 42:8,12
 43:5 56:21 58:10
 61:15,19 69:25 82:13
 82:15 83:2 90:15 94:6
 94:9 95:25 97:19
 98:24 103:23 106:14
 106:19,21 107:17,19
 107:23 108:11 109:6
 109:11,16 110:8
 111:2,21 113:9,13
 115:3 116:10 118:6
 121:17 137:19 142:11
 142:15 144:15 146:13
 148:5,7 154:3 155:12
 159:8,11 163:5
 164:22
THC 33:5 61:21 73:11
 74:8
THC- 61:13
THC-type 19:12
there's 6:22 19:24 29:9
 29:10 38:4 42:19,20
 61:21 69:24 71:20
 80:9,12 102:1 155:2
 156:9,14,14,20
they'll 19:10,11 52:6
they're 28:4 33:24 37:2
 38:1 58:17 108:8
 122:18,24 129:3,4
 134:19 158:15
thieves 102:7
things 28:3 32:16 36:19
 54:9 139:5,6 158:9
third 16:8,15,19,24
 17:24 18:2 20:6,15
 23:7 37:5 50:18 84:23
 137:2 155:19

Thomas 13:3 110:8,9
 118:17 119:5 156:2
Thortnton 70:20
thought 40:1,4
threat 14:18
three 8:2 16:12 20:14
 25:18 36:4 65:3,18
 88:19 92:4 151:15
 162:16 164:21
Thursday 90:8
ticket 49:19 50:2,13,15
 50:18,19,21 51:3
tickets 50:6,9
timeline 163:8
timely 142:19
times 14:14 54:14
 61:17 65:16 77:14
 92:1 104:19 130:7
tipped 24:25 27:16
today 6:24 9:2,21 10:23
 11:24 23:18 36:3 57:1
 62:10 105:13 112:14
 132:13 138:1 144:1
 149:13,23 152:1
 153:24 154:4 155:23
 158:17 159:16 164:12
today's 105:8
told 13:12 36:1 44:15
 51:15 56:9 60:25
 82:22,24 83:3 89:9
 97:25 98:1,2,4,9,12
 99:15,16,21 100:23
 101:24 102:4 103:9
 119:5,7,9 121:5
 128:23 129:22 132:3
 145:24 146:6,8
 150:11
top 20:12 73:10
total 33:14
totality 33:21
touch 122:5
traditionally 34:1
trained 80:15 124:16
training 18:11,13,16
 26:23 28:1 30:4 34:20
 36:9 61:8 158:8
trainings 18:5,8,20,20
 123:6,11,15 150:24
transaction 59:6
transactions 59:12
 158:10
transmission 21:16
transmissions 60:4
transpired 140:23
 146:10
trays 25:11 73:10
Tridico 2:6 3:6 51:24
 52:1,8,22 71:12 77:6

77:12,13,22 88:17
 91:11 103:4,16 104:6
 105:4 131:16 132:7
 132:10 133:12 134:15
 136:3,11,21,24 144:1
Tridigo 7:17
tried 100:15 119:5
 155:23
trouble 21:18 92:12
 134:15
true 43:13
truth 15:15,16 62:23,24
try 13:5 50:7,8 67:14
 125:1,2 133:25 161:7
 161:16
trying 7:6 67:9 100:13
 105:6 129:4 133:19
 134:14,17,20,24
 145:11,15 146:2
 147:5
turn 5:8,17 68:1,6,11
 133:23 134:4,23
turned 68:4 90:22
turning 42:4 46:1 70:8
 90:21
twice 19:1
two 7:20,22 9:20 26:12
 27:14,19 29:4,10
 30:20 31:4,5,6 33:16
 33:17 50:24 52:24
 56:23 75:5 78:17 84:2
 87:6 88:14 101:20
 102:1 118:15 120:23
 121:19 131:14 132:16
 133:3,3 139:5,6
 143:13 154:17 155:2
 155:19
type 21:18,23 25:2
 27:11,17,24 31:22
 32:11,23 35:19 45:23
 59:7 60:5,13,18,18
 61:14,25 90:24
 127:21 154:19
types 64:5 80:14

U

U.S 55:7
ultimately 77:17
unable 13:24
unadjudicated 93:8
unauthenticated 79:11
uncomfortable 146:6
 146:13,14 147:2
uncooperative 49:10
 51:15 82:20 83:25
 84:3,6
uncooperativeness
 52:23

undamaged 31:25
121:25 122:1 151:5
understand 41:20
47:17 53:3,24 56:4
57:4 93:5 97:7 106:10
123:21 142:3 145:22
understanding 51:4,10
52:7 54:19 56:8 68:25
94:2 148:6
unequivocally 39:9
unfired 26:12
unfortunately 36:23
Uniontown 155:8
unit 25:3 51:25 52:2,11
137:2
unlawfully 150:13
unlock 14:1 100:24
unmute 133:10,13
134:24
unscrew 122:25
updated 22:21 162:21
162:25 163:7
upright 28:3
usage 10:10
use 12:22 18:25 80:19
99:3 101:10 134:17
usually 28:3,8 109:20

V

various 33:12 64:23
vendor 75:7,14,18
vendors 9:25 64:23
78:15
vestibule 12:8 29:7
46:18 47:21 49:3
71:17 85:15,24 153:6
153:9
video 13:22 52:13 53:8
54:23 55:14 57:2 61:1
61:2 69:25 76:25
77:15 78:20 79:12,17
79:21 81:2,8 82:21
83:10 84:5,7 88:9
90:25 91:8 101:11,19
101:22,22 102:4,5,5
102:10,19 104:13,18
104:22,24 105:2,4,5,9
129:18 130:4,6
134:21 138:24 139:10
142:8,13,15,17,22
149:4 151:14 152:8
157:6,13,17 158:1
videoconference 1:15
videos 81:6 145:22
view 52:12 54:23 55:14
90:25 91:12 92:16
129:18 151:13
viewed 79:12,17 85:14

viewing 79:21 81:7
violated 152:10,13
violation 85:3 154:16
violations 157:3
violence 19:16 20:4
violent 155:19
Virginia 97:13 120:12
120:12
visible 115:13
voice 119:15
volume 68:2,4,11
vote 163:20
vulnerability 144:25

W

W 1:15,18
Wahabzadah 1:20
160:15,16,16 164:1,2
164:2
wait 99:21,23 100:2,21
101:2 102:20,21
129:23 130:3 161:15
waited 71:10
waiting 144:13
walk 24:12 26:8 28:21
47:18,19 48:11
158:11
walked 25:10 59:2 73:3
73:5 85:14
walking 24:5,6,10,21
37:11 74:25
walkthrough 24:4
25:23 87:6
wall 14:4 86:19 157:19
wanted 146:20
wants 126:13 149:20
warrant 36:7 54:13,22
54:24 55:1 56:3,13
77:17 88:18 142:6
144:14
wasn't 88:5 99:17
106:23 120:5 131:21
139:24 144:22 145:24
146:3
watch 23:7
waterfront 155:16
way 28:8 37:22 83:22
86:22 100:18,20
111:5 114:3 156:14
156:14
we'd 51:1 68:21 125:6
we'll 19:17 106:24
161:24
we're 10:22 40:2 56:12
56:17,22 58:4 67:19
70:8 94:13,23,25
95:22 96:23 134:11
134:16 135:25 137:24

138:4 144:25 145:12
149:15 153:22,24
162:5,9,9,20
we've 14:13 20:4,7
33:21 34:9 37:6 64:14
76:1 164:15
weapon 12:11 119:5,6
WebEx 1:15
Wednesday 1:12 9:5
week 88:17
weeks 36:4 88:19
151:15
weighing 33:24
weight 33:14
welfare 36:11 154:1
went 16:16 18:9 37:21
37:22 71:11,13,18
76:16,20,23 77:3,23
78:6,19 86:15 97:6,10
98:3,10 121:17
135:23 143:17 145:21
155:11 162:2 165:6
weren't 77:16 145:4
what's 11:13 67:12,21
74:12 75:12 82:9
106:23 110:6 123:8
123:17,20 137:3
139:16
white 25:11
who's 6:4,5 95:4 102:22
131:24
willing 103:13
window 3:14 10:6
12:14 46:17,23 47:22
47:25 48:10 71:23
73:9 85:21 86:3,8,10
86:14 87:1 111:24
112:7,8 113:13,15
114:7 115:3,4 117:7
156:11,18
windows 47:7,8,9,10
152:7
wires 101:3
wish 8:22 10:15 94:4
wishes 15:8
witness 3:2 15:7,19
40:24 41:3,7 52:10
63:2 79:4,5 83:4,9
91:16,22 92:23 93:19
95:2,5,17 96:5 98:22
99:8 103:22,25
119:16,19 124:17,20
125:1,4,13,16,20,23
126:3,6,9,12,16,21,24
127:1,6,8,11,15,19,24
128:4,8,15,20 129:4
129:11,13,20 130:14
131:13 132:1 136:4,8

136:20 140:24 143:23
144:21 145:16 146:8
146:19 147:11,22
148:1,5,10,15 156:23
witnessed 44:19,22
46:12 151:11
witnesses 9:20 28:12
62:17 106:2 131:15
141:11
won't 133:22
wood 76:11 116:10,15
116:17,18,18
word 92:24
words 12:23
work 67:15 99:19,25
100:10,12 118:8
128:3 134:25 136:25
137:6,11 157:16,24
158:24 159:3,7
worked 65:3 117:21
164:16
working 13:10 94:19
96:23 97:19 110:4
118:17 127:13 147:5
worn 23:20 24:22,23
worse 13:5
wouldn't 39:6 40:20
42:13 157:5
Wright 37:15,18
write 50:5
writing 104:10,11
written 50:9,15,17,20
53:10,11 54:2 57:12
92:15 103:6 157:22
162:17,22 163:10
164:20
wrong 49:8 85:19 159:4
wrote 50:1,12 65:14
83:22

X**Y**

year 18:12 19:1,24 37:3
154:15
years 16:13 20:3 63:24
65:3 96:18,21 130:9
154:22 155:4
yesterday 106:16
150:17
you'd 143:17 144:21
You'll 125:2
you're 6:4 7:6 39:1
43:10 45:18 47:17
48:6,7 52:17 59:11
68:2 73:24 79:6,6
99:2 114:5 118:5,7
126:10,19 129:15

153:20 159:5,6
you've 50:20 56:6,14
 149:4
Youth 17:17

Z

zero 154:15,16 158:6,7
Ziploc 33:12
Zolarcoffer 70:19 78:5
 81:14 83:19 87:19,21
 88:1
zooming 101:25

0

1

1,000 154:11
1:20 94:13
1:30 22:15
1:50 94:16,20
10 22:15
1000 33:16
104710 1:7
108 3:12
11:42 4:2
110 3:12
112 3:13
115 3:14,14
116 3:15
12 23:2 30:7 65:4 80:25
 118:12,13
131 3:6
14 75:13
15 3:3 143:13
18 84:24 154:11
18- 154:13
1B 1:8

2

2 3:12 84:13,14 90:7
 108:25 110:11,14,21
2- 159:20
2-574(B)(13) 160:4
2-574(B)(4) 160:1
2-574B 161:3
2:46 135:23
2:49 135:24
20 130:1
20-CMP-00110 1:9 4:4
 9:3
20-CMP-00110(a) 1:9
 4:5 9:4
2006 137:13
2009 155:15
2010 17:14
2015 137:8
2020 1:11,13 9:5,25
 11:2 12:5 21:2,13

65:23 92:15 96:23
 107:22 110:4 117:14
 137:18 138:21 139:2
20CMP00110 159:24
 160:2 162:11
20CMP00110A 159:24
 160:2 162:12
25-826 150:6 153:17
25-827 9:7
28 1:13
2nd 125:19
2x4s 76:12

3

3 3:13 80:8 90:9 110:22
 112:18,21 113:3
3:19 161:5
3:20 162:2
3:30 9:13 21:15
3:50 161:6,7,9
30 73:18 81:5 143:12
30- 94:9
30-minute 94:3,14
3rd 132:24 142:4

4

4 3:9,14 70:11 72:2,5
 86:2 113:5,8 114:14
 114:17,23
4:00 161:11,17,20,21,24
4:05 162:3
4:09 165:6
4:30 70:15
40 3:10 74:13,15
48 81:10,16 91:2 130:22
 152:12

5

5 3:14 16:18 50:16
 72:19 114:24 115:20
 115:23 116:4
574(B) 159:21

6

6 3:15 80:8 116:5,20,23
 117:4
6-0-0 160:25 164:10
600 21:19,19
62 3:4
637 1:7 101:6 137:15
66 3:9
6th 102:14

7

7 9:5,24 11:2 12:5 21:2
 21:12 50:11 55:13,18
 57:21,23 65:13,23
 81:1 88:7 89:7 90:7,8

72 3:9
74 3:10
7th 50:17 96:23 101:16
 104:12 107:22 109:18
 110:4 111:9,16 112:9
 113:22 117:14 125:11
 125:18,21 137:18
 138:8,21 139:2

8

8 78:14
81 119:7
85 33:15

9

9 1:11
9-1-1 10:9 35:3 151:18
95 3:5
96 9:12
96-hour 9:17 77:25
 82:25 83:4 84:14
 149:17
9th 112:5

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This is to certify that the foregoing transcript


In the matter of: Kiss Tavern

Before: DCABRA

Date: 10-28-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

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