

ALSO PRESENT:

KEITH LIVELY, Counsel

CAMELIA MAZARD, Counsel

KIMBERLY ROSE, Applicant

CHRISTINE GEPHARDT, OAG

CAMERON ROYSTER, ABRA Investigator

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

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WITNESS	DIRECT	CROSS	REDIR	RECROSS
Daniel Koch	15	19	27	
Scott Possinger	28	38		
Cameron Royster	51	68	97	92
Kimberly Rose	101	119	144	

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

2 1:50 p.m.

3 CHAIRPERSON ANDERSON: We now go back
4 to our calendar. The next cases on our calendar
5 are Case No. 18-CMP-00032, Halftime Sports Bar,
6 License No. 94107, and Case No. 18-251-00069,
7 Halftime Sports Bar, License No. 94107.

8 These are two specific cases, but
9 because they are the same, I believe that we are
10 doing them at the same time, because it's the
11 same attorney, but I guess once I can get some
12 clarification from the Government or from the
13 parties how these cases will be moving forward.

14 I know they are two specific cases, so
15 are we having two specific hearings or is there
16 going to be one hearing with -- for the two
17 cases?

18 MS. GEPHARDT: Well, it's going to
19 be --

20 CHAIRPERSON ANDERSON: And I'm sorry,
21 you have -- I'm sorry, yeah.

22 MS. GEPHARDT: Oh, I'm sorry.

1 CHAIRPERSON ANDERSON: We also have to
2 introduce ourselves, too. Once you introduce
3 yourself for the record, then you can, as a
4 preliminary matter, explain to me how we are
5 going to move forward. So go ahead, Ms.
6 Gephardt.

7 MS. GEPHARDT: Okay. Well, what we
8 are planning on doing is taking each case,
9 basically, separately. But it's two dates, so we
10 are going to be talking about the first date,
11 which is the first incident and then the second
12 date which is the second incident. So we are
13 basically just going to do it by date. There is
14 different violations on each date.

15 CHAIRPERSON ANDERSON: Okay. All
16 right. All right. So why don't you introduce
17 yourself and then we will have this side
18 introduce themselves for us also.

19 MS. GEPHARDT: Okay. Hi, I'm Chrissy
20 Gephardt. I'm here on behalf of the Office of
21 the Attorney General.

22 CHAIRPERSON ANDERSON: Ms. Gephardt.

1 MR. LIVELY: I'm Keith Lively, Doyle,
2 Barlow & Mazard. I'm here on behalf of Halftime
3 Sports Bar.

4 CHAIRPERSON ANDERSON: Good afternoon,
5 Mr. Lively.

6 MS. ROSE: Hi, I'm Kimberly Rose. I'm
7 owner of Halftime Sports Bar.

8 CHAIRPERSON ANDERSON: Good afternoon,
9 Ms. Rose.

10 MS. MAZARD: And Camelia Mazard from
11 Doyle, Barlow & Mazard on behalf of Halftime
12 Sports Bar.

13 CHAIRPERSON ANDERSON: Spell your last
14 name for me.

15 MS. MAZARD: Mazard, M-A-Z-A-R-D, as
16 in dog.

17 CHAIRPERSON ANDERSON: Good afternoon,
18 Ms. Mazard.

19 MEMBER ALBERTI: May I make a brief
20 request to the parties?

21 CHAIRPERSON ANDERSON: Go ahead, Mr.
22 Alberti. Yes, Mr. Alberti.

1 MEMBER ALBERTI: This is for my
2 benefit, because I'm easily confused. If during
3 the testimony in your examination of witnesses,
4 if you make it perfectly clear which date you are
5 talking about.

6 MS. MAZARD: Yes.

7 MEMBER ALBERTI: I don't mean the case
8 number, but the date is important, so that I can
9 keep it clear in my mind which case we are
10 talking about. I'm easily confused and --

11 MS. MAZARD: Okay.

12 MEMBER ALBERTI: -- I don't want that
13 to get jumbled in my mind. Thank you.

14 MS. MAZARD: No problem.

15 MR. LIVELY: And if I could just make
16 a suggestion?

17 CHAIRPERSON ANDERSON: Yes, Mr.
18 Lively?

19 MR. LIVELY: Mr. Chair, I would like
20 to just do them as consecutively as possible. I
21 was anticipating going through the Investigator's
22 report for the first incident and the second

1 incident. They are only about a month apart.
2 They are fairly clearly delineated.

3 One is about using the second floor
4 without a license, using the summer garden
5 without a license.

6 The next one is distinctly about an
7 assault that took place in February.

8 I was hoping to be able to go through
9 both of those investigative reports and bring my
10 client up one time to go through the chronology
11 of events. I think that would make for a clearer
12 story, because, frankly, we have five primary
13 charges here that are being treated as fourth
14 tier.

15 And that is an essential element to
16 our defense here is how I am treating any of
17 these charges as fourth tier is fundamentally
18 unfair and basically just designed to run him out
19 of business.

20 CHAIRPERSON ANDERSON: Well, I --
21 well, remember the Government goes first. I
22 can't tell the Government how to present its

1 case, so if there is an agreement between you and
2 the Government how the case is -- the case will
3 be presented, I'm fine with it.

4 But so if you and Ms. Gephardt have
5 some understanding of how the case should be
6 presented, how she is going to present the case,
7 then as long as the parties tell me how it is
8 going to go, I'm fine with it.

9 MS. GEPHARDT: All right.

10 CHAIRPERSON ANDERSON: But I hear what
11 you're saying, Mr. Lively, but that's not my -- I
12 have to take my instruction from the Government,
13 since they go first.

14 MEMBER ALBERTI: Um-hum.

15 MS. GEPHARDT: Okay. So we have
16 talked about it and we are going to do the
17 February incident first, February 25th, and then
18 we are going to discuss the January 21st incident
19 and then according to Mr. Lively, then Ms. Rose
20 will be testifying after all of that.

21 CHAIRPERSON ANDERSON: All right.

22 Well, as I said before, you are presenting your

1 case, because the Government goes first, the
2 Government presents its case. Once the
3 Government presents its case, then the licensee
4 will present its case. So they can present their
5 case the way they want to. So we will go from
6 there.

7 All right. Any other preliminary
8 matters that need to be discussed?

9 MS. GEPHARDT: I don't believe so.

10 CHAIRPERSON ANDERSON: All right.

11 Does the Government wish to make an opening
12 statement?

13 MS. GEPHARDT: Just very, very
14 briefly. I just want to let you know Board
15 Members that today we are here for two cases.
16 The first one that you will hear about is on
17 February 25, 2018. This was a case where the
18 establishment was being used for an unlawful
19 purpose, meaning the bouncer of the establishment
20 assaulted a patron out on the front sidewalk and
21 caused him injuries.

22 The other issue with this case was as

1 a result of that, there was no incident log that
2 was made. So there was a missing incident log,
3 which was required by the security plan, and then
4 there was an issue with the cameras trying to get
5 security footage. There is only one individual
6 who knows how to access the cameras. He was out
7 of the country. They had to wait until he came
8 back until they could get footage to look at the
9 incident.

10 And I believe two of the cameras were
11 not functioning or at least they weren't
12 recording. And then so at the end of this, we
13 will have proven that this establishment was used
14 for an unlawful purpose.

15 Just going on then to the second case
16 on January 21, 2018, in this case, two
17 Investigators from ABRA went to visit Halftime
18 Sports Bar and noticed that it was very busy,
19 very packed and they noticed there was someone at
20 the door that was taking tickets and charging
21 people a cover charge.

22 They do not have a cover charge

1 endorsement on their license. They also noticed
2 that the second level was being used. They do
3 not have the C of O for this, or at least through
4 ABRA, they do not have a C of O to use the second
5 floor. And this has been an ongoing issue.

6 And then finally, they were using a
7 porch in the back, a summer garden, without an
8 endorsement.

9 So at the end of that, we will prove
10 all three of those charges and that will be it.

11 CHAIRPERSON ANDERSON: All right.
12 Before I ask the licensee, I want to make a
13 public announcement. It is now 2:00. At 2:18, I
14 was told that everyone who has a cell phone will
15 receive an alert. So what I'm asking everyone to
16 do, if you -- can you make sure that your cell
17 phone is either off or on silent or -- because
18 it's going to interrupt the proceedings, so I
19 just wanted to alert folks that this is going to
20 happen at 2:18.

21 So even if your cell phone is on
22 vibrate, it should not be sitting on the desk,

1 because we are going to know at 2:18, because
2 everyone who has a cell phone, it will go off at
3 2:18 today. All right?

4 MS. GEPHARDT: But I want to hear from
5 my President.

6 CHAIRPERSON ANDERSON: Well, I'm -- we
7 are in the middle of a hearing and I am just -- I
8 don't know who -- I do not know the nature of,
9 but we were told that there will be some message
10 at 2:18 today. So we can either just stop, so we
11 can all listen to it, but if we are moving
12 through, it's going to interrupt the proceedings.

13 So you can let me know what is it
14 should we stop at 2:18, so we can all -- or
15 should we plow through?

16 MEMBER SHORT: Stop at 2:18.

17 CHAIRPERSON ANDERSON: So someone
18 needs to point out to me --

19 MS. GEPHARDT: I say we plow through.

20 CHAIRPERSON ANDERSON: So someone
21 needs to point out to me that -- just before it
22 gets to --

1 MEMBER ALBERTI: When my phone
2 vibrates, I'll point out to you that we should
3 stop.

4 CHAIRPERSON ANDERSON: Okay. All
5 right. Just I am just stating the obvious. So
6 I'm not -- all right. Mr. Lively, do you wish to
7 make an opening statement now or do you want to
8 wait?

9 MR. LIVELY: I'll defer my opening
10 statement.

11 CHAIRPERSON ANDERSON: Okay. All
12 right. Does the Government have a witness?

13 MS. GEPHARDT: Yes. The Government
14 would like to call Officer Koch to the stand.

15 CHAIRPERSON ANDERSON: Yes, can you
16 raise your right hand, sir?
17 Whereupon,

18 OFFICER DANIEL KOCH
19 was called as a witness by Counsel for the
20 Government, and having been first duly sworn,
21 assumed the witness stand and was examined and
22 testified as follows:

1 THE WITNESS: I do.

2 CHAIRPERSON ANDERSON: Thank you.

3 Your witness.

4 DIRECT EXAMINATION

5 BY MS. GEPHARDT:

6 Q Good afternoon, sir. What is your
7 name?

8 A My name is Daniel Koch. Last name is
9 spelled K-O-C-H.

10 Q And where do you work?

11 A I'm a Police Officer with the 1st
12 District, Metropolitan Police Department.

13 Q And what is your title?

14 A Officer.

15 Q Okay. And are you assigned to a
16 particular unit at MPD?

17 A I work in robbery suppression, but
18 it's just a subsection of the basic patrol
19 function.

20 Q Okay. And how long have you worked at
21 MPD?

22 A This month will be three years.

1 Q Okay. And are you familiar with an
2 establishment on H Street called Halftime Sports
3 Bar?

4 A I am.

5 Q Okay. Did you have the occasion on
6 February 25, 2018 to have an encounter with
7 Halftime Sports Bar?

8 A I did.

9 Q Can you explain the circumstances,
10 please?

11 A Absolutely. So it was around 11:00
12 p.m. My partner and I were operating an unmarked
13 police cruiser. We were heading eastbound in the
14 1400 Block of H, as in Henry, Street, N.E. As we
15 came up to the front of Halftime Sports Bar, we
16 both observed an altercation going on.

17 I specifically observed a very large
18 male standing over a much smaller male who was in
19 the fetal position on the ground striking him
20 several times with a closed fist. I exited the
21 passenger side of the unmarked police cruiser and
22 immediately began ordering the larger individual

1 to back away, to which he complied. He later
2 reported that he was a bouncer and he was dealing
3 with an unruly patron.

4 Q Okay. And did you interview the
5 bouncer?

6 A I did, yes.

7 Q And what did you ask him?

8 A So I essentially asked him to walk me
9 through everything that led up to the
10 altercation. He stated that the individual had
11 been in the establishment several times on the
12 night in question, was disturbing other patrons,
13 was highly intoxicated and had been removed
14 several times. He further stated that the
15 individual came back into the bar and a
16 confrontation happened. He removed him from the
17 establishment and ultimately ended up in the
18 physical altercation on the sidewalk in front of
19 the establishment.

20 Q Okay. And did you speak to anyone
21 else at the establishment, besides the bouncer?

22 A One patron approached me and the only

1 thing he reported was that the individual who was
2 the victim of the assault was being a disorderly
3 patron inside the establishment on that night.

4 Q Okay. Did you speak to the owner at
5 all of the establishment?

6 A I personally did not.

7 Q Okay. And briefly explaining again,
8 you said he was pounding with his fists? Am I
9 making a correct characterization of that? What
10 actually was happening?

11 A Yeah, that is fairly accurate. So
12 what I observed personally was a very large
13 individual, who later identified himself as the
14 bouncer, standing overtop of another individual
15 who was curled up in a, you know, something
16 similar to the fetal position on the sidewalk,
17 while he struck the person several times about
18 the head and face with a closed fist.

19 Q Okay. And did you arrest the bouncer?

20 A My partner and I did place the bouncer
21 under arrest and charged him with simple assault.

22 Q Is there anything else about the

1 incident that you think is worth mentioning?

2 A Not particularly, I do not.

3 Q Okay. Thank you. That's all I have
4 for you.

5 CROSS-EXAMINATION

6 BY MR. LIVELY:

7 Q Just very briefly, Officer. You
8 mentioned that he was striking with a closed fist
9 several times. Approximately, how many times
10 would you say?

11 A Approximately, three times, but I
12 can't say specifically how many times I observed.

13 Q Did you witness the event as it was
14 occurring or did you see the beginning and the
15 end, the entire --

16 A Where I began observing the
17 altercation was with one individual already in
18 the fetal position with a bouncer standing
19 overtop of him.

20 Q Okay.

21 A Striking him with a fist.

22 Q Was he on the sidewalk?

1 A On the sidewalk in front of the
2 establishment.

3 Q And this was which street?

4 A H Street.

5 Q H Street?

6 A Yes.

7 Q On the sidewalk in front of the
8 establishment?

9 A Yes, sir.

10 Q And I believe you mentioned there were
11 other people outside as well?

12 A There were.

13 Q Okay. And approximately how many
14 people?

15 A I couldn't even give an approximate
16 number.

17 Q Several would you say?

18 A Numerous people outside.

19 Q Numerous people. The only -- you only
20 spoke with one?

21 A I personally only spoke with one.

22 Q Do you know if your fellow Officer

1 spoke with any?

2 A Officers interviewed numerous people
3 on-scene.

4 Q Okay. Was an ambulance called for the
5 victim?

6 A It was.

7 Q When you -- I believe you said that
8 the bouncer mentioned that he had come in -- the
9 victim had come into the bar several times?

10 A Yes, sir.

11 Q Okay. And had to be removed several
12 times?

13 A That's what the bouncer reported, yes,
14 sir.

15 Q Do you recall if he told you what --
16 if he told you whether he was beating him every
17 time he was removing him from the --

18 A He did not --

19 Q -- establishment?

20 A -- report that and nobody else
21 reported an additional assault to me --

22 Q Okay.

1 A -- on-scene.

2 Q So as far as we know, this is the only
3 occurrence of an actual -- he was escorted from
4 the premises without a beating at least several
5 other times?

6 A That's correct.

7 Q Okay. And as far as what triggered
8 the beating, I believe you said something about
9 an altercation happened?

10 A That's correct. I don't know the
11 particulars --

12 Q Triggering the --

13 A -- on the -- what happened inside that
14 led to the assault outside. I know that the
15 patron came back into the bar, that was reported
16 after being removed two times. And something
17 inside the bar triggered him being removed a
18 third time and then the physical altercation
19 happened on the sidewalk in front of the bar.

20 Q Do you have an understanding of how
21 long a period of time this took from when he was
22 ejected the first time to the altercation at the

1 end?

2 A I do not have an approximation for
3 that.

4 Q Were you in the vehicle -- so when he
5 was arrested, I assume he was taken to a holding
6 cell?

7 A To the police station, yes, sir.

8 Q Okay. And he was in the car with you?

9 A He was not. I did not transport. No,
10 sir.

11 Q Okay. Do you know -- have you spoken
12 with any other Officers that -- do you know who
13 the Officers were that transported him?

14 A It would be in the police report, but
15 I don't know off the top of my head who
16 transported Mr. Lovette.

17 Q But you were not in the car and the
18 conversation you had with him that you just
19 testified to is the only conversation that you
20 had?

21 A Correct.

22 Q Correct.

1 A On H Street.

2 Q Did any witness indicate that they saw
3 the patron spit on the bouncer?

4 A I don't recall that being said, but I
5 can't say for certain that that wasn't reported.

6 Q Okay.

7 MR. LIVELY: That's all I have.

8 MS. MAZARD: Can I ask a couple
9 follow-up questions?

10 BY MS. MAZARD:

11 Q Do you know whether or not the charges
12 were dropped against the bouncer?

13 A I believe the case was no papered. I
14 don't believe charges were brought.

15 Q And do you know what time the bouncer
16 was released from custody?

17 A I do not know that.

18 Q And do you know if he was released on
19 his own recognizance?

20 A I can't say for certain, but I would
21 imagine if the case was no papered, he was
22 released on his own recognizance.

1 Q So no assault charges were filed then?

2 A I do not believe assault charges were
3 filed, no.

4 Q Thank you.

5 CHAIRPERSON ANDERSON: Any other
6 questions? That's it?

7 MS. GEPHARDT: Well, just briefly.

8 CHAIRPERSON ANDERSON: Hold on, Ms.
9 Gephardt.

10 MS. GEPHARDT: Oh, I'm sorry,
11 questions. I'm sorry.

12 CHAIRPERSON ANDERSON: Any questions
13 by any Board Members? Mr. Alberti?

14 MEMBER ALBERTI: Officer Koch, do you
15 know if there was any other personnel from the
16 establishment on the sidewalk when you arrived?

17 THE WITNESS: I do not know if anybody
18 else on the sidewalk were working inside the
19 establishment on that night.

20 MEMBER ALBERTI: All right. So I'm
21 trying to understand what you are telling me.
22 That no one else, no one there identified

1 themselves as staff members or you just don't
2 know?

3 THE WITNESS: No one else identified
4 themselves as staff members to me specifically.
5 There were several Officers on-scene who
6 interviewed, you know, numerous individuals. I
7 did not personally interview any others.

8 MEMBER ALBERTI: Would you have known
9 if there were other security members? How was
10 the security guard dressed?

11 THE WITNESS: He was wearing plain
12 clothes, civilian attire, I would call it. I
13 believe he was wearing a T-shirt and jeans.

14 MEMBER ALBERTI: Did he have anything
15 on him that identified him as being security?

16 THE WITNESS: He did not, to my
17 knowledge. I didn't observe anything when I
18 approached him that led me to believe he was
19 security.

20 MEMBER ALBERTI: Okay. Do you know
21 positively or negatively whether or not there was
22 any other security staff outside?

1 THE WITNESS: I do not know if there
2 was any other security.

3 MEMBER ALBERTI: Okay. Thank you.

4 CHAIRPERSON ANDERSON: Any other
5 questions by any Board Members? All right. Mr.
6 Lively, do you -- any questions of the Officer,
7 based on the questions that the Board had asked?

8 MR. LIVELY: No.

9 CHAIRPERSON ANDERSON: Ms. Gephardt?

10 REDIRECT EXAMINATION

11 BY MS. GEPHARDT:

12 Q Did you witness any physical injuries
13 on the patron that was on the ground?

14 A I don't recall observing any obvious
15 physical injuries, but I do remember the victim
16 complained of pain to his forehead, but I don't
17 recall specifically observing any.

18 Q Okay.

19 MS. GEPHARDT: That's all I have.

20 CHAIRPERSON ANDERSON: Officer Koch,
21 thank you very much for your testimony. You can
22 step down.

1 THE WITNESS: Thank you, sir.

2 (Whereupon, the witness was excused.)

3 CHAIRPERSON ANDERSON: Thank you.

4 Does the Government have another witness?

5 MS. GEPHARDT: Yes. The Government
6 would like to call Officer Possinger to the
7 stand.

8 CHAIRPERSON ANDERSON: Good afternoon.

9 Could you raise your right hand?

10 Whereupon,

11 OFFICER SCOTT POSSINGER

12 was called as a witness by Counsel for the
13 Government, and having been first duly sworn,
14 assumed the witness stand and was examined and
15 testified as follows:

16 THE WITNESS: I do.

17 CHAIRPERSON ANDERSON: Okay. Your
18 witness.

19 DIRECT EXAMINATION

20 BY MS. GEPHARDT:

21 Q Officer, can you, please, state your
22 name and spell it for the record?

1 A Yes, ma'am. My name is Officer Scott
2 Possinger. My last name is spelled P-O-S-S-I-N-
3 G-E-R.

4 Q And where do you work?

5 A I'm currently a Metropolitan Police
6 Officer within the 1st District of the
7 Metropolitan Police Department.

8 Q Okay. And are you assigned to a
9 particular unit within the Metropolitan Police
10 Department?

11 A Yes, ma'am. I work on the Robbery
12 Suppression Unit within the 1st District's Patrol
13 Unit.

14 Q Okay. And what is the Robbery
15 Suppression Unit?

16 A That's a great question. We focus on
17 violent crime within the 1st District and the
18 bordering Districts of the 1st District,
19 predominately robberies, burglaries and other
20 violent Part 1 offenses.

21 Q Okay. And are you familiar with an
22 establishment on H Street called Halftime Sports

1 Bar?

2 A Yes, ma'am, I am.

3 Q Okay. And did you have the occasion
4 on February 25, 2018 to visit Halftime?

5 A Yes, ma'am.

6 Q Can you explain the circumstances of
7 why you were there?

8 A Yes, absolutely. So just after 11:00,
9 23:00 hours, in the evening, my partner and I
10 were operating an unmarked police car. I was the
11 driver of the vehicle, my partner was the
12 passenger and we were heading eastbound in the
13 1400 Block of H, as in Henry, Street, N.E. at
14 which point I noticed an assault in progress in
15 front of Halftime Sports Bar.

16 I immediately observed a larger
17 individual, he was dressed in a black T-shirt and
18 jeans, standing over another male who was curled
19 up in a fetal position on the ground. I
20 immediately observed that male stomp with his
21 foot on that individual's head at least twice in
22 front of the location, that's what got my

1 attention, at which point I alerted my partner's
2 attention.

3 At that point, I exited my vehicle and
4 my partner and I went and split up the assault
5 that was in progress at that location.

6 Q Okay. So you were driving by and just
7 saw it out of -- when you were looking over, you
8 saw it happening?

9 A Yes, ma'am, I saw it through my
10 windshield.

11 Q Okay. So no one flagged you down or
12 anything?

13 A That's correct.

14 Q Okay. And what did you do when you
15 got out of your vehicle?

16 A Yeah, so immediately the first thing
17 we do is secure the scene, make sure everybody is
18 safe and that there is not another assault in
19 progress. So we immediately stepped the bouncer
20 back. We split up both parties. And then at
21 that point, I ensured that the noticeable victim
22 in this case was okay, what we like to determine

1 is if they are conscious and breathing and, of
2 course, he was.

3 And then we requested the Fire
4 Department to come and assist with assisting the
5 victim.

6 Q Okay. And were you able to see any
7 injuries on the victim?

8 A I did not see any injuries. The
9 victim was highly intoxicated at the time of the
10 assault. He had extreme difficulty standing on
11 his own. So after we stepped him up from being
12 in the fetal position, it was very noticeable he
13 was highly intoxicated.

14 Additionally, he did complain of
15 pretty severe pain to the forehead, which I
16 believe was from the assault that occurred.

17 Q Okay.

18 MR. LIVELY: I will object to that.

19 MS. GEPHARDT: Okay.

20 BY MS. GEPHARDT:

21 Q So did you interview any witnesses
22 while you were there?

1 A I did not personally interview any
2 witnesses. I believe I interviewed the defendant
3 in this case and the victim in this case.

4 Q Okay. And when you interviewed the
5 defendant, first of all, who did you think the
6 defendant was?

7 A Well, at that point of the interview,
8 it was the suspect that I believed -- it was the
9 larger individual. I believe his name was --

10 MEMBER SILVERSTEIN: Please speak into
11 the microphone.

12 THE WITNESS: I'm sorry. I believe
13 his name was Defendant Lovette, in this case. He
14 was the bouncer working at that location.

15 BY MS. GEPHARDT:

16 Q Okay. And when you say at that
17 location, he was the bouncer for Halftime Sports
18 Bar?

19 A Yes, ma'am.

20 Q Okay. And when you interviewed him,
21 what did you talk to him about?

22 A Of course, we tried to establish what

1 happened prior to this assault. The defendant,
2 the bouncer in this case, reported that the
3 victim had entered Halftime Sports Bar on
4 numerous times. I believe it was twice. The
5 third time he entered the location, he was once
6 again acting disorderly. He was highly
7 intoxicated when he entered the location. And
8 for the third time, the bouncer went to remove
9 him from the location.

10 While the bouncer was removing him,
11 the defendant, the bouncer in this case, reported
12 to me that the victim grabbed his shirt, like the
13 front of his shirt, and held on to it at which
14 point the bouncer forcible removed him from the
15 location and then the assault occurred outside of
16 the location.

17 Q Okay. And you said you spoke to the
18 victim. What did you talk to the victim about?

19 A So like I said, the victim was highly
20 intoxicated. He really just reported that an
21 assault had been outside, but he was not sure how
22 he got to that point.

1 Q Okay. So did the ambulance come for
2 the victim?

3 A Yes, ma'am.

4 Q Okay.

5 A And the victim was transported to the
6 hospital in this case as well.

7 Q Okay. And did you arrest Mr. Lovette?

8 A Yes, ma'am.

9 Q And what did you do after you arrested
10 him? Did you take him to your vehicle?

11 A Yes, ma'am. He was --

12 Q I'm sorry.

13 A -- not transported in an unmarked
14 police cruiser. He has to be transported in a
15 transport vehicle, but he was transported to the
16 1st District and he was subsequently charged with
17 simple assault.

18 Q Okay.

19 CHAIRPERSON ANDERSON: Ms. Gephardt,
20 can we -- let's take a one minute -- a two minute
21 pause.

22 MS. GEPHARDT: Okay.

1 CHAIRPERSON ANDERSON: Since I was
2 told to, so we are off the record for about two
3 minutes until 2:18 when we have this alert that
4 everyone's cell phone will blow up.

5 (Whereupon, the above-entitled matter
6 went off the record at 2:16 p.m. and resumed at
7 2:19 p.m.)

8 CHAIRPERSON ANDERSON: We are now back
9 on the record. Go ahead, Ms. Gephardt.

10 MS. GEPHARDT: I just have one other
11 question.

12 BY MS. GEPHARDT:

13 Q Did you speak to anybody from the
14 establishment while you were there?

15 A So I believe that I spoke to possibly
16 one of the ABC Managers at the time. He came
17 out, but all he really added was that the victim
18 in this case had entered the location numerous
19 times and was acting disorderly inside of the
20 establishment.

21 Q Okay. And when you spoke to the
22 bouncer, the suspect in this case, did he give

1 you any reason why he was doing this?

2 A Well --

3 Q Did he say to you this is why I did
4 it?

5 A I'm sorry.

6 Q This is why I was beating up this guy?

7 A No. I mean, all he explained was that
8 the suspect grabbed his shirt.

9 Q Okay.

10 A As he was removing him from the
11 location.

12 Q Okay.

13 A I mean when we witness a crime, you
14 know, we already knew that an assault occurred.

15 Q Right.

16 A We wanted to know what predicated that
17 assault.

18 Q Right. Okay.

19 MS. GEPHARDT: That's all I have.

20 CHAIRPERSON ANDERSON: Mr. Lively?

21 CROSS-EXAMINATION

22 BY MR. LIVELY:

1 Q You mentioned the victim was visibly
2 intoxicated?

3 A Yes, sir, I would say so.

4 Q Was he cited for public intoxication?

5 A No, sir, not in this case.

6 Q Is there a reason why you chose not
7 to?

8 A I mean, so we can go down that track.
9 Predominately, we would never -- somebody who is
10 a victim of a crime, right, they would not be
11 cited for public intoxication. Also public
12 intoxication for our Department is more of a
13 safety concern, right? Somebody is out on the
14 street, they refuse to go to the hospital because
15 they are so intoxicated or they are a danger to
16 themselves or others, that's usually when that
17 charge is in place. The public intoxication.

18 Q And Officer Koch testified that he was
19 -- it's his understanding the case was no
20 papered?

21 A Correct, that's what we refer to as
22 the U.S. Attorney's Office not accepting the

1 case.

2 Q Okay. And is that your understanding
3 as well?

4 A As of yesterday when I checked our
5 justice system, yes, sir, the case was not taken
6 by the United States Attorney's Office.

7 Q Okay. And in the course of your
8 check, did you see if he had been arrested or
9 served any jail time at the arrest, like
10 overnight upon his release?

11 A I did not. I did not look into that.

12 Q Okay. Is Mr. Lovette a very large
13 individual?

14 A Yes, sir.

15 Q Is this your regular beat? How long
16 have you been on this particular patrol?

17 A My partner and I both have been in the
18 1st District just under three years now.

19 Q Okay.

20 MEMBER SILVERSTEIN: Sir, say again,
21 please?

22 THE WITNESS: My partner and I have

1 been police officers for just under three years
2 now. We have been patrolling in the 1st District
3 since July 7, 2016.

4 BY MR. LIVELY:

5 Q And you have no way of knowing one way
6 or another, but I'll represent to you that my
7 client will testify that Mr. Lovette worked as a
8 bouncer for approximately three years at the time
9 of this. Did you ever arrest him during this --
10 have you ever arrested Mr. Lovette before? Have
11 you come across him before?

12 A No, sir.

13 Q This was the first and only time?

14 A That is correct.

15 Q Okay. Thank you, Officer.

16 A Yes, sir.

17 CHAIRPERSON ANDERSON: Questions by
18 any Board Members? Yes, Mr. Short?

19 MEMBER ALBERTI: Is there -- was there
20 another question?

21 CHAIRPERSON ANDERSON: No.

22 MEMBER ALBERTI: Okay. I'm sorry.

1 MEMBER SHORT: Good afternoon,
2 Officer.

3 THE WITNESS: Good afternoon, sir.

4 MEMBER SHORT: And thank you for your
5 service.

6 THE WITNESS: Absolutely.

7 MEMBER SHORT: The arrest took place
8 in the what hundred Block of H Street?

9 THE WITNESS: The arrest occurred
10 directly in front of the Halftime Sports Bar in
11 the 1400 Block of H, as in Henry, Street, N.E.

12 MEMBER SHORT: Okay. Now, just for my
13 sake, the 5th District is how far away from there?

14 THE WITNESS: So the 5th District picks
15 up at 15th, so the north side of Florida, the east
16 side 15th and north of H, Florida and 15th. So
17 it's right on the cusp of 15th.

18 MEMBER SHORT: Like a triangle.

19 THE WITNESS: Correct.

20 MEMBER SHORT: Okay. Are you very
21 familiar with H Street?

22 THE WITNESS: Yes, sir, I would say I

1 am.

2 MEMBER SHORT: So you are there often?
3 Out of a month, how many days a month are you
4 working?

5 THE WITNESS: Every work day. I work
6 five days a week. I'm on H Street, N.E.

7 MEMBER SHORT: So you are very
8 familiar with the block?

9 THE WITNESS: Yes, sir, I would say
10 so.

11 MEMBER SHORT: And how many arrests do
12 you normally make?

13 THE WITNESS: Between my partner and
14 myself, probably yearly 60 to 80 arrests.

15 MEMBER SHORT: Is that a month, a
16 year?

17 THE WITNESS: A year. Yearly I said.
18 I'm sorry, sir.

19 MEMBER SHORT: So monthly, how many?

20 THE WITNESS: Give or take between my
21 partner and I, maybe -- anywhere from 5 to 10
22 arrests a month.

1 MEMBER SHORT: And how many in the
2 1400 Block of H? I mean, just approximately,
3 because --

4 THE WITNESS: Off of the top of my
5 head, I can't recall another arrest I have made,
6 but unfortunately they sometimes tend to run
7 together.

8 MEMBER SHORT: I understand. I'm very
9 familiar with H Street.

10 THE WITNESS: Yes, sir.

11 MEMBER SHORT: And again, I thank you
12 for your service.

13 THE WITNESS: Absolutely.

14 MEMBER SHORT: And I'll just say this.
15 We know that areas change a lot and the arrests
16 that you are making, and I thank you Officers for
17 doing a great job of that, but are you familiar
18 with this sports bar other than this particular
19 occasion?

20 THE WITNESS: We have received -- so
21 my partner and I, like I said, I'm on H Street,
22 N.E., every night. I am familiar with the sports

1 bar. We have been there several times or to bars
2 right next door of it for sometimes violent
3 offenses that occur outside of the sports bar or
4 in the area surrounding it that tend to spill
5 over from nightlife activities from that block.

6 MEMBER SHORT: Okay. So approximately
7 how many clubs in that block, approximately?

8 THE WITNESS: So there is the H Street
9 Sports Bar, there is The Elroy, those are the two
10 that I can think of that stand out in my head.

11 MEMBER SHORT: Well, again --

12 THE WITNESS: I'm sorry, then you have
13 a wine bar. You have several other restaurants,
14 but --

15 MEMBER SHORT: Yeah, I know it's kind
16 of a busy block.

17 THE WITNESS: Yeah.

18 MEMBER SHORT: And so you said don't--
19 knowing that the rest are there, but this is one
20 you would have --

21 THE WITNESS: I can think of two
22 arrests I have made in that block off the top of

1 my head, but this being one of them, a simple
2 assault case.

3 MEMBER SHORT: Okay. And do you
4 consider this person that you stopped the assault
5 from happening, he was in the fetal position, so
6 he was not giving any resistance at all to this
7 bouncer or --

8 THE WITNESS: That is correct. What
9 I witnessed, the victim in this case was not
10 defending himself. He was in a fetal position on
11 the ground while he was being stomped by the
12 bouncer in the head.

13 MEMBER SHORT: Okay. That's all I
14 have. Thank you, Officer.

15 THE WITNESS: Yes, sir.

16 MEMBER SHORT: Thank you for your
17 service. That's all I have, Mr. Chair.

18 CHAIRPERSON ANDERSON: Any other
19 questions by any -- yes, Mr. Alberti?

20 MEMBER ALBERTI: Officer Possinger, is
21 it?

22 THE WITNESS: Possinger. Good

1 afternoon, sir.

2 MEMBER ALBERTI: Possinger. I'm
3 sorry. I forgot the end when I wrote it down.

4 THE WITNESS: That's all right.

5 MEMBER ALBERTI: All right. So we
6 heard testimony that there was -- there were
7 other people outside.

8 THE WITNESS: Correct.

9 MEMBER ALBERTI: Was it like a crowd
10 watching what was going on?

11 THE WITNESS: No.

12 MEMBER ALBERTI: Or were they just
13 passersby?

14 THE WITNESS: They were just passerby
15 or standing. So the H Street -- excuse me, the H
16 Street Sports Bar, I believe, has two doors or
17 entrances to it. This one occurred to the door
18 that was further east of the other. I believe
19 the other patrons were standing at the opposite
20 door, so 15 to 20 feet away from the assault.

21 MEMBER ALBERTI: Oh, they were?

22 THE WITNESS: Correct.

1 MEMBER ALBERTI: Okay. So were there
2 people closer than 15 feet to this assault?

3 THE WITNESS: Not that I recall, no,
4 sir.

5 MEMBER ALBERTI: Okay.

6 THE WITNESS: It was just the bouncer
7 and the victim.

8 MEMBER ALBERTI: All right. So do you
9 know whether or not there was another security
10 person out there besides -- Mr. Lovette was the
11 security person, right?

12 THE WITNESS: Mr. Lovette, defendant
13 Lovette in this case, yes, sir.

14 MEMBER ALBERTI: And do you know if he
15 was -- if there was any other security staff out
16 there?

17 THE WITNESS: I don't recall. I only
18 observed one, but unfortunately as a police
19 officer, when you see a crime in progress, you
20 tend to focus on that crime and not some of the
21 other circumstances going on.

22 MEMBER ALBERTI: Okay. I just didn't

1 know if during your questioning if you identified
2 anyone else, but you hadn't?

3 THE WITNESS: Not to my recollection.

4 MEMBER ALBERTI: Okay. Mr. Lovette,
5 you said he was dressed in black jeans and black
6 T-shirt?

7 THE WITNESS: I believe they were dark
8 blue jeans and a black T-shirt, yes, sir.

9 MEMBER ALBERTI: Okay. Was there any
10 lettering on the T-shirt?

11 THE WITNESS: I do not recall there
12 being any security or any marking or indications
13 to indicate his position at the sports bar.

14 MEMBER ALBERTI: So as far as you
15 know, there was no identification of him as
16 security?

17 THE WITNESS: As far as I recall, yes,
18 sir.

19 MEMBER ALBERTI: Do you know whether
20 Mr. Lovette was a licensed special police officer
21 or not?

22 THE WITNESS: He -- to my

1 recollection, he was not a special police officer
2 within the District.

3 MEMBER ALBERTI: Okay. He did not
4 identify himself as such, right?

5 THE WITNESS: That is correct.

6 MEMBER ALBERTI: I have no further
7 questions. Thank you.

8 THE WITNESS: Yes, sir.

9 CHAIRPERSON ANDERSON: Any other
10 questions by any of the Board Members? Mr.
11 Lively?

12 MR. LIVELY: I have no further
13 questions.

14 CHAIRPERSON ANDERSON: Ms. Gephardt?

15 MS. GEPHARDT: No further questions.

16 CHAIRPERSON ANDERSON: Officer
17 Possinger, thank you very much for your
18 testimony.

19 THE WITNESS: Yes, sir. Thank you,
20 Board.

21 CHAIRPERSON ANDERSON: You can step
22 down.

1 MS. GEPHARDT: Thank you.

2 (Whereupon, the witness was excused.)

3 CHAIRPERSON ANDERSON: Does the
4 Government have any other witnesses?

5 MS. GEPHARDT: Yes. The Government
6 would like to call Cameron Royster to the stand.

7 CHAIRPERSON ANDERSON: Mr. Royster,
8 can you raise your right hand, please?

9 Whereupon,

10 INVESTIGATOR CAMERON ROYSTER
11 was called as a witness by Counsel for the
12 Government, and having been first duly sworn,
13 assumed the witness stand and was examined and
14 testified as follows:

15 THE WITNESS: (No audible answer).

16 CHAIRPERSON ANDERSON: Have a seat,
17 please. Remember to keep the microphone close to
18 you, so we can hear you.

19 THE WITNESS: Yes, sir.

20 CHAIRPERSON ANDERSON: Thank you.

21 DIRECT EXAMINATION

22 BY MS. GEPHARDT:

1 Q Hi. Mr. Royster, can you, please,
2 state your name and spell it for the record?

3 A Yes, Cameron Royster, C-A-M-E-R-O-N
4 R-O-Y-S-T-E-R.

5 Q All right. And, Mr. Royster, where do
6 you work?

7 A With the Alcoholic Beverage Regulation
8 Administration as an Investigator.

9 Q Okay. And how long have you worked at
10 ABRA?

11 A I've been working since January of
12 2018.

13 Q And what does an Investigator do for
14 ABRA?

15 A Oh, we conduct license -- we conduct
16 inspections and investigations of licensed-ABC
17 establishments in the District of Columbia.

18 Q And are you familiar with an
19 establishment by the name of Halftime Sports Bar?

20 A Yes, I am.

21 Q Did you have the occasion to
22 investigate an incident there that occurred on

1 February 25, 2018?

2 A Yes, I did.

3 Q How did you become knowledgeable about
4 this incident from February 25, 2018?

5 A I received an MPD 251 report Tuesday,
6 March 6th, which is about a week and some change
7 after the incident.

8 Q Okay. And what did the -- what did
9 you get from the 251? What did it say?

10 A It basically conveyed that a male
11 patron, I found out later to be the male bouncer,
12 had assaulted another male patron outside of the
13 establishment. And so my first thing I did, I
14 contacted the Officer involved in the case to
15 gain clarification of the incident.

16 Q Okay. And who did you contact?

17 A It was Officer Koch and Officer
18 Possinger are the two listed Officers in the
19 case.

20 Q Okay. And what did you do after you
21 spoke to the Officers?

22 A The next thing I did after I spoke to

1 the Officers, I looked through the Alcoholic
2 Beverage Regulation Administration's records and
3 determined how the establishment also has a
4 security plan and a settlement agreement, so I
5 reviewed both of those documents.

6 And then after that, I contacted the
7 owner as -- or attempted to contact the owner as
8 well on the phone, but reached her voicemail.

9 Q Okay. So once you received the
10 voicemail, what happened after that?

11 A I did not receive a callback, so I
12 ended up just going to the establishment that
13 Thursday, I believe, or sorry, that -- yeah, it
14 was either that Wednesday, I believe.

15 Q Um-hum.

16 A And went to the establishment on my
17 own to figure out what happened in the incident.

18 Q Okay. And who did you speak to when
19 you arrived?

20 A When I first arrived at the
21 establishment, there was a lone male security
22 officer and I identified myself as an ABRA

1 Investigator and I asked to speak to the ABC
2 Manager. And about a couple minutes later, a
3 male approached me, later to be Kenneth Woodley,
4 he advised that he was the ABC Manager.

5 And I informed him that I was looking
6 to investigate the incident that occurred on
7 February 25th and initially he had advised me that
8 he -- he acted like there was no -- he had no
9 clue of the incident. And so I informed him. I
10 asked him first off, do you know who the ABC
11 Manager was that night of February 25th? And he
12 informed me that it was him.

13 So that's when I started asking him do
14 you know who this defendant is in this case? Do
15 you know -- like so I was trying to elaborate
16 more on the incident and he come to finally tell
17 me that Lovette was their lone security officer
18 and the head of security at the establishment.
19 And so --

20 MEMBER ALBERTI: Can you just repeat
21 what you just said?

22 THE WITNESS: Initially when I asked

1 him about the incident, he had informed me that
2 he had no clue of what occurred that night. And
3 so I tried to elaborate even more of who -- like
4 I asked him who the ABC Manager was the night of
5 the incident and that's when he informed me that
6 -- that's when he informed me he was the ABC
7 Manager.

8 So that's when I was like oh, so you
9 did know about the incident? So that's when he
10 started to elaborate to me more of who the head
11 of security was that night and the other security
12 procedures.

13 BY MS. GEPHARDT:

14 Q And so what did you talk to Mr.
15 Woodley about?

16 A I asked him -- well, the first --
17 initially, I asked him, I guess, what happened,
18 what he knows and then who -- I guess well, how
19 many cameras are around the establishment? How
20 many security officers they hired, etcetera,
21 stuff of that nature.

22 Q Did you talk to him about the incident

1 from February 25th?

2 A Yes, I did.

3 Q Okay. And what kind of -- what did
4 you discuss with him regarding the incident?

5 A I asked him if they had an incident
6 log documenting the incident, since as the ABC
7 Manager, he is one of the people required to
8 document any incident that occurs the night of
9 the incident. And he advised me that he was not
10 sure the establishment kept an incident log at
11 all, including this incident.

12 Q Okay. And you said you reviewed
13 documents before you came to the establishment
14 that day?

15 A Yes.

16 Q And that you saw that they had a
17 settlement agreement and a security plan?

18 A Yes.

19 Q I would like to show you the security
20 plan for Halftime Sports Bar, but I would like
21 the Board to take judicial notice of the
22 documents that are in the file and that I will be

1 using those as my exhibits --

2 CHAIRPERSON ANDERSON: Well, what --

3 MS. GEPHARDT: -- throughout this
4 hearing.

5 CHAIRPERSON ANDERSON: I guess I'm
6 mildly concerned with that judicial notice. I
7 don't know, you said documents in the file, so I
8 think we have to be a little bit more specific
9 what documents you are talking about, because I
10 don't know what is in the file. So just be a
11 little bit more specific --

12 MS. GEPHARDT: Okay.

13 CHAIRPERSON ANDERSON: -- about what
14 documents.

15 MS. GEPHARDT: Okay. Sure. Okay.
16 When I say the documents in the file, I mean, I
17 will bring them out and I'll show you and --

18 CHAIRPERSON ANDERSON: Okay.

19 MS. GEPHARDT: -- ask you if you can
20 take judicial notice of the document.

21 CHAIRPERSON ANDERSON: Well, once you
22 have identified, yeah.

1 MS. GEPHARDT: How does that sound?

2 CHAIRPERSON ANDERSON: Yeah, once you
3 have identified them.

4 MS. GEPHARDT: Okay. Okay.

5 CHAIRPERSON ANDERSON: I'm fine with
6 that.

7 MS. GEPHARDT: Okay.

8 CHAIRPERSON ANDERSON: But I have not
9 seen the file and I don't know what is in it, so
10 I can't take judicial notice of --

11 MS. GEPHARDT: Yeah.

12 CHAIRPERSON ANDERSON: -- the entire
13 file. So all right.

14 MS. GEPHARDT: Okay.

15 BY MS. GEPHARDT:

16 Q So you said you reviewed the security
17 plan?

18 A Yes, I did.

19 Q If you saw a copy of the security
20 plan, would you -- would it -- would you be able
21 to familiarize yourself with it?

22 A Yes, I would, yes.

1 Q Okay.

2 A Thank you.

3 Q So this is the security plan for
4 Halftime Sports Bar. I believe it is in the
5 Board's file. Board Exhibit No. 2.

6 (Whereupon, the above-
7 referred to document was
8 marked as Board Exhibit No.
9 2 for identification.)

10 BY MS. GEPHARDT:

11 Q All right. Mr. Royster, can you turn
12 to the Page No. 5?

13 A Yes.

14 Q And if you look at the bottom, what
15 does it say there?

16 A It shows the titled incident log.

17 Q Okay. And what does it say?

18 A It states "In addition of video
19 surveillance, Halftime Sports Bar will maintain a
20 log and report for all relevant incidents in or
21 around the establishment. Incident reports will
22 log incidents, such as, but not limited to,

1 injuries, fights, violent acts, brandishing of
2 weapons and incidents that occur outside of the
3 establishment."

4 Q So when you inquired about the
5 incident log to Mr. Woodley, what did he say
6 about it?

7 A Could you repeat that question?

8 Q When you asked Mr. Woodley about the
9 security plan and the incident log, did you --
10 did he --

11 A Yes.

12 Q -- did you speak with him about the
13 incident log?

14 A Yes. He had informed me that he was
15 not sure that the establishment kept an incident
16 log, but that the owner was also at the
17 establishment, so he would ask her and then speak
18 to her about the incident log.

19 Q Okay. And did you meet the owner?

20 A Yes, I did that night.

21 Q And explain what you talked about with
22 her.

1 A Like I said, it was Kimberly Rose. I
2 spoke with her about the incident log and she had
3 informed me that because of a water leak inside
4 of the establishment, the incident log and a
5 couple other documents were destroyed about a
6 month prior to the incident.

7 And so I asked her or I informed her
8 how the, at that time, incident had occurred a
9 week and a half prior, so a new incident log
10 should have been -- or should a new -- a new
11 incident log should have been implemented. So I
12 asked her if they had created a new incident log
13 and she informed me that they did not.

14 Q Okay. And one moment, please. Now,
15 what else did you talk to Ms. Rose about or Mr.
16 Woodley about what you witnessed when you were
17 there that day?

18 A About what I -- you say about what I
19 witnessed?

20 Q About when you went there and you were
21 going around and looking and looking for the
22 incident log.

1 A Um-hum.

2 Q And other things, what else did you
3 find?

4 A Oh, I inquired also about the security
5 cameras as well.

6 Q Okay.

7 A That's another thing. And I asked Mr.
8 Woodley how many security cameras were around the
9 establishment and he had informed me that there
10 were eight cameras placed around the
11 establishment, but he said there was
12 approximately two or three, I believe he said,
13 that weren't working that night.

14 Q Okay. And did you request a copy of
15 the footage from that night?

16 A Yes, I did. Yes, I did.

17 Q And what -- did you get it?

18 A Not that night, no, but I spoke with
19 Ms. Rose about that and she said that her
20 husband, Dwayne Falwell, was out of the country
21 and he is the only one able to access and control
22 the footage and so I would have to wait until, I

1 believe it was, that Sunday when he returned from
2 the country.

3 Q Okay. And what happened after that?

4 A Well, from that night, I didn't do
5 anything else that night. I couldn't review the
6 camera footage, so between the time from that
7 period until the Sunday, I reviewed the body-worn
8 camera footage, which confirmed, basically, their
9 statements of that.

10 From the footage when they turned it
11 on, you can observe, I believe it was, the
12 Officer Koch in the passenger. You can see it as
13 soon as he steps out of the car. The big
14 individual standing overtop of a man in a fetal
15 position, so I was able just to confirm their
16 initial statements to me.

17 Q Okay. Were you able to view the
18 footage at some point?

19 A Yes, I was.

20 Q Okay. And at what point in time did
21 you actually -- were you able to view it?

22 A It was on the Wednesday about -- it's

1 the -- I know it was the Wednesday after he
2 returned from out of the country. The next week
3 Wednesday from the first time I visited.

4 Q Okay. And did you talk to Mr. Falwell
5 about the cameras?

6 A Yes. He had -- well, I spoke with him
7 on the phone right when he got back from out of
8 the country and he told me how it was inoperable
9 at the time. And he needed a repairman to fix
10 the camera system, so that's -- but he said he
11 had a cameraman coming immediately after the next
12 day and will call me back when the camera system
13 is fixed. And he did call me back the next day
14 to say the camera system was fixed.

15 Q Okay. And then he was able to produce
16 the footage for this --

17 A Yes.

18 Q -- relevant event?

19 A Yes.

20 Q Okay. And I would like to also refer
21 you to page 5 in the security plan. In the
22 middle of the page, security cameras, what

1 exactly is this about?

2 A It basically conveys their
3 requirements for what -- basically what they need
4 for their security cameras. Some thing they got
5 they are required to equip at least five digital
6 video recording system and that includes a 13
7 inch monitor that will be located in the main
8 office.

9 And the camera will strategically be
10 located to cover all areas of the establishment
11 and management staff will be able to retain
12 copies of all recordings for 30 days. And it
13 lists the locations of where each camera is
14 supposed to be placed.

15 Q Okay. Did you witness a video
16 recorder that has the 13 inch monitor that was
17 located in the main office? Did you see that
18 there?

19 A Yes, there was a 13 inch monitor.

20 Q Okay. Going back briefly to the
21 incident log, when you mentioned the word
22 incident log and discussed it, did they, did Ms.

1 Rose and Mr. Woodley, even know what an incident
2 log was?

3 MR. LIVELY: I'll object.

4 THE WITNESS: Not --

5 CHAIRPERSON ANDERSON: Is there an
6 objection?

7 MR. LIVELY: You are asking for a--

8 CHAIRPERSON ANDERSON: No, I'm sorry,
9 is there an objection? I wasn't --

10 MR. LIVELY: She is asking if he --

11 MEMBER SILVERSTEIN: Sir, can't hear
12 you.

13 MR. LIVELY: Sorry. The objection is
14 to the fact that he is -- she is asking him the
15 state of mind, the client's mind at the time of
16 that. What she understood or not without, I
17 assume, the -- nonverbally.

18 MS. GEPHARDT: I can rephrase it.

19 CHAIRPERSON ANDERSON: Go ahead, Ms.
20 Gephardt rephrase the question.

21 MS. GEPHARDT: Okay.

22 BY MS. GEPHARDT:

1 Q Did you talk to Ms. Rose about the
2 incident log?

3 A Yes, I did.

4 Q What did -- did it appear to you when
5 you were talking to her, did she know what she
6 was supposed to do?

7 A No, not what she was supposed to keep
8 in the incident log, no.

9 Q Okay. Did she -- what did she tell
10 you?

11 A That I recall as she -- I mainly
12 remember her telling me how the water main break
13 destroyed a whole -- it was a notebook, I
14 remember, a paper notebook she had of the
15 incident log, but that was destroyed and they had
16 not created a new one. So we kind of had a
17 conversation speaking what should be in an
18 incident log, but I cannot specifically recall
19 what she knew of what was supposed to be in an
20 incident log.

21 Q Okay.

22 MS. GEPHARDT: That's all I have for

1 right now.

2 CHAIRPERSON ANDERSON: Mr. Lively?

3 CROSS-EXAMINATION

4 BY MR. LIVELY:

5 Q Mr. Royster, just to follow-up on that
6 last point --

7 CHAIRPERSON ANDERSON: Mr. Lively, you
8 have to raise your voice, because I have issues
9 hearing and Mr. Silverstein has a hearing
10 impairment, so --

11 MR. LIVELY: Oh, okay.

12 CHAIRPERSON ANDERSON: -- if I can't
13 hear, I think he can't hear also.

14 MR. LIVELY: Oh, I'll do my best. I'm
15 not yelling at you.

16 THE WITNESS: Um-hum.

17 BY MR. LIVELY:

18 Q Just in that last point, you indicated
19 that Ms. Rose appeared that she did not
20 understand what an incident log was. Is that
21 accurate?

22 A Yes, in a way where she just didn't

1 know that she always needs to have one kept, even
2 if one gets destroyed, there should automatically
3 be a new one created.

4 Q Okay. But even according to your own
5 report, she did know what it was enough to tell
6 you that it had been destroyed in the water leak
7 a month prior?

8 A Yes. Where it should be in -- yes,
9 where it was destroyed, yes.

10 Q Okay. Talking about the cameras, you
11 spoke with the ABC Manager on duty the first
12 visit you made after this incident, correct?

13 A Yes.

14 Q And according to your testimony, he
15 informed you that two of the cameras might have--
16 two of the eight cameras might have been
17 defective?

18 A It was about two to three I recall him
19 saying, yes.

20 Q Okay. Did he point out which cameras
21 were defective?

22 A No. I didn't ask him about which

1 specific cameras, no.

2 Q And when you -- and you spoke with Ms.
3 Rose that same day, correct?

4 A Yes, that night, yes.

5 Q When you spoke with Ms. Rose, you said
6 you requested to review the footage?

7 A Yes.

8 Q What were you requesting? Were you
9 requesting that you be given a copy of the
10 footage?

11 A And also to view the footage that
12 night, yes.

13 Q Okay. And she was not able to give
14 you a copy of the footage?

15 A And view the footage that night.

16 Q All right. On the equipment?

17 A Yes, she was not --

18 Q You were --

19 A -- able to control. Like she wasn't
20 able to control the system that night as well as
21 reviewing a copy of it or requesting a copy of
22 it.

1 Q And as far as the system we are
2 talking about, you're talking about the system
3 that is located in the office wherever the
4 monitor is?

5 A Yes, there was a monitor in the
6 office, yes.

7 Q Okay. There did come a time when you
8 were able to see the footage?

9 A Yes, sir.

10 Q Was there any camera footage that was
11 missing? Like an angle from --

12 A Yes, I remember it was two -- there
13 was specific blacked out screens there were
14 still --

15 Q Okay.

16 A -- because the monitor, they were
17 titled by channels.

18 Q Okay.

19 A And there were specific screens that
20 the channels completely blacked out.

21 Q Okay. Do you have -- and this was on
22 the night -- so they -- that would have been on

1 the night of January 21st, there was no video feed
2 recorded from those?

3 A Yes.

4 Q Okay. Is your understanding?

5 A Yes.

6 Q Okay. Now, of the feeds that you were
7 able to view --

8 A Um-hum.

9 Q -- you were able to see the entire --
10 pretty much the entire event, correct?

11 A Not the entire event, but --

12 Q Okay.

13 A -- it's just all kind of cutoff in a
14 way. They are kind of cutoff. They just run in
15 and out.

16 Q How do you mean cutoff? You mean cut
17 from people?

18 A Like when you are saying from one
19 specific camera, do you mean view the entire
20 incident?

21 Q Let's take it from one specific camera
22 just to be -- just to make it simpler. Did you

1 have a view from through the front door?

2 A From the second floor from the top
3 steps, I was able to view a little bit of the
4 front door or a little bit outside the front
5 door, yeah.

6 Q Okay. Were you able to view any of
7 the incident?

8 A Yeah, I was able to view the incident
9 there, yes.

10 Q Okay. And what was the view that you
11 used when you described what took place?

12 A That was the second floor camera. I
13 believe -- I forgot which channel I have in the
14 report, but it was the second floor camera going
15 down the stairs that is facing -- you can see a
16 little bit of the outside.

17 Q Okay. Now according to your
18 investigative report, you make reference to
19 certain time markers in the video. 23:04:08 is
20 one of them, 23:06:00, 23:05:40 and 23:05:40.

21 How much time-wise, how much of the
22 video did you view?

1 A I'm not able to recall that right now
2 off the top of my head.

3 Q Okay. Well, if I take the earliest of
4 these time stamps in the investigative report,
5 23:04:08, I believe, is the earliest. And then
6 the latest one would be 23:06:00. That appears
7 to be a little less than two minutes.

8 A Okay.

9 Q Did you view more than two minutes of
10 video footage?

11 A We were -- I know for a while we were
12 attempting to search for the incident, but when
13 we found the incident, that was the first time
14 that we had found and that's when I requested
15 that specific time and I had written it down for
16 him and I had written down the specific times.

17 Q Okay.

18 A But that's when, yes, we started
19 reviewing the footage. But at first we initially
20 had to obviously look for it, so we were going
21 through it and that takes some time.

22 Q Okay. So the start of the footage

1 that you reviewed starts right when the alleged
2 assault took place?

3 A No. The first view that I saw was you
4 see inside. The bouncer, I remember, he was kind
5 of chasing the patron.

6 Q Okay.

7 A He was chasing the patron a little bit
8 inside.

9 Q Okay. So did you -- you didn't see
10 anything before that?

11 A No, I didn't view anything before
12 that, no.

13 Q Was it available for you to view?

14 A It was, but we both were asked for the
15 incident and that's what we showed was the
16 incident.

17 Q Okay. Was there any information that
18 would have been on an incident log that was --
19 you were not able to include in your report?
20 Like in a typical incident log, the information
21 that is recorded, what information is missing
22 from your report as a result of that?

1 A The establishment's side of the events
2 that night, what happened. The ABC Manager's
3 statement that night of what happened, what he
4 knows. There is no written document what they
5 know had occurred that night.

6 Q Okay. And you did speak to the -- you
7 did end up speaking to the ABC Manager who
8 claimed to be on duty that particular night?

9 A Yes.

10 Q Just looking at your report, if you go
11 to page 3 of your report --

12 A Could I get a copy of the report?

13 Q Oh, I'm sorry. I didn't realize you
14 didn't have one.

15 MS. GEPHARDT: Do you have a copy of
16 it?

17 THE WITNESS: Yes, I have one here.

18 MS. GEPHARDT: Okay.

19 THE WITNESS: I'll take it out and
20 look at it.

21 MS. GEPHARDT: Okay.

22 THE WITNESS: You said page?

1 BY MR. LIVELY:

2 Q Page 3.

3 A Okay.

4 Q And if you go down to a little over
5 halfway down, it's a paragraph starting on
6 Sunday, March 11?

7 A Yes.

8 Q Okay. It states that you reviewed the
9 BWC video surveillance footage. What does BWC
10 stand for?

11 A Body-worn camera footage that's from
12 the MPD Officers.

13 Q Okay. And according to your report,
14 this camera footage showed you the bouncer
15 standing overtop of a man who was in a fetal
16 position with his hands covering his face?

17 A Yes. The first initial thing in the
18 body-worn camera footage, you see them sitting in
19 the car and then because every body-worn camera,
20 there is a little bit of time that -- there is a
21 playback time, so it's muted and you just see
22 them sitting him the car.

1 But then as soon as you see the
2 Officer step out of the car, that's the first
3 thing you see directly right in front of the
4 camera is you see a man like in an aggressive
5 position standing overtop of another man kind of
6 covered his hands in a fetal position.

7 Q But you didn't see any blows being
8 struck on this body-worn camera?

9 A The -- you see it look like he is
10 finishing a blow, but not any actual blows. It
11 looks like -- no, not like an actual blow, but it
12 looks like he is finishing a blow.

13 Q So the more descriptive detail you
14 give us on page 4 about the incident, that all
15 comes from video surveillance provided to you by
16 Halftime Sports? Is that correct?

17 A Yes, yes.

18 MR. LIVELY: That's all I have.

19 CHAIRPERSON ANDERSON: Any questions?

20 Oh.

21 BY MS. MAZARD:

22 Q Mr. Royster, I just want to flesh out

1 the security cameras. Can you look at page 5 of
2 the security plan? How many cameras does it say
3 that Halftime Sports needs to be equipped with?

4 A Five cameras.

5 Q And you testified that there were
6 eight cameras?

7 A Yes, that's what they told me there
8 were eight cameras.

9 Q So two or three were not working and
10 there were still five working cameras?

11 A Yes.

12 Q That's it. Thank you.

13 CHAIRPERSON ANDERSON: Is that it?

14 MR. LIVELY: That's it.

15 CHAIRPERSON ANDERSON: All right.

16 Questions by Board Members? Mr. Alberti?

17 MEMBER ALBERTI: Just one moment,
18 please. Okay. Investigator Royster --

19 THE WITNESS: Yes, sir.

20 MEMBER ALBERTI: -- thank you for your
21 report. I'm going to start with I guess the last
22 thing of your testimony. When you say that you

1 saw someone standing over a person in the fetal
2 position and you said that it appeared, what you
3 saw, the camera video from the Police Officers
4 picked up, you said it appeared that someone was
5 finishing a blow.

6 THE WITNESS: Yes.

7 MEMBER ALBERTI: Can you give me a
8 more detailed description of what you saw that
9 made you believe that someone was finishing a
10 blow?

11 THE WITNESS: Because it looked like
12 he was looking down at him in like an active-
13 aggression kind of -- like I can't remember or
14 recall if like his foot was stomped or raised,
15 but I kind of remember seeing a raised -- like a
16 little bit of a raised foot, but it was -- he was
17 face down in an aggressive position looking at
18 him in an aggressive position.

19 MEMBER ALBERTI: Okay. Aggressive
20 how? Describe his body posture.

21 THE WITNESS: Kind of --

22 MEMBER ALBERTI: Try to describe it.

1 THE WITNESS: -- it's hard to say, but
2 I kind of just remember it was like he was
3 looking down, like his arms kind of like, you
4 know, it just looked like an aggressive position.
5 I can know he had a -- to me, if I saw that, it's
6 an aggressive position to me.

7 MEMBER ALBERTI: So what happened
8 immediately after that in the video?

9 THE WITNESS: You can hear the
10 Officers, they stop him and that's when he just
11 completely gets over him and just he listens, he
12 complies with the Officers.

13 MEMBER ALBERTI: Okay. You heard the
14 Officers say what?

15 THE WITNESS: Excuse me?

16 MEMBER ALBERTI: You heard -- what did
17 you hear the Officers say?

18 THE WITNESS: I cannot recall
19 specifically what they said, but I know they
20 directed him off of the person in the fetal
21 position.

22 MEMBER ALBERTI: Okay. I want to go

1 back to the camera, the video so I understand
2 this. On page 4 in your report, channel 3 --
3 first of all, how many channels were on that
4 monitor that you saw?

5 THE WITNESS: I cannot recall how many
6 channels. Right now, I cannot recall.

7 MEMBER ALBERTI: Okay. Did you have
8 the impression when you were looking at that that
9 -- could you -- do you remember when you were
10 looking at that, whether you discerned how much
11 of the establishment was covered by the cameras?
12 Was there parts of the establishment that were
13 missing or was it -- could you see all of the
14 establishment on that monitor?

15 THE WITNESS: Yes, well, I could see
16 basically all. My main focus, at that time, was
17 kind of to look to find the assault, so I was
18 mainly focused on the front of the establishment.
19 And so I just -- I mainly focused on the cameras
20 that were facing the front and I was able to
21 determine I was able to see the assault. So that
22 was my main focus at that time.

1 MEMBER ALBERTI: Thank you. Channel
2 3 on page 4, it says Channel 3 you see Mr.
3 Lovette is observed physically -- being physical?
4 Wait a second. Oh, okay, Channel 2, it says it
5 appears that the security guard was attempting to
6 chase the patron.

7 THE WITNESS: Yes.

8 MEMBER ALBERTI: Inside or outside?

9 THE WITNESS: That was inside the
10 establishment.

11 MEMBER ALBERTI: Can you describe what
12 you saw?

13 THE WITNESS: I know that --

14 MEMBER ALBERTI: Was there more there?

15 THE WITNESS: -- we have it as an
16 exhibit. I just -- to my knowledge, I remember I
17 had not seen the video in a couple of months, but
18 I remember seeing the bouncer, he was in the
19 middle area of the establishment chasing him kind
20 of towards the door area and by the bar. I just
21 remember him chasing a patron.

22 MEMBER ALBERTI: Okay. Did he catch

1 him?

2 THE WITNESS: I remember he was able
3 to grab him, yes, but --

4 MEMBER ALBERTI: From behind or from
5 the front? I mean, when he grabbed him what
6 was --

7 THE WITNESS: I cannot recall right
8 now. It would be better if we would probably
9 show --

10 MS. GEPHARDT: Board Members, I do
11 have a video.

12 MEMBER ALBERTI: Okay. So I will
13 wait.

14 MS. GEPHARDT: Okay.

15 MEMBER ALBERTI: No, that's fine. All
16 right.

17 MS. GEPHARDT: But no, no, no, I will
18 be more than happy to play that, yes.

19 MEMBER ALBERTI: That's up to you. I
20 can't tell you how to handle your case.

21 MS. GEPHARDT: How to do the case.
22 No, no, no, that's fine.

1 MEMBER ALBERTI: But you have heard my
2 questions.

3 MS. GEPHARDT: Thank you. Well,
4 anyway, I'll let you guys --

5 MEMBER ALBERTI: Yeah.

6 MS. GEPHARDT: -- and then --

7 MEMBER ALBERTI: Did you talk to Mr.
8 Lovette at all?

9 THE WITNESS: I saw him at the door
10 and he -- the only words that he told me were
11 like I didn't do anything, but as with ABRA, we
12 don't interview defendants in a case, so I --

13 MEMBER ALBERTI: Was he -- but did he
14 appear to be on duty as a security guard?

15 THE WITNESS: He was still, yeah. On
16 the first night he was still working, yes.

17 MEMBER ALBERTI: Okay. Which night
18 was that?

19 THE WITNESS: That was the first time
20 I went to the establishment, that first night on
21 March -- I mean, sorry, on March 8th.

22 MEMBER ALBERTI: March 8th.

1 THE WITNESS: He was working as a
2 security officer.

3 MEMBER ALBERTI: Okay. How was he
4 dressed?

5 THE WITNESS: In jeans I remember with
6 -- it was in jeans and a regular T-shirt, but I
7 don't ever recall any time, even on video, ever
8 seeing security labeled on.

9 MEMBER ALBERTI: Okay. So you don't
10 recall seeing security on the T-shirt the night--

11 THE WITNESS: No.

12 MEMBER ALBERTI: -- you visited. And
13 is it your testimony you don't recall seeing
14 security on his clothing the night of -- on the
15 video, the night of the incident?

16 THE WITNESS: Yes.

17 MEMBER ALBERTI: Okay. Thank you.
18 Again, when you -- you approached the ABC Manager
19 on your visit, I guess, March 8th, right?

20 THE WITNESS: Well, the security
21 officer contacted -- like brought him towards me.

22 MEMBER ALBERTI: Okay.

1 THE WITNESS: But yes.

2 MEMBER ALBERTI: And you asked the ABC
3 Manager about the incident?

4 THE WITNESS: Yes.

5 MEMBER ALBERTI: And I think it was
6 your testimony that the ABC Manager said they
7 didn't know anything about the incident?

8 THE WITNESS: Yes, that was his first
9 words to me. He acted as if he had no clue.

10 MEMBER ALBERTI: Okay. So you said a
11 lot, so I'm trying to remember what you said.

12 THE WITNESS: Yeah.

13 MEMBER ALBERTI: So as that
14 conversation progressed, did they, at any point,
15 tell you -- have information? Did that ABC
16 Manager in your conversation ever provide
17 information about the incident?

18 THE WITNESS: Not to me, no. He did
19 not. He just basically said that something
20 occurred, but he did not know -- he told me he
21 did not know much of what happened, that's when
22 he was -- he told me that the owner was here and

1 that she could elaborate more.

2 MEMBER ALBERTI: Okay. Was the owner
3 there that evening?

4 THE WITNESS: Yes, that first -- yes,
5 she was there.

6 MEMBER ALBERTI: The ABC Manager said
7 the owner was there that evening.

8 THE WITNESS: Yeah, the owner -- the
9 time I visited, yes.

10 MEMBER ALBERTI: Well, but I meant --

11 THE WITNESS: When I visited.

12 MEMBER ALBERTI: -- the evening of the
13 incident.

14 THE WITNESS: Oh, no, she wasn't. No,
15 she was not there, no.

16 MEMBER ALBERTI: Is that what the ABC
17 Manager told you?

18 THE WITNESS: Yes.

19 MEMBER ALBERTI: Okay. So as far as
20 you know, the ABC Manager was in charge that
21 evening?

22 THE WITNESS: Yes.

1 MEMBER ALBERTI: All right. Okay.

2 And they claim to have little knowledge of --

3 THE WITNESS: Yes.

4 MEMBER ALBERTI: -- the incident?

5 THE WITNESS: Yes.

6 MEMBER ALBERTI: Is that correct?

7 THE WITNESS: That was his first words
8 to me claimed he had no knowledge, but then after
9 asking him who was the ABC Manager that night,
10 that's when he told me that he was and that's
11 when he further elaborated more that he knew a
12 little bit about the incident.

13 MEMBER ALBERTI: What did he tell you
14 about the incident?

15 THE WITNESS: Basically that the
16 bouncer had gotten in an altercation and he was
17 arrested and so I asked him about their security
18 procedures more and that's when he told me that
19 they only employed him as the only security
20 officer as well.

21 MEMBER ALBERTI: Wait, repeat what you
22 just said.

1 THE WITNESS: So after I asked --

2 MEMBER ALBERTI: No, just repeat what
3 you just said.

4 THE WITNESS: Oh. That he told me
5 that Edward Lovette, the defendant, he was their
6 only security officer that they hired, because I
7 asked him who the head of security was. And he
8 said Mr. Lovette was their head of security. And
9 I asked how many people they hired on security
10 and he said that's their only one. That's the
11 only security officer.

12 MEMBER ALBERTI: Mr. Lovette is the
13 only security person?

14 THE WITNESS: Yes.

15 MEMBER ALBERTI: So you understood
16 that from that that he was the only security
17 person on the night of the incident?

18 THE WITNESS: Yes.

19 MEMBER ALBERTI: I have no further
20 questions. Thank you, Mr. Royster.

21 CHAIRPERSON ANDERSON: Mr. Short?

22 MEMBER SHORT: Good afternoon,

1 Investigator --

2 THE WITNESS: Yes, sir.

3 MEMBER SHORT: -- Royster. During the
4 whole time you were investigating this and
5 writing your reports, did the issue of training
6 ever come up?

7 THE WITNESS: Did I -- well, I wanted
8 to know what kind of training they did, but it
9 wasn't really an issue per se. I was curious
10 about what kind of training they did.

11 MEMBER SHORT: You did question them
12 about training?

13 THE WITNESS: I do not recall right
14 now if I did or not. I didn't recall, but I know
15 it was a question I had at the time, I know, but
16 I cannot recall if I asked them about training.

17 MEMBER SHORT: Okay. That's all I
18 have, Mr. Chair. Thank you.

19 CHAIRPERSON ANDERSON: Any other
20 questions by any other Board Members? Mr.
21 Lively?

22 MR. LIVELY: Yes.

1 RECROSS-EXAMINATION

2 BY MR. LIVELY:

3 Q Investigator, I believe you just
4 testified that the male security officer that you
5 identified in your report was, in fact, Ed
6 Lovette?

7 A Excuse me?

8 Q That if we go to page 2 of your --

9 A Yes.

10 Q -- security -- of your investigation
11 report, there is a long paragraph that starts on
12 Thursday, March 8?

13 A Yes.

14 Q The second line says "Investigator
15 Royster was met outside of the establishment by a
16 male security officer."

17 A Yes.

18 Q If I heard you correctly, when you
19 were asking -- answering the Board's questions,
20 did you indicate that that was Mr. Lovette?

21 A Yeah, well, after my investigation
22 determined it was, because he -- when I told the

1 security officer what was going on that night,
2 he, as a security officer, informed me I didn't
3 do anything. And so from my determination, I
4 could infer that yeah, that is Mr. Lovette.

5 And then also as well, from later on
6 with speaking with Mr. Woodley, he told me that
7 that is their only security officer.

8 Q Had you ever met Mr. Lovette before?

9 A No.

10 Q How many times -- is Halftime Sports
11 one of your regular investigatory --

12 A No, it's not.

13 Q Okay.

14 A I have been there, approximately,
15 three or four times and I have only been --
16 before this incident, I was there only one time.

17 Q Okay. Now, I'm assuming that you were
18 matching up Mr. Lovette as the security guard
19 from solely the video evidence?

20 A Yes, from the body-worn camera
21 footage, their own security footage, etcetera,
22 even their own words saying how he is their only

1 security officer.

2 Q Okay. Were they saying he was their
3 only security officer that night?

4 A Mr. Woodley informed me that is
5 their --

6 Q Has he said it was the only security
7 officer that day that you went to the
8 establishment?

9 A No. Mr. Woodley informed me that's
10 their only security officer that they hire.

11 Q I notice in your reports there are
12 blacked out portions of it. Did you do that?

13 A No.

14 Q This report was made, I'm assuming,
15 after you had completed your investigation and
16 made all your findings, then you created the
17 report.

18 A I kind of create it as I go, so I can
19 remember as much as I can. I create it as I go.

20 Q Okay. If, at some point, during your
21 investigation you realized it was Mr. Lovette
22 that you spoke to as the security officer on the

1 day that you went to visit and he made a
2 statement --

3 A I didn't speak -- well, he was
4 speaking to me. I didn't speak to -- he was just
5 saying to me, I didn't do anything.

6 Q Well, at the time that this report was
7 submitted --

8 A Um-hum.

9 Q -- you believed that person to be Mr.
10 Lovette?

11 A By the time it was submitted?

12 Q This report.

13 A Yes.

14 Q Okay.

15 A The gentleman, yes.

16 Q And you recall him making a statement
17 to you that he didn't do it or something to that
18 effect? Is that correct?

19 A Yes.

20 Q Why did you not include that in your
21 report?

22 A Because well, to me, my main focus was

1 on the assault and if I -- he just said to me
2 specifically I didn't do it. That's not -- to
3 me, that's not -- if I --like I -- I'm not sure
4 at that point. I'm not sure why I didn't put it
5 in the report, but I wasn't sure if that was him
6 or not, at that time.

7 Q Part of your -- part of the purpose of
8 this is to find out what actually happened,
9 correct?

10 A Yes.

11 Q Would you agree that Mr. Lovette could
12 have provided some information as to what
13 actually happened?

14 A He could have, yes.

15 Q Okay.

16 A But it's not my job to interview
17 someone who has been -- who is a defendant in the
18 report. I cannot -- I am not allowed to
19 interview like the defendant, someone who has
20 been arrested.

21 MR. LIVELY: That's all I have.

22 MS. MAZARD: Just one follow-up

1 question.

2 BY MS. MAZARD:

3 Q Were you aware that the charges had
4 been dropped against Mr. Lovette?

5 A No, I did not know until about --
6 well, before this hearing I had no clue of that.

7 CHAIRPERSON ANDERSON: All right.
8 Questions by any -- oh, I'm sorry, Ms. Gephardt?

9 MS. GEPHARDT: Just a brief question.

10 REDIRECT EXAMINATION

11 BY MS. GEPHARDT:

12 Q When you were talking to Ms. Rose and
13 Mr. Woodley, did they say anything about whether
14 they had gone outside that night to assist --

15 A No.

16 Q -- or help?

17 A No, they did not tell me or indicate
18 anything that they went outside to help or speak
19 with police.

20 MS. GEPHARDT: That's all I have.

21 CHAIRPERSON ANDERSON: Mr. Royster,
22 thank you for your testimony. You can step down,

1 please.

2 THE WITNESS: Thank you.

3 (Whereupon, the witness was excused.)

4 MS. GEPHARDT: He is coming back soon
5 though.

6 CHAIRPERSON ANDERSON: Does the
7 Government have another witness? I'm sorry?

8 MS. GEPHARDT: Oh, I was just saying
9 he was coming back for the next case.

10 CHAIRPERSON ANDERSON: But he can step
11 down for this case, right?

12 MS. GEPHARDT: No, I do not have any
13 other witnesses.

14 CHAIRPERSON ANDERSON: All right. So
15 the Government rests, at this --

16 MS. GEPHARDT: Yes.

17 CHAIRPERSON ANDERSON: -- juncture?

18 MS. GEPHARDT: Correct.

19 CHAIRPERSON ANDERSON: And this is
20 Case No. 18-251-00069. Is that correct?

21 MS. GEPHARDT: Right. That's correct.

22 CHAIRPERSON ANDERSON: All right. Mr.

1 Lovette, do you wish to make an opening
2 statement?

3 MR. LIVELY: I would just like to make
4 a few -- say a few words, Mr. Chairman. This set
5 of violations, the assault took place at the --
6 outside the establishment. If we note the -- we
7 heard the Investigator's testimony, he only
8 viewed the assault at the time where the last
9 straw had been reached, where he was physically
10 chasing.

11 There is testimony from both police
12 officers and shortly from my client that this was
13 an ongoing situation well before this final
14 assault took place. While understandable
15 possibly that a man would beat -- reach his
16 breaking point, Halftime realized that it was not
17 an excuse for that kind of behavior.

18 They could not have someone in their
19 employ like that any longer, despite the fact he
20 had never had an incident like that in his three
21 years of service. And he no longer works for
22 Halftime Sports and he was fired shortly after

1 this incident took place.

2 I think the issue about the cameras,
3 as Ms. Mazard pointed out, the security plan
4 requires five cameras. Even accepting the
5 Investigator's testimony that three were not --
6 as many as three were not in service on that
7 particular night, five cameras were still in
8 operation and the cameras necessary to observe
9 the event were recording and did provide the
10 necessary evidence for him to complete his
11 report. Information that would not have been
12 provided if solely relying upon the police
13 report.

14 As far as the logbook, we will take
15 issue with his assessment that Ms. Rose was not
16 aware of what a logbook was used for, but, again,
17 the -- given the fact that it was Metro Police
18 that provided a lot of the initial detailed
19 information regarding the incident that the --
20 whatever information would have been in the
21 logbook, would have been of negligible use to the
22 investigation, especially considering the other

1 information that was provided by Halftime Sports.

2 And that being said, I would like to
3 call my first and only witness, Ms. Kimberly
4 Rose.

5 CHAIRPERSON ANDERSON: Sure. Can you
6 raise your right hand, please?

7 Whereupon,

8 KIMBERLY ROSE

9 was called as a witness by Counsel for the
10 Applicant, and having been first duly sworn,
11 assumed the witness stand and was examined and
12 testified as follows:

13 THE WITNESS: I do.

14 CHAIRPERSON ANDERSON: Your witness.

15 DIRECT EXAMINATION

16 BY MR. LIVELY:

17 Q Could you, please, state your name for
18 the record?

19 A Yes. Good afternoon, everyone. I'm
20 Kimberly Rose, Halftime, owner of Halftime Sports
21 Bar.

22 CHAIRPERSON ANDERSON: I think bring

1 the microphone closer to your mouth, please.

2 THE WITNESS: Okay.

3 CHAIRPERSON ANDERSON: Yes. Thank
4 you.

5 THE WITNESS: Do you want me to do it
6 again? Okay. Good afternoon, everyone. I'm
7 Kimberly Rose, owner of Halftime Sports Bar.

8 BY MR. LIVELY:

9 Q Ms. Rose, as we sit here today, are
10 you the 100 percent owner of Halftime Sports Bar?

11 A Not as of yet. We did put in an
12 application to make me 100 percent. As of now,
13 I'm 80 percent.

14 Q As far as ABRA records are concerned,
15 is that what you mean?

16 A Yes.

17 Q Okay. Who was the other owner, the 20
18 percent owner?

19 A Karl Graham is 20 percent.

20 Q Okay. And that's who you took over
21 the Halftime Sports from him?

22 A Correct, yes.

1 Q When did you first appear on the ABRA
2 license?

3 A April 2016.

4 Q Let's see, let me make sure that is --
5 may I approach, Mr. Chairman?

6 CHAIRPERSON ANDERSON: Sure.

7 BY MR. LIVELY:

8 Q Ms. Rose, I'm handing you --

9 MS. GEPHARDT: What are you -- oh,
10 thanks.

11 CHAIRPERSON ANDERSON: Could you give
12 it to -- Ms. Walker can take those documents from
13 you, please.

14 BY MR. LIVELY:

15 Q Have you had a chance to look at that,
16 Ms. Rose?

17 A Yes, yes.

18 Q Okay. I'll represent to you that this
19 is the approval of your ABRA application.

20 A Yes.

21 Q If you look in the upper right hand
22 corner, the date of approval by the Board, would

1 you agree that that says December 14, 2016?

2 A 2016, yes, December 2016.

3 Q So as far as this information states,
4 you were -- you became a license owner of
5 Halftime Sports on December 14, 2016? Is that
6 correct?

7 A Yes.

8 Q Now I know we are here for some other
9 issues, but we are going to skip ahead to the
10 February 25th incident involving Mr. Lovette. And
11 do you recall that incident?

12 A I do.

13 Q Okay. Were you present on February
14 25th?

15 A I was not.

16 Q How did you become aware of the
17 incident?

18 A My bartenders.

19 Q Okay. How do you mean? Did they
20 contact you?

21 A They called me.

22 Q Was it on the very -- on the same

1 night?

2 A Yes.

3 Q Okay. What did you -- what did they
4 tell you?

5 A There was an incident. Well, actually
6 that Mr. Lovette had been arrested, allegedly
7 arrested.

8 Q Okay. Well, and did they tell you
9 anything about what happened?

10 A Yes, it was a patron in the bar who
11 was belligerent and was disturbing the customers,
12 that he had put him out.

13 Q Okay.

14 A So --

15 Q So what did you do when you learned
16 this information?

17 A Pretty much looked at the cameras,
18 looked at my camera to see exactly what went on.

19 Q Okay. Were you at the bar at the
20 time?

21 A I was not.

22 Q How were you able to look at your

1 cameras?

2 A On my cell phone.

3 Q Okay. Now, we have heard testimony
4 from the Investigator that you were not able to
5 provide him with access to the video system?

6 A Yes.

7 Q Okay. Why are you able to access your
8 -- the video on your phone, but not the video
9 system? I just need some clarification.

10 A Well, the thing about it is I don't
11 know how to operate the thumb drive. I don't
12 know to operate the thumb drive. I don't really
13 know how to operate it inside the office. So I
14 don't -- you know, normally when -- you know, if
15 someone come in and they want to get information
16 or whatever, I just allow them to do it. I don't
17 know how to operate that. I'm not computer
18 literate unfortunately.

19 Q Okay.

20 A So yeah.

21 Q Is there someone on staff that does
22 know how to operate it?

1 A Yes, my husband.

2 Q Okay. You also heard testimony from
3 the Investigator that he spoke with you some time
4 after this incident?

5 A Yes.

6 Q He came to the establishment.

7 A Yes.

8 Q And you recall that?

9 A Yes.

10 Q Okay. Do you recall him asking you
11 about the location of logbooks?

12 A Yes.

13 Q Okay. And what did you tell him about
14 that?

15 A There was a flood and it was -- a lot
16 of our documents got messed up.

17 Q Okay.

18 A Yeah.

19 Q But the flood did occur prior to the
20 assault?

21 A It did.

22 Q Okay.

1 A Yeah.

2 Q And did you have a logbook to provide
3 for him at that time?

4 A No, I did not.

5 Q Okay. Did you ever refuse to provide
6 him with information or access to employees to
7 interview?

8 A Absolutely not.

9 Q Okay. You said that you looked at the
10 video on your phone.

11 A Yes.

12 Q Can you describe for us what viewing
13 angle you were looking at? Where was the camera
14 placed?

15 A Camera No. 8, which is the camera that
16 is going down the steps.

17 Q Okay.

18 A And that's actually where Mr. Lovette
19 sits at. You could see Mr. Lovette sitting down
20 and you could see the customer, the guy who he
21 put out, keep open and closing the door. You
22 just see him keep opening and closing the door.

1 You also see that he had obstructed whereas the
2 customers couldn't go in and out the door.

3 He even came in, I think, at one time
4 and he put him out. So when the customers
5 couldn't come out, he went outside. And so once
6 he went outside, I couldn't really exactly -- you
7 can't really see, because it's going down the
8 steps. So you really can't see exactly what is
9 going on, but you could see that the guy was on
10 the ground. Yeah.

11 Q Okay.

12 A Yeah.

13 Q Now, when you talk about him coming in
14 and out --

15 A He kept on opening and closing the
16 door and like antagonizing him. Like saying --
17 it looked like he was saying stuff to him.

18 Q Okay.

19 A Yeah.

20 Q Approximately how long did that go on?

21 A Because I would look at it and I kept
22 speeding up the camera to see how long it would

1 be before -- to the end of, so maybe like 15, 20
2 minutes, I would say.

3 Q So he was antagonizing the bouncer --

4 A Yeah.

5 Q -- for at least 15 to 20 minutes?

6 A Yes.

7 Q Did there come a time where you talked
8 to the bouncer about what happened, Mr. Lovette?

9 A Yes, several days. Probably a couple
10 of days after. He was, I guess -- he wasn't -- I
11 don't think he was locked up allegedly. He was--
12 whenever he was released, he came to the bar or
13 whatever and we had a conversation.

14 Q Okay.

15 A Yeah.

16 Q And did you -- did he tell you his
17 side of the story?

18 A He did.

19 Q Okay. What did he say?

20 A Pretty much that -- what happened
21 outside or the entire evening?

22 Q Well, basically, what happened.

1 A Oh, okay. So pretty much he --

2 Q How did that happen?

3 A -- was saying, you know, he came and
4 the girls called him in because there was -- you
5 know, the guy was, you know, drunk in the bar or
6 whatever. The girls called him in. So he came
7 in and got him out or whatever.

8 Him and the guy kept on going back and
9 forth. I mean, the guy kept on going -- coming
10 back and forth, pretty much I saw it on the
11 camera. Then when he said when the customers
12 couldn't get in and out or whatever, he said he
13 had went outside.

14 And so he said allegedly when he went
15 outside, the guy spit on him and so that's when
16 he got angry and that's when he allegedly
17 supposedly threw him on the ground or whatever.
18 So yeah.

19 Q So from the time you became a licensee
20 in December of 2012, was Mr. Lovette the bouncer
21 at the bar the entire time?

22 A Yes, he was one of our bouncers, yes.

1 Q Okay.

2 A Yes.

3 Q And so he worked that entire time.

4 Had you ever had an incident where he assaulted a
5 patron prior to this?

6 A I have not.

7 Q Okay. Had you ever heard of any
8 incidents where he had violently assaulted
9 anyone?

10 A I have not.

11 Q So this was the first time you ever
12 heard of Mr. Lovette acting in this way?

13 A Yes.

14 Q Okay. Did you terminate Mr. Lovette?

15 A Shortly thereafter.

16 Q Did you terminate him because of this
17 incident?

18 A Pretty much, yes.

19 Q Okay. How do you handle your security
20 now?

21 A Now I contract a third-party company.

22 Q Security?

1 A A security company, yes.

2 Q Okay. And they provide you with --

3 A With security, yes.

4 Q Okay. Now, as far as your security
5 cameras, I believe you should have heard the
6 Investigator testify that he was told by Kenneth
7 Woodley that some of the cameras might have been
8 malfunctioning as of the night of this incident?
9 Do you recall?

10 A I did hear the Investigator, let me
11 explain something to you. The cameras in the --
12 in my business works off wifi.

13 Q Um-hum.

14 A So sometimes -- because the wifi goes
15 in and out and even goes with our register, our
16 system as far as our computers or whatever, and
17 everything works off the same thing. So
18 sometimes if you view something, it would say
19 video loss or whatever. It will go in and out.
20 And that's even with my computers, I sometimes
21 have to reboot or whatever.

22 So that very well could have lost some

1 footage, but not the entire evening. But for the
2 most part, my cameras do work, yeah.

3 Q Now, you mentioned that you purchased
4 this business from Karl Graham?

5 A I did.

6 Q Okay. And there was a period of time
7 where he was a small minority owner?

8 A He was, until I learned the business.

9 Q Okay. And were you running the
10 business yourself as of February 2018 or was Karl
11 Graham involved in any way in the business at
12 that point, as far as management, day-to-day?

13 A For the most part, I did most of the
14 daily operations.

15 Q Okay.

16 A He didn't have anything to do with it
17 in February 2018.

18 Q And in fact, it was Mr. Graham that
19 originally hired Mr. Lovette?

20 A Yes.

21 Q He was part of the business --

22 A Yes.

1 Q -- as you came in?

2 A Yes.

3 Q What about Kenneth Woodley, the ABC
4 Manager? Was he also there when you bought the
5 business?

6 A Yes.

7 Q Okay. Does Kenneth Woodley still work
8 for you?

9 A Not as of right now, no.

10 Q And when did you let him go?

11 A It has been a couple of months now.
12 I can't tell you the exact date.

13 Q Okay.

14 A Yeah, it has been a couple of months
15 now.

16 Q All right. Did you let him go solely
17 because of this incident or were there other
18 reasons?

19 A This has a lot to do with it, yes.

20 Q Okay.

21 BY MS. MAZARD:

22 Q Ms. Rose, I just want to direct your

1 attention -- do you have a copy of the security
2 plan in front of you?

3 A I do.

4 Q I just want to refer you to page 6 of
5 the security plan and just confirm a couple of
6 things.

7 Your ejection protocol says "Ask,
8 tell, make." From your understanding, Mr.
9 Lovette asked the victim to correct their
10 behavior?

11 A Yes.

12 Q Told them to correct their behavior?

13 A Yes.

14 Q Made him correct the behavior?

15 A Yes.

16 Q The patron refused to comply and
17 became combatant, therefore, staff ejected the
18 person from the establishment?

19 A Correct.

20 Q Okay. And then I also want to refer
21 you to Section X, Conflict Resolution Training.

22 "Each employee at Halftime Sports Bar complete an

1 online training course offered by Nightclub
2 Security Consultant on conflict resolution." I
3 just wanted to confirm that Mr. Edward Lovette
4 completed that online training course?

5 A Yes, to my knowledge, yes.

6 MR. LIVELY: That's all we have, Mr.
7 Chairman.

8 CHAIRPERSON ANDERSON: All right. The
9 concern that I have and I mean, I'm looking at
10 the charging documents and so maybe you can
11 explain to me. It's the charge is that you --
12 that an employee of yours was -- it says allowed
13 the establishment to be used for unlawful purpose
14 or disorderly purpose. And so --

15 MEMBER ALBERTI: Is that the right
16 one?

17 CHAIRPERSON ANDERSON: That's the
18 right one.

19 MEMBER ALBERTI: What date are we
20 talking about here?

21 CHAIRPERSON ANDERSON: This is the
22 right one. We are -- this --

1 MEMBER ALBERTI: February 25th?

2 MS. GEPHARDT: February 25th.

3 CHAIRPERSON ANDERSON: This is Case
4 No. 18-251-00069. This is that case. Is that
5 correct? And that's why -- fine. So I'm looking
6 at the charge.

7 And I guess what I'm trying to find
8 out is that -- and I guess I have not heard
9 testimony regarding what led up to it. What --
10 all of -- I mean, when I said led up, I mean, I
11 have heard that there was -- the police said
12 there was an assault or an assault by an employee
13 of the establishment at the front of the
14 business.

15 So maybe -- did this occur? I mean,
16 did this incident occur? Did your employee, for
17 whatever reason, was there -- did this incident
18 occur as was charged by the Agency? And as was
19 testified, you are here. You heard the --

20 MEMBER ALBERTI: Isn't Chrissy allowed
21 to ask questions before the Board questions? Did
22 we have cross already?

1 CHAIRPERSON ANDERSON: Hold on.

2 MS. GEPHARDT: No.

3 MEMBER ALBERTI: We haven't had cross.

4 CHAIRPERSON ANDERSON: You know what,
5 I apologize. I apologize. So you go ahead.

6 MS. GEPHARDT: Okay.

7 CROSS-EXAMINATION

8 BY MS. GEPHARDT:

9 Q All right. Ms. Rose?

10 A Yes.

11 Q Good afternoon.

12 A Good afternoon.

13 Q I just have a few questions for you.

14 A Sure.

15 Q You said that you were able to look at
16 the video on your cell phone?

17 A Yes.

18 Q Okay. Now I know that we heard the
19 ABRA Investigator testify that he had to wait
20 until your husband came in from out of the
21 country to be able to access the video, so that
22 he could show him the video. Is that correct?

1 A Um-hum, yes.

2 Q So do you know why he wasn't able to
3 come in the following day or, you know, whenever
4 it was that he came by to do an instigation to
5 look at the thing on your phone?

6 A Because I mean he would -- well,
7 actually, he asked to -- he asked for it to be a
8 thumb drive. He never asked to see on the
9 screen.

10 Q When you say on the screen, you mean
11 on your phone?

12 A No, no, no. He asked for a thumb
13 drive.

14 Q Okay. I thought --

15 A To take the film with him.

16 Q Okay. I thought he testified that he
17 wanted to view it that night or whenever it was
18 that he came and get a thumb drive?

19 A No. I understand the testimony.

20 Q Okay.

21 A But what he asked me was for a thumb
22 drive.

1 Q Okay.

2 A Today is my first day of knowing that
3 he wanted to see it actually on the screen.

4 Q Okay. Okay.

5 A Yeah.

6 Q So you have never been trained in how
7 to operate the camera system or I mean the
8 playback system? Is that correct?

9 A No, not correct. I mean, well, not to
10 do a thumb drive, no, not at all.

11 Q Okay. Well, just to be able to like
12 if you were to go in and go to the main room or
13 wherever this room is and could you access the
14 video right there on the screen? Not on your
15 cell phone, but just on the screen in front of
16 the -- wherever that room is?

17 A Uh-huh.

18 Q Are you able to do that?

19 A Somewhat, not really.

20 Q Okay.

21 A Yeah, somewhat.

22 Q Just can you --

1 A I mean, but I mean it would take me a
2 moment, you know what I mean? I mean I'll
3 eventually figure it out.

4 Q Um-hum.

5 A But yeah.

6 Q Okay.

7 A I'll eventually figure it out.

8 Q So you mentioned that there was a
9 flood and the documents got messed up?

10 A Yes.

11 Q Do you handwrite your -- excuse me,
12 what am I trying to say? Do you handwrite your
13 incident logs?

14 A Yes, it's in a journal book. It's in
15 a hardback book with lined paper.

16 Q Okay.

17 A Yes.

18 Q So it's not typed in the computer --

19 A Not at all.

20 Q -- and printed out?

21 A No, not at all.

22 Q So you said that Mr. Lovette, that you

1 terminated him. First you said you terminated
2 him shortly thereafter the incident, correct?

3 A Yes.

4 Q But then you also testified that you
5 only let him go a couple months ago.

6 MEMBER ALBERTI: No, I'm afraid that
7 was talking about Kenneth Woodley, it looks like.

8 MS. GEPHARDT: Oh.

9 THE WITNESS: That's two different
10 people.

11 MS. GEPHARDT: Oh, no, no, no, I'm
12 sorry.

13 BY MS. GEPHARDT:

14 Q I meant, I gotcha. I see what you are
15 saying. What I meant was Kenneth Woodley.

16 A Okay.

17 Q Kenneth Woodley on that date was the
18 ABC Manager, I apologize.

19 A Um-hum.

20 Q But then he wasn't let go until just
21 recently, a couple months ago, so let's say July.
22 So February to July, how come you didn't fire him

1 before then?

2 A It was a little before then, but it
3 was other events that led up to his -- of me
4 letting him go.

5 Q Okay. So in other words --

6 A Yeah, but that was one of the primary
7 reasons, but it was a little bit before July.

8 Q Okay.

9 A It was before July.

10 Q Okay.

11 A Yeah.

12 Q Was it behavior that was similar to
13 what happened? I mean, what was it? Was it him
14 acting in a certain way? I mean, why would you
15 keep him on and then fire him later?

16 A Well, for the most part, I mean, just
17 to be what I need him for as the manager --

18 Q Um-hum.

19 A -- he wasn't doing what I needed him
20 to do, yeah.

21 Q Okay.

22 A 100 percent, so, yeah.

1 Q Okay. You also mentioned that this
2 patron was antagonizing the bouncer --

3 A Um-hum.

4 Q -- for 15 to 20 minutes and that he
5 spit on him. And then Ms. Mazard referred you to
6 the incident log or excuse me, yes, I'm sorry
7 ejection protocol and it says "If the patron
8 refuses to comply or becomes combative, the staff
9 should eject the patron from the establishment."

10 Is there anything in there that says
11 that you can punch or kick the patron once they
12 leave the establishment?

13 A No.

14 Q Okay. And so you have only had, at
15 least up until recently, one bouncer and that
16 was --

17 A No.

18 Q -- Mr. Lovette?

19 A Not at all. I have several.

20 Q So even before this incident, you had
21 several bouncers?

22 A I have more than one, yes.

1 Q Okay.

2 A Yes. On that particular night, I only
3 had one.

4 Q Okay.

5 A That's on a Sunday and it's very few
6 people.

7 Q Got it.

8 A Yes.

9 Q Got it. Now, Investigator Royster
10 testified that when he went back to -- after the
11 incident, he came back like a week later to
12 interview Mr. Woodley or interview you, he said
13 Mr. Lovette was at the door. Is that correct?
14 He was doing security.

15 A You said he was doing security?

16 Q That's what he was -- he testified
17 that he was at the door when he came back, but
18 this was like a week after the incident when he
19 was doing his investigation.

20 A He was there and it would probably be
21 like after we had our conversation, he was let go
22 after that.

1 Q Okay. So --

2 A Yeah.

3 Q -- he wasn't immediately let go.

4 A He wasn't necessarily doing security,
5 no.

6 Q Okay. But --

7 A He was there.

8 Q -- he was at the front door, right?

9 I mean, that's what -- I'm just going with the
10 testimony of Mr. Royster.

11 A Yes, yes, yes.

12 Q He was? Okay. Okay. Let's see, all
13 right, let's see, that's all I have.

14 A Okay.

15 Q Thank you.

16 A You're welcome.

17 CHAIRPERSON ANDERSON: Questions by
18 any Board Members? Mr. Short?

19 MEMBER SHORT: Good afternoon.

20 THE WITNESS: Good afternoon.

21 MEMBER SHORT: Your name again,
22 please?

1 THE WITNESS: Kimberly Rose.

2 MEMBER SHORT: Ms. Rose, okay.

3 THE WITNESS: Yes.

4 MEMBER SHORT: Ms. Rose, having an ABC
5 License in Washington, DC is almost like having a
6 driver's license. It's a privilege.

7 THE WITNESS: Yes.

8 MEMBER SHORT: And it's a very serious
9 business, people drinking alcohol and crowds and
10 your security plan states and I see where -- I
11 guess I've been reading and I've been hearing
12 about the logbook being missing. And you had a
13 security person arrested. Have you learned
14 anything from that experience?

15 THE WITNESS: A lot.

16 MEMBER SHORT: Can you elaborate?

17 THE WITNESS: A lot. For one, I was
18 in somewhat -- I mean, definitely I didn't
19 realize how important a logbook was until really
20 now.

21 MEMBER SHORT: Do you have one now?

22 THE WITNESS: I do.

1 MEMBER SHORT: At your place?

2 THE WITNESS: I do. They are -- I
3 mean, right after the Investigator came in, I got
4 one.

5 MEMBER SHORT: You corrected that?

6 THE WITNESS: I'm sorry?

7 MEMBER SHORT: You corrected that?

8 THE WITNESS: Absolutely, absolutely.

9 MEMBER SHORT: Okay.

10 THE WITNESS: And even with my
11 bouncer, I know how important that is. That's
12 why I went with a third-party security team. I
13 mean, security company, who is licensed and knows
14 all the protocols.

15 MEMBER SHORT: That's two things you
16 have corrected: The Logbook and the security.

17 THE WITNESS: Absolutely.

18 MEMBER SHORT: And so these persons
19 are trained security persons?

20 THE WITNESS: Absolutely, yes.

21 MEMBER SHORT: And they are registered
22 and licensed?

1 THE WITNESS: They are, yes.

2 MEMBER SHORT: Okay. Continue. What
3 else have you learned? What else have you
4 corrected?

5 THE WITNESS: As far as what?

6 MEMBER SHORT: This experience of you
7 being --

8 THE WITNESS: This experience?

9 MEMBER SHORT: Yes, why you are here
10 today. And why, you know, your license is not
11 being -- you wouldn't be here if there wasn't any
12 problems.

13 THE WITNESS: Oh, you're right.

14 MEMBER SHORT: So you told me there is
15 two things you corrected, the logbook and
16 security.

17 THE WITNESS: Yeah.

18 MEMBER SHORT: Have you done anything
19 else?

20 THE WITNESS: Pretty much trying to
21 learn the business myself. Everything I'm not
22 going to know.

1 MEMBER SHORT: Okay.

2 THE WITNESS: I want to --

3 MEMBER SHORT: Do you think it's
4 important that you know how to operate fully your
5 cameras?

6 THE WITNESS: Absolutely.

7 MEMBER SHORT: So have you done
8 anything to correct that?

9 THE WITNESS: I'm learning, yes. As
10 a matter of fact, we changing our system now as
11 far as the cameras that is in the -- the system
12 that is in our office, so that, you know, if
13 anything else should occur, which it won't
14 hopefully, hope and pray it would not, that I
15 will be able to access that for the Investigator
16 who comes in.

17 MEMBER SHORT: Okay. So the
18 management -- since you are 100 percent owner,
19 everything falls on you?

20 THE WITNESS: It does, yes.

21 MEMBER SHORT: And the bottom line is
22 sometimes as easy as things come, they go.

1 THE WITNESS: You're right. You're
2 absolutely right.

3 MEMBER SHORT: What would you do if
4 this license weren't renewed or was in jeopardy?
5 What would you do to ensure this Board that you
6 would never have this kind of problem again?
7 What can you say to this Board today that will
8 let us know that you are very serious now, a
9 little more serious than you were before this
10 incident happened?

11 THE WITNESS: Number one, it's so much
12 I can say.

13 MEMBER SHORT: Say it. You're on the
14 record.

15 THE WITNESS: I know, I know.

16 MEMBER SHORT: This is your license.

17 THE WITNESS: Yeah, you're right.
18 It's a lot of things I would never do and to --
19 definitely as far as my security, as far as my
20 license, as far as the paperwork and everything
21 that was handled, and, unfortunately, I think you
22 know because of the person that we purchased it

1 from, it was like bad blood, I think, you know
2 what I'm saying? And all we --

3 MEMBER SHORT: I don't understand.
4 What did you say bad blood between you?

5 THE WITNESS: Well, I mean, I'm just
6 saying from the -- from Karl Graham.

7 MEMBER SHORT: The former owner?

8 THE WITNESS: The former owner. And
9 I think a lot of things that has been done, I
10 inherit, unfortunately, and all I've been trying
11 to do is do the right thing. And everything you
12 guys have asked me, I have done.

13 As far as everything, you know what I
14 mean? Any time I come, anything is not
15 compliant, I make sure it is in compliance. So
16 and I'm going to continue to do that from this
17 day forward. And I have been doing it prior to
18 this day.

19 MEMBER SHORT: Okay. Thank you.
20 That's all I have, Mr. Chair. Thank you very
21 much.

22 THE WITNESS: Thank you.

1 CHAIRPERSON ANDERSON: Any other
2 questions by any other Board Members? Mr.
3 Alberti?

4 MEMBER ALBERTI: Ms. Rose?

5 THE WITNESS: Yes.

6 MEMBER ALBERTI: So the security guard
7 on duty who was involved in this incident was Mr.
8 Lovette?

9 THE WITNESS: Yes, sir.

10 MEMBER ALBERTI: And when did you fire
11 him?

12 THE WITNESS: Probably like in March.

13 MEMBER ALBERTI: So you fired him,
14 right?

15 THE WITNESS: Yes.

16 MEMBER ALBERTI: He was your employee?

17 THE WITNESS: Yes.

18 MEMBER ALBERTI: Okay. And I think
19 you testified that he was the only security
20 guard?

21 THE WITNESS: That night, yes.

22 MEMBER ALBERTI: All right.

1 THE WITNESS: Yes.

2 MEMBER ALBERTI: You said he was a
3 licensed security officer, what do you mean by
4 that licensed?

5 THE WITNESS: I'm sorry?

6 MEMBER ALBERTI: In response to Mr.
7 Short, you said he was a licensed security
8 officer. What do you mean by licensed? Licensed
9 by whom?

10 THE WITNESS: Well, most of them are
11 bonded as security guards.

12 MEMBER ALBERTI: Bonded by whom?

13 THE WITNESS: I forget. I mean, I
14 don't -- I forget how they -- how we hire them or
15 whatever. I mean, I guess through the, oh,
16 goodness, like through the security company.

17 MEMBER ALBERTI: So was he an employee
18 of yours or a security company?

19 THE WITNESS: He was through a
20 security company.

21 MEMBER ALBERTI: He was an employee of
22 a security company?

1 THE WITNESS: Yes.

2 MEMBER ALBERTI: What security
3 company?

4 THE WITNESS: I can't remember the
5 name. I can't remember doing the paperwork.

6 CHAIRPERSON ANDERSON: If you don't
7 remember, you just don't remember.

8 THE WITNESS: I can't.

9 MS. MAZARD: Refer to page 2 of the
10 security clearance. It says there is --

11 MEMBER ALBERTI: Excuse me. I will --

12 CHAIRPERSON ANDERSON: Hold on.

13 MEMBER ALBERTI: You know --

14 CHAIRPERSON ANDERSON: Hold on.

15 MEMBER ALBERTI: -- she is answering
16 my question.

17 CHAIRPERSON ANDERSON: Hold on, Mr.
18 Alberti. Ma'am, if you don't answer -- if you
19 don't remember the name, just say you don't
20 remember.

21 THE WITNESS: Okay. Okay.

22 CHAIRPERSON ANDERSON: I think that

1 you will have an opportunity, ma'am, and I will
2 give you an opportunity to --

3 THE WITNESS: Thank you.

4 MEMBER ALBERTI: So did you contact
5 the security company?

6 THE WITNESS: My husband did.

7 MEMBER ALBERTI: And what was the
8 result of that conversation?

9 THE WITNESS: I mean, well, they dealt
10 with the situation, so --

11 MEMBER ALBERTI: How? How did they
12 deal with it?

13 THE WITNESS: I mean, I'm not exactly
14 sure, because he will have to tell you that.

15 MEMBER ALBERTI: Do you have a
16 contract with this security company? Do you have
17 a contract with the security company?

18 THE WITNESS: Yes. Do we?

19 MEMBER ALBERTI: Please, please.

20 THE WITNESS: Oh, I'm sorry.

21 MEMBER ALBERTI: Okay. Just for the
22 record, I want to set the record straight.

1 THE WITNESS: Okay.

2 MEMBER ALBERTI: When you were first
3 asked by your attorney when you became owner --

4 THE WITNESS: Yes.

5 MEMBER ALBERTI: -- you said something
6 like April 2015. Is that correct? No, April
7 2016, I think you said.

8 THE WITNESS: Yes.

9 MEMBER ALBERTI: Is that correct? Is
10 that what you said initially before your attorney
11 showed you the license?

12 THE WITNESS: (No audible answer.)

13 MR. LIVELY: I believe the question
14 was licensed owner.

15 THE WITNESS: License, yeah.

16 MEMBER ALBERTI: Okay. When did she
17 become a licensed owner? Yeah, and you said
18 April 2016?

19 THE WITNESS: Yeah.

20 MEMBER ALBERTI: Is that correct?

21 THE WITNESS: Did I say that? Yes.

22 MEMBER ALBERTI: All right. Why would

1 you use that date? Any reason why?

2 THE WITNESS: (No audible answer.)

3 MEMBER ALBERTI: All right. I'll get
4 to the point. When did you buy your 80 percent
5 of this license?

6 THE WITNESS: I'm sorry?

7 MEMBER ALBERTI: When did you buy --

8 THE WITNESS: In April.

9 MEMBER ALBERTI: -- your 80 percent of
10 this license?

11 THE WITNESS: April. That was in --
12 hold on. That was in April.

13 MEMBER ALBERTI: Okay. Our records
14 show you submitted a purchase agreement with Mr.,
15 what's his name, oh, I have it here --

16 THE WITNESS: Oh.

17 MEMBER ALBERTI: What's his name?

18 THE WITNESS: December, I'm sorry.

19 MEMBER ALBERTI: Yeah, in December of
20 2015 --

21 THE WITNESS: On the 14th.

22 MEMBER ALBERTI: December 2015 you

1 purchased from Mr. Graham. Is that correct?

2 THE WITNESS: Yes, I got my dates
3 mixed up.

4 MEMBER ALBERTI: That's okay.

5 THE WITNESS: Yes.

6 MEMBER ALBERTI: That's okay.

7 THE WITNESS: I apologize, yeah.

8 MEMBER ALBERTI: But it wasn't until
9 a year later that you notified ABRA that you were
10 now the majority owner. Is that correct?

11 THE WITNESS: Yes.

12 MEMBER ALBERTI: How come you didn't
13 do that?

14 THE WITNESS: Only because I didn't
15 understand the business and he was still helping
16 me with the business.

17 MEMBER ALBERTI: All right. I have no
18 further questions.

19 THE WITNESS: Okay.

20 MEMBER ALBERTI: Thank you.

21 CHAIRPERSON ANDERSON: Any other
22 questions by any other Board Members? Yes, Mr.

1 Silverstein?

2 MEMBER SILVERSTEIN: Thank you. Ms.
3 Rose, you appeared to testify that, let me get
4 this straight, you -- that Mr. Lovette sort of
5 came --

6 THE WITNESS: Yes.

7 MEMBER SILVERSTEIN: -- along as part
8 of the package when you bought the company?

9 THE WITNESS: Yes.

10 MEMBER SILVERSTEIN: And you stated
11 that he -- you had no problems with him at all
12 prior to this incident on the 25th of February?

13 THE WITNESS: Yes.

14 MEMBER SILVERSTEIN: What happened
15 that night? Did this just suddenly come out of
16 nowhere? Are there any extenuating circumstances
17 whatsoever here?

18 THE WITNESS: No, sir. But you say
19 other than at night?

20 MEMBER SILVERSTEIN: Yeah.

21 THE WITNESS: Not that I know of, no.

22 MEMBER SILVERSTEIN: Not that I

1 recall. I haven't had any other issues with
2 them.

3 MEMBER SILVERSTEIN: No more
4 questions.

5 MEMBER SHORT: I just want to get
6 something --

7 CHAIRPERSON ANDERSON: Yes, Mr. Short?

8 MEMBER SHORT: -- clear. Ms. Rose,
9 you -- when I questioned you earlier, you said
10 that Mr. Lovette --

11 THE WITNESS: Yes.

12 MEMBER SHORT: -- came along with the
13 package when you bought it from Mr. Graham. And
14 was he licensed? Was he trained or are you --

15 THE WITNESS: From my understanding,
16 he was, yes.

17 MEMBER SHORT: All right. Since you
18 fired him, you hired a company that is
19 registered?

20 THE WITNESS: Yes.

21 MEMBER SHORT: And licensed?

22 THE WITNESS: Yes.

1 MEMBER SHORT: And you have all the
2 paperwork and contracts for that company?

3 THE WITNESS: Yes.

4 MEMBER SHORT: Can you provide them to
5 this Board at another time? I wouldn't ask for
6 today, but --

7 THE WITNESS: Yes.

8 MEMBER SHORT: -- can you provide that
9 contract?

10 THE WITNESS: I can, yes.

11 MEMBER SHORT: Okay. Thank you.

12 THE WITNESS: Okay.

13 MEMBER SHORT: At your earliest
14 convenience.

15 THE WITNESS: Okay.

16 MEMBER SHORT: That's all I have, Mr.
17 Chair.

18 CHAIRPERSON ANDERSON: Any other
19 questions by any other Board Members? Ms.
20 Gephardt?

21 MS. GEPHARDT: No.

22 CHAIRPERSON ANDERSON: Mr. Lively?

1 MR. LIVELY: I just want to clarify
2 some things.

3 THE WITNESS: Okay.

4 REDIRECT EXAMINATION

5 BY MR. LIVELY:

6 Q You were in negotiations and agreement
7 with Karl Graham before you became a licensed
8 ABRA owner, correct?

9 A Yes.

10 Q Okay.

11 CHAIRPERSON ANDERSON: Mr. Lively, I
12 don't know where this line of questioning -- I
13 know that it came from the Board --

14 MR. LIVELY: Okay.

15 CHAIRPERSON ANDERSON: -- but to me,
16 that's not relevant to this case. I mean, so at
17 least as part of my deliberation, I'll just be
18 honest, so you shouldn't spend any time going
19 there. It is not a relevant issue.

20 MR. LIVELY: Okay.

21 CHAIRPERSON ANDERSON: When I don't --
22 I really -- ownership, at least from the charge

1 here, is not at stake, so I'm not quite sure why
2 we are having questions on the ownership of this
3 establishment.

4 MEMBER ALBERTI: I can clarify why.

5 CHAIRPERSON ANDERSON: But I -- but
6 for this case, there might be other issues. For
7 this case, ownership is not an issue. We have
8 three charges. The first charge is to use -- for
9 the establishment to be used for an unlawful
10 purpose. The second charge, the second and third
11 charge are violation of a settlement agreement.

12 MEMBER ALBERTI: If I may?

13 CHAIRPERSON ANDERSON: I'm sorry, of
14 the security agreement. I know --

15 MEMBER ALBERTI: If I may? I just
16 need to explain myself. I asked as a measure to
17 ascertain, for me anyways, level of credibility.
18 And that was the purpose of that questioning.

19 CHAIRPERSON ANDERSON: Okay.

20 MEMBER ALBERTI: So --

21 CHAIRPERSON ANDERSON: Well, thank
22 you.

1 MEMBER ALBERTI: -- it has nothing to
2 do with the issues at hand. But now you
3 understand why I asked.

4 CHAIRPERSON ANDERSON: Well, I mean,
5 I don't -- at least in my view I don't think
6 credibility is an issue here. I mean, this is --
7 there are three charges and I think the bottom
8 line is that whether or not on the first charge
9 is this licensee responsible for the first
10 charge, is this licensee responsible for the
11 second and third charge? And that's what it is.

12 I mean, I'm not -- credibility --

13 MEMBER ALBERTI: It's credibility of
14 the testimony, that's what it is.

15 CHAIRPERSON ANDERSON: But she has --

16 MEMBER ALBERTI: And it's always the
17 issue. It's always a valid issue in any case, in
18 any hearing.

19 CHAIRPERSON ANDERSON: She is not --

20 MEMBER ALBERTI: She is testifying
21 under oath.

22 CHAIRPERSON ANDERSON: All right.

1 MEMBER ALBERTI: It's a valid concern
2 in every case.

3 CHAIRPERSON ANDERSON: Okay. All
4 right. Thank you, Mr. Alberti.

5 So I know why you asked the question
6 as stated, but I'll state for counsel, ownership
7 is not -- I don't -- at least --

8 MEMBER ALBERTI: It isn't. Ownership
9 is not an issue here.

10 CHAIRPERSON ANDERSON: Okay. All
11 right.

12 MEMBER ALBERTI: It's not a charge.

13 CHAIRPERSON ANDERSON: Do you have any
14 further questions?

15 MR. LIVELY: Yes, Mr. Chair.

16 BY MR. LIVELY:

17 Q Ms. Rose, Board Member Short asked you
18 some questions about what you have done in the
19 intervening time since this incident to change
20 your ways. And we have already mentioned two
21 individuals who were -- kind of came along with
22 the company when you purchased it from Karl

1 Graham, Mr. Lovette, as the Board remembers, also
2 Mr. --

3 A Kenneth Woodley.

4 Q -- Kenneth Woodley. And then there
5 was also another gentleman as well, Jermaine
6 Matthews?

7 A Yes.

8 Q Jermaine Matthews was the expediter
9 for Halftime Sports when you entered into
10 negotiations with Mr. Graham?

11 A Yes.

12 Q Okay. What kind of things did he do
13 for you?

14 A He filed the paperwork for ABRA.

15 MEMBER ALBERTI: This is not --

16 THE WITNESS: For here.

17 BY MR. LIVELY:

18 Q At DCRA?

19 A Yes, DCRA.

20 MEMBER ALBERTI: -- relevant to the
21 Board's --

22 CHAIRPERSON ANDERSON: Mr. --

1 MR. LIVELY: Just one --

2 MEMBER ALBERTI: This is not relevant
3 to the Board's questions.

4 CHAIRPERSON ANDERSON: All right.
5 Hold on, Mr. --

6 MS. GEPHARDT: I don't even know where
7 it is going, so I'm just trying to figure it out.

8 CHAIRPERSON ANDERSON: Hold on, Mr.
9 Alberti. Let me hear. I mean, he is asking a
10 question. I mean, it's up to the Government to
11 object.

12 MS. GEPHARDT: I mean, it doesn't
13 appear to be relevant, objection, to the incident
14 of the assault.

15 MEMBER ALBERTI: Or to the questions
16 that the Board asked.

17 MR. LIVELY: Directly addressing the--

18 CHAIRPERSON ANDERSON: Just ask. Let
19 me see where -- I don't know where you are going.
20 Where are you going?

21 BY MR. LIVELY:

22 Q Anyway, he was an expediter that you

1 used and he was inherited from the previous
2 ownership, correct?

3 A Yes.

4 Q And since this time, you no longer use
5 him either, as well?

6 A No, I do not.

7 Q Okay. That's another change that you
8 have made?

9 A Yes.

10 MS. GEPHARDT: Okay. Objection.

11 CHAIRPERSON ANDERSON: All right.

12 Yeah, I --

13 MS. GEPHARDT: This is just not -- it
14 doesn't have to do with --

15 CHAIRPERSON ANDERSON: Right. That's
16 not --

17 MS. GEPHARDT: -- this assault case.

18 CHAIRPERSON ANDERSON: -- relevant and
19 it's not relevant to the Board's issues. So if
20 you have another question, let's ask it, but
21 that's -- yeah. If you have another question,
22 please, ask it, yeah.

1 BY MR. LIVELY:

2 Q Okay. Did you ever instruct any
3 bouncer under any circumstances that it was
4 acceptable to strike patrons or assault patrons
5 as a way of dealing with unruly behavior?

6 A Absolutely not.

7 MR. LIVELY: That's all I have.

8 BY MS. MAZARD:

9 Q Ms. Rose, can I direct you to the
10 security plan at the top of page 2? I believe
11 you indicate that the incident happened on a
12 Sunday night?

13 A Yes.

14 Q And your security plan only calls for
15 two officers Thursday through Saturday evening.
16 So were you in abidance by your security plan by
17 only having one person on Sunday night?

18 A Yes.

19 Q Secondly, you were asked what kind
20 of steps that you would take to ensure that you
21 followed by the security plan. Are you willing
22 go let ABRA come in and review your new cameras?

1 A Absolutely.

2 Q Are you willing to work with them to
3 ensure that their cameras are up to compliance?

4 A Absolutely.

5 Q Also in addition to providing
6 paperwork for the new security company, can you
7 indicate to us if needed for a certain time,
8 would you be willing to comply with any ABRA
9 regulations requiring the level of security or
10 the type of security?

11 A Yes.

12 Q And finally, is it your understanding
13 that as a result of this alleged incident, that
14 no assault charges were filed by either MPD or
15 the AUSA?

16 A Yes.

17 Q So thank you very much.

18 A You're welcome.

19 CHAIRPERSON ANDERSON: All right.

20 Thank you, Miss. Thank you for your testimony.

21 You can step down, Ms. Rose.

22 THE WITNESS: You're welcome.

1 (Whereupon, the witness was excused.)

2 CHAIRPERSON ANDERSON: You can step
3 down.

4 MS. ROSE: Okay.

5 CHAIRPERSON ANDERSON: You said that
6 Ms. Rose was the only witness?

7 MS. MAZARD: Yes.

8 CHAIRPERSON ANDERSON: Do you rest on
9 this charge?

10 MS. MAZARD: Yes.

11 CHAIRPERSON ANDERSON: All right.

12 Does the Government wish to make a closing
13 statement?

14 MS. GEPHARDT: Okay. We can go head
15 and do that now.

16 CHAIRPERSON ANDERSON: Because it's
17 two separate. We are -- it's two separate cases,
18 right?

19 MS. GEPHARDT: No, I understand.
20 Right.

21 CHAIRPERSON ANDERSON: Okay.

22 MS. GEPHARDT: Okay. Board Members,

1 there has been a lot of testimony here about the
2 incident on February 25, 2018. The one thing
3 that appears to be universal is that when we
4 heard from the Police Officers that there was an
5 assault out on the sidewalk from their bouncer,
6 which, of course, is above and beyond what any
7 bouncer should use in terms of force.

8 It doesn't matter what the patron is
9 doing, except, you know, short of holding a gun
10 to his head, but it doesn't matter if they are
11 spitting, it doesn't matter if they are acting
12 like a jerk, it's just completely off the charts
13 in terms of what is acceptable.

14 Now, after the assault, we get into
15 the incident log and the security cameras and
16 there are some things here that are concerning.
17 First of all, Ms. Rose could not -- she testified
18 that she can't control the camera system.
19 However, she did say she could get video on her
20 phone.

21 And then when I asked her about being
22 able to access video from the room in the

1 restaurant, she said well, not really. It was a
2 very -- it was just a wishy-washy answer and it
3 sort of makes me pause about well, what does she
4 mean by that? You could -- could she not have
5 given Mr. Royster the video from her phone within
6 a day as opposed to him having to wait a week to
7 get the video?

8 There is -- it's very concerning that
9 the bouncer was still working about -- was it
10 four to five days later according to Mr. Royster,
11 he was not wearing a security shirt. He was
12 wearing jeans. And he made a comment to Mr.
13 Royster like I didn't do it.

14 So you have this pretty serious
15 assault and the bouncer is still working there
16 Monday morning, so to speak.

17 You heard from Mr. Royster that no one
18 from the establishment was outside to assist,
19 whether that be calling 911 or I guess they
20 didn't have to because the police were there.
21 But any kind of assistance, talking to the
22 police, doing interviews, they were not there.

1 Opposing counsel -- about the incident
2 log, we hear that the incident log was just not
3 done. Okay? There is this story about the water
4 destroying the book, I have to admit it's a
5 little bit "the dog ate your homework," but the
6 fact of the matter is counsel said well, what is
7 the point? They already had all the info.

8 Mr. Royster had all the info. Why do
9 I need to do an incident log? And Royster said
10 because you have information that we don't have.
11 You are the ones that were there. You were the
12 ones that witnessed it. You -- this is your
13 establishment. So that's not an excuse.

14 I mean, you absolutely have to have an
15 incident log, I mean, otherwise why would they be
16 in security plans?

17 The other concerning thing is that Mr.
18 Woodley, the ABC Manager, that wasn't fired until
19 two months ago, this incident happened in
20 February. You know, this is a pretty egregious
21 event. And so why he is still working for six
22 months, I don't understand.

1 The other thing that is very unclear
2 that should give the Board pause is that it's not
3 clear if Lovette worked for Halftime or if he
4 worked for a security company. Everything I
5 heard from Mr. Royster was that he was their
6 security guy. He worked for Halftime. He was
7 their security guy.

8 I didn't hear anything about working
9 for a security company, so it really -- I give
10 pause to that and that should definitely be
11 looked into because I don't know that that's
12 necessarily true.

13 Let's see, the Board's indulgence.
14 Oh, one other thing about the cameras is that I
15 believe it was Ms. Mazard who was talking about
16 the number of cameras and that the -- you know,
17 that basically, the incident or excuse me, the
18 incident log -- the security plan says that you
19 have to have five cameras and they have eight,
20 she says.

21 Well, okay, so two of those, three of
22 those aren't working. Well, maybe they have

1 critical angles. Maybe the reason they are --
2 you know you have eight is because they are
3 positioned in such a way that you get all of the
4 floor.

5 So if three of them are burned out,
6 yeah, you have five left, but if you just had
7 five, you might position them differently. I
8 hope you understand what I'm getting at.

9 Anyway, it just -- there just seems to
10 be a lot of holes here with security, with
11 managing the staff, with dealing with violent
12 incidents, with logging incidents in a book,
13 there is just a lot going on here. And I think
14 the Board should take this seriously whether this
15 is -- behavior is going to change or not.

16 That's all I have.

17 CHAIRPERSON ANDERSON: So what is it
18 that you want the Board to do on the charges?

19 MS. GEPHARDT: Well, Board, Mr.
20 Chairman, the District is actually going to ask
21 for revocation of the license.

22 CHAIRPERSON ANDERSON: All right. So

1 basically, that is the culmination of all three
2 charges, you are asking for revocation?

3 MS. GEPHARDT: Right. All right. Mr.
4 Lively?

5 MR. LIVELY: Well, first of all,
6 that's news to me. Coming in here, it was my
7 understanding that we were going to be fined
8 \$30,000 a piece for each one of these, that's
9 what they were asking for.

10 CHAIRPERSON ANDERSON: Well, the
11 statute says up to \$30,000 or revocation. So we
12 have the option. The Government is asking for
13 revocation. In your argument, you can make
14 alternative arguments to convince --

15 MEMBER ALBERTI: It says no less than
16 \$30,000.

17 CHAIRPERSON ANDERSON: But the bottom
18 line is that there are two options. There is a
19 \$30,000 fine or revocation. That's what the
20 statute says so the Government is asking for
21 revocation and then you -- I mean, in your
22 arguments, it's either they have not met the

1 burden and because they have not met their
2 burden, we don't -- we should not be fined or we
3 don't think that they have met their burden for
4 revocation.

5 And in the alternative, then you pay
6 a \$30,000 fine. I don't -- I can't tell you how
7 to argue, but I'm just saying that's what the
8 statute says.

9 MR. LIVELY: I'm just -- I understand
10 that, Mr. Chairman.

11 CHAIRPERSON ANDERSON: All right.

12 MR. LIVELY: I'm just saying that my
13 understanding of what the Government was asking
14 prior to today was \$150,000 in fines for this and
15 the other charges. This is the first --

16 CHAIRPERSON ANDERSON: Well, I don't
17 know what the Government was asking, but remember
18 we have gone through -- we had a Status Hearing
19 and so I don't know what discussions that would
20 have -- I mean, we have had -- we are -- I don't
21 know what the Government might have offered at
22 status.

1 Maybe they offered that at status and
2 now it's at a hearing, they changed their mind.
3 I don't know, because I'm not a part of it. But
4 so I can't quiver with them about what they never
5 told me. I had to ask the Government what is it
6 that they wanted us to do. They have told us.

7 So you -- now you know, so it's up to
8 you to argue, make the arguments whichever way
9 you want to argue, sir.

10 MS. GEPHARDT: So when you and I
11 talked, we were talking about settling the case.
12 So we were providing sort of a modified
13 agreement, so that we could settle this case, but
14 we couldn't and so we are going forward. And so
15 the Government has the right to up the anti,
16 basically, and ask for revocation.

17 MR. LIVELY: And for reasons that I'll
18 go into in more detail during the second case,
19 the idea that these all should be considered
20 fourth tier violations is extremely unjust and
21 unfair.

22 But just to go back to this case

1 specifically, just addressing a couple of the
2 points that have -- that were brought up during
3 the Government's closing, she holds it against us
4 that an ABC Manager who was on duty was not
5 immediately fired after a completely
6 unforeseeable assault by a bouncer occurred one
7 time in the entire course of Ms. Love being the
8 licensed owner of the establishment.

9 He was not the one that assaulted
10 anyone. I don't think it necessarily follows
11 that he has to be fired immediately for an
12 unforeseen event.

13 The testimony is clear that there was
14 no indication from -- that Mr. Lovette was
15 capable of this act. When he committed the act,
16 he was arrested, he was terminated. The -- Ms.
17 Rose has also testified that they have taken
18 steps to shore up the security plan going
19 forward.

20 In the settlement agreement, the -- it
21 is indicated that two bouncers are required, two
22 security staff are required from Thursday to --

1 MEMBER ALBERTI: Just for the record,
2 security plan, you are referring to the security
3 plan?

4 MR. LIVELY: The security plan.

5 MEMBER ALBERTI: I just wanted to make
6 sure we are on the same page.

7 MR. LIVELY: Two special officers are
8 required Thursday through Saturday evenings and
9 they will be identified by black shirts that have
10 the words security in bold white print on both
11 the front and back side of the shirt.

12 This incident took place on a Sunday
13 evening at 11:00 p.m. This was not covered by
14 this particular requirements of the security
15 plan.

16 As far as the security cameras, if she
17 was required to have five security cameras, the
18 fact that they have a system with eight security
19 cameras shows that they were going over and above
20 their requirements. There is actually -- and
21 even more so, the fact is that the security
22 cameras that they did have in place prove more

1 than ample to cover this particular incident.

2 They were able to provide detailed
3 information to the ABRA Investigator, information
4 he could not have acquired through the police-
5 worn body cameras. He was given information from
6 anyone he chose to speak to.

7 There is -- I don't think it is
8 affirmative anywhere on the record that it was,
9 in fact, Mr. Lovette that was at the door on the
10 day that he came to -- he first came to Halftime
11 Sports. He testified that it is his belief that
12 he was, but it's not included in the security --
13 not included in the investigative report and as
14 well as the alleged statement made by Mr. Lovette
15 is not included in the investigative report,
16 which makes me doubt both of those and they
17 should not be sufficient to support the idea that
18 he was still on staff at the day that the
19 Investigator came.

20 As far as the logbook, I believe that
21 the Government misrepresented what the testimony
22 was. Ms. Rose never told the Investigator or

1 this Board that a logbook was not necessary or
2 why do I need a logbook or anything of that
3 nature. She simply informed the Investigator
4 they did not have a logbook at the time. The
5 previous logbook was destroyed by a water leak
6 and that they did not have a log -- they had not
7 replaced it at the time that the Investigator had
8 came to do his initial review.

9 That is what it is. He -- but she was
10 not in any way insinuating that a logbook was
11 unnecessary. The point that I was only trying to
12 make is that in this particular case, the
13 security measures and recording measures taken by
14 Halftime Sports were enough to more than
15 adequately to address this particular unfortunate
16 issue.

17 And I don't believe they should be
18 held responsible for unforeseeable acts of their
19 employee, the first charge. The provision of the
20 logbook if it was not a fourth tier violation, I
21 probably wouldn't be here arguing about it,
22 because it should not be, but given the idea that

1 it is \$30,000 or revocation of the license on the
2 line, I had no choice but to challenge that.

3 And then finally the failure to comply
4 with the provisions of the security plan
5 regarding the security cameras, I don't think
6 there is any evidence whatsoever that they failed
7 to comply with that at all. They had five
8 security cameras in place that were focused on
9 the incident that gave good valuable information
10 and that were preserved properly.

11 So I don't believe that the Government
12 has satisfied their burden as to any of the three
13 charges. Thank you.

14 MS. MAZARD: I just wanted to
15 reiterate what Keith said. I mean, the
16 Government never showed us any camera footage
17 that there was an assault. The police let this
18 bouncer go. The ASA refused to file charges,
19 which strains credulity that there can be an
20 assault found here when there was no assault
21 found. Thank you.

22 CHAIRPERSON ANDERSON: All right. The

1 record is now closed. Do the parties wish to
2 file proposed findings of fact and conclusions of
3 law or waive their right to do so?

4 MS. GEPHARDT: No, the Government
5 waives. Would not do that.

6 MR. LIVELY: We wish to do so.

7 CHAIRPERSON ANDERSON: All right.
8 Sir, since the parties have -- since the licensee
9 has chose to file proposed findings of fact and
10 conclusions of law, then 90 days from when the
11 Board receives proposed findings of fact and
12 conclusions of law is due prior -- well, all
13 right.

14 All right. So it's going to take us
15 about 30 days to get the transcript. All right.
16 So the answer -- the -- your proposed findings of
17 fact and conclusions of law is due 30 days after
18 you receive the transcript. And then we will
19 issue a decision within 90 days after that.

20 As Chairperson of the Alcoholic
21 Beverage Control Board for the District of
22 Columbia and in accordance with Section 405 of

1 the Open Meetings Amendment Act of 2010, I move
2 that the ABC Board hold a closed meeting for the
3 purpose of seeking legal advice from our counsel
4 on Case No. 18-251-00069, Halftime Sports Bar,
5 per Section 405(b)(4) of the Open Meetings
6 Amendment Act of 2010, and deliberating upon Case
7 No. 18-251-00069, Halftime Sports Bar, for the
8 reasons cited in Section 405(b)(13) of the Open
9 Meetings Amendment Act of 2010. Is there a
10 second?

11 MEMBER SHORT: Second.

12 MEMBER SILVERSTEIN: Second.

13 CHAIRPERSON ANDERSON: Mr. Short and
14 Mr. Silverstein have seconded the motion.

15 I will now take a roll call vote on
16 the motion before us now that it has been
17 seconded.

18 Mr. Silverstein?

19 MEMBER SILVERSTEIN: I agree.

20 CHAIRPERSON ANDERSON: Mr. Short?

21 MEMBER SHORT: I agree.

22 CHAIRPERSON ANDERSON: Mr. Alberti?

1 MEMBER ALBERTI: I agree.

2 CHAIRPERSON ANDERSON: Mr. Cato?

3 MEMBER CATO: I agree.

4 CHAIRPERSON ANDERSON: Mr. Anderson?

5 I agree.

6 As it appears that the motion has
7 passed, I hereby give notice that the ABC Board
8 will hold a closed meeting in the ABC Board
9 conference room pursuant to the Open Meetings
10 Amendment Act of 2010 and issue an order, as I
11 stated within -- and issue an order.

12 All right. So that case, the first
13 case is closed. Let's take a 10 minute break and
14 then we can do the second case.

15 MS. GEPHARDT: Okay.

16 (Whereupon, the Show Cause Hearing was
17 concluded at 4:08 p.m.)

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This is to certify that the foregoing transcript


In the matter of: Halftime Sports Bar (069)

Before: DCABRA

Date: 10-03-18

Place: Washington, DC

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