

IN RE: V.R. ENTERTAINMENT AND DREAM
NITECLUB

LIQUOR CONTROL COMMISSION HEARING

March 19, 2012

Prepared for you by



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STATE OF MICHIGAN

IN RE: V.R. ENTERTAINMENT

and DREAM NITECLUB

LIQUOR LICENSE NO. 18655-2011

LIQUOR CONTROL COMMISSION HEARING,
Taken at 301 East Huron Street,
Ann Arbor, Michigan,
Commencing at 8:24 a.m.,
Monday, March 19, 2012,
Before Amy Tobias Lenga, CSR-4625.

1 APPEARANCES:

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9 Appearing on behalf of The City of Ann Arbor.

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24 Appearing on behalf of V.R. Entertainment Network,
25 Inc., and Dream Niteclub.

1 ALSO PRESENT:
2 Anthony A. Derezinski, Hearing Officer
3 Jeffrey Mangray
4 Vickash Mangray
5 Rishi (Reese) Mangray
6 Robert Pfannes, Lieutenant, Safety Services
7 Matthew Horning, Treasurer, City of Ann Arbor
8 Jacqueline Beaudry, City Clerk
9 Barbara J. Turner, Court Reporter

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1 Ann Arbor, Michigan
2 Monday, March 19, 2012
3 8:24 a.m.

4

5 HEARING OFFICER: At this point I would
6 note next to me is Jackie Beaudry who is our City
7 Clerk, and our two court reporters, for the two
8 actions we are going to be dealing with today.

9 The second hearing is in the matter of V.R.
10 Entertainment Network, Inc., doing business as Dream
11 Niteclub & Lounge. Liquor license number 18655-2011.
12 And again, this hearing is being held as well pursuant
13 to Section 436.1501(2) of the Michigan Compiled Laws
14 pertaining to liquor licenses; and also in accordance
15 with Chapter 109 of the Code of the city of Ann Arbor
16 dealing with the annual renewal of liquor licenses.

17 This chapter allows the City to annually
18 review each license or on-premise liquor license to
19 determine whether or not it will object to the State
20 License Commission's renewal. It also provides the
21 standards or reasons the City considers and relies on
22 to make such a determination.

23 In addition, this ordinance also requires
24 notice to be given to the licensee of the reason or
25 reasons for an adverse recommendation and also

1 requires a hearing regarding the same, with the most
2 important requirements of due process.

3 Furthermore, and by action of the Ann Arbor
4 City Council, this hearing will also follow the
5 hearing of the appeals guidelines and rules, as
6 adopted by the Liquor License Committee; and, finally,
7 by action of the City Council, this hearing will be
8 presided upon by the hearing officer who has been
9 designated to be Councilmember Anthony A. Derezinski.

10 First, also, and again, I would ask the
11 participants to identify themselves. First, for the
12 city of Ann Arbor?

13 MR. WEST: That's Robert West appearing on
14 behalf of the City.

15 HEARING OFFICER: Okay. And for the
16 respondent licensee?

17 MR. FARINHA: Roger Farinha. My co-counsel.

18 MR. LEDER: Brent Leder.

19 MR. FARINHA: And also present is Mr.
20 Vickash Mangray.

21 HEARING OFFICER: Vickash?

22 MR. FARINHA: Vickash Mangray.
23 V-i-c-k-a-s-h, Mangray.

24 HEARING OFFICER: Okay. Mr. West, then
25 will you please commence your case in proofs starting

1 with those issues?

2 MR. WEST: Yes. Again, I would ask that we
3 take testimony from our City Clerk, Jackie Beaudry.

4 I would start out by saying that the City,
5 as testified to by Ms. Beaudry, did provide notice of
6 objection to renewal of liquor licence by the City to
7 the V.R. Entertainment Network, Inc., specifically
8 Vickash Mongray, alleging violations of Chapter 109,
9 Section 9:79, which was failure to timely pay taxes.
10 I am sorry. One of the allegations under that section
11 would be failure to timely pay personal property
12 taxes. I understand those have now been paid. So the
13 City does withdraw that allegation.

14 In addition, though, the City alleges a
15 repeated violation of the State liquor laws and
16 violations of the City's ordinance regarding liquor
17 licensing, as alleged in a lawsuit filed entitled City
18 of Ann Arbor versus Jeff Mangray and V.R.
19 Entertainment Network, Inc.. That case pending in the
20 Circuit Court presently.

21 Also the maintenance of a nuisance upon or
22 in connection with the licensed premises, including a
23 pattern of patron conduct in the neighborhood of the
24 licensed premises in violation of the law, which it
25 asserts for peaceful order in the neighborhood; and

1 also numerous police contacts with the licensed
2 premises or patrons of the premises, and finally MLCC
3 violations.

4 So let me approach. Both Exhibits 9 and
5 10 -- I supplied the binder with the numbered tabs for
6 Mr. Farinha right at the end, that white binder. This
7 is nine and ten.

8 MR. FARINHA: We don't have nine and ten.
9 Oh, here it is.

10 MR. WEST: Ms. Beaudry, could you tell us
11 what is --

12 MS. TURNER: Do you want to swear in the
13 witnesses?

14 HEARING OFFICER: It's not necessary.

15 MR. WEST: It's not necessary today.

16 JACQUELINE BEAUDRY,
17 was thereupon called as a witness herein:

18 EXAMINATION

19 BY MR. WEST:

20 Q. Tell us, please, what about is Exhibit No. 9?

21 A. Okay. Exhibit 9 is a copy of Section 9:79 of the City
22 Code, Annual Renewal; license revocation, appeal and
23 fees, as well as a copy of the city of Ann Arbor
24 Liquor License Review Committee hearing rules.

25 Q. And what is Exhibit 10?

1 A. Exhibit 10 is a copy of the letter that I signed, sent
2 by the City on March 7th, 2012 to V.R. Entertainment
3 Network, Inc.. It's a notice of objection to renewal
4 of liquor license by the city of Ann Arbor. Included
5 with that letter was a copy of the City's Liquor Code
6 violation report.

7 Q. And, if you know, how was that sent?

8 A. That was sent via Express mail to Vickash Mangray, as
9 well as regular mail to Vickash Mangray.

10 Q. All right. And were the contents of Exhibit 9 that
11 you already testified to included in that mailing?

12 A. Yes.

13 Q. Both nine and --

14 A. The Committee rules as well as the City Code.

15 Q. So nine and ten were mailed to V.R. Entertainment,
16 Inc.?

17 A. That's correct.

18 MR. WEST: All right. I have no other
19 questions of this witness.

20 HEARING OFFICER: Do you have any
21 questions?

22 MR. FARINHA: Yes, I do.

23 EXAMINATION

24 BY MR. FARINHA:

25 Q. Is this the only notice that was sent out to the

1 Mangrays for today's hearing?

2 A. For today's hearing?

3 Q. Yes.

4 A. Yes, the two notices.

5 Q. A sense of housekeeping, was there any notice sent out
6 to the Mangrays for the meeting where this matter put
7 on the agenda at City Council by you?

8 A. The City Council's decision will be tonight. It
9 hasn't gone to City Council yet. It comes from the
10 Liquor Committee first.

11 Q. The recommendation to get to this committee -- I mean
12 to this hearing today came from the City Council,
13 initial recommendation?

14 A. Yes.

15 Q. Okay. So it was on the agenda at a City Council
16 meeting; is that fair to say?

17 A. On March 5th, that's correct.

18 Q. Okay. Was there any notice sent to the Mangrays for
19 the March 5th --

20 A. No.

21 Q. -- meeting. No. Okay. That's a no, is that correct?

22 A. That's correct.

23 Q. So they had no opportunity to represent themselves at
24 that City Council meeting because no one sent notice
25 to them; is that fair to say?

1 A. No. The City Council meeting is a public meeting and
2 the agenda is published publicly.

3 Q. You just --

4 A. They weren't -- there was no requirement to personally
5 notify them.

6 Q. Did you send -- but you didn't send them any notice,
7 correct?

8 A. That's correct.

9 HEARING OFFICER: Further questions?

10 MR. FARINHA: No further questions.

11 HEARING OFFICER: Mr. West?

12 MR. WEST: I have no other questions. Thank
13 you.

14 HEARING OFFICER: These exhibits are then
15 accepted into evidence.

16 MR. WEST: Thank you.

17 EXHIBITS 9 - 10 ADMITTED

18 8:41 a.m.

19 HEARING OFFICER: Continue, Mr. West.

20 MR. WEST: At this time we have present --
21 give me one moment here. One of our police officers
22 to offer testimony as to an incident 10-9819. So we
23 would call Officer Peter Tsangaris.

24 HEARING OFFICER: Welcome, Officer.

25 OFFICER PETER TSANGARIS,

1 recall, first of all, if you were working on that
2 evening?

3 A. Yes, I was working. I was a single officer in a --
4 working patrol.

5 Q. Are you familiar with a business located at 314 South
6 Fourth Ave. in the city of Ann Arbor?

7 A. Yes.

8 Q. Do you know that to be either known as Studio 4 or the
9 Dream Niteclub?

10 A. Yes, sir.

11 Q. On that early morning hours of February 28, 2010, did
12 you have occasion to be at the 314 South Fourth Ave.
13 address?

14 A. Yes, I was. I was parked down the street on the west
15 side of the street just north of the niteclub.

16 Q. And at about what time?

17 A. It was -- I believe it was about quarter to 1:00
18 o'clock, quarter to 1:00 in the morning.

19 Q. So at that time and place did anything unusual occur
20 that came to your attention?

21 A. Yes. While I was sitting there I observed two black
22 males go through the glass window that's just north of
23 the front door. I did -- the window broke. One guy
24 was on top of the other person as they go in through
25 the window and they got pulled back in. I went up to

1 the window, looked inside and there was a fight going
2 on in the bar area.

3 Q. So these men came from the inside?

4 A. Inside and getting pushed out. Breaking the window
5 out. The glass was all over the front of the
6 sidewalk.

7 Q. Did you respond to that incident?

8 A. I got in my -- exited my patrol vehicle, walked up to
9 the window and saw the large fight inside. I notified
10 dispatch to have additional officers come.

11 Q. At some point did you ever enter the club that
12 evening?

13 A. Yes. When additional officers came we entered into
14 the establishment. There was no one in the front area
15 of the bar anymore. I entered with the other
16 officers. And also Sergeant Lige was also on-duty.
17 Made contact with Jeff Mangray, who's the owner of the
18 establishment. And he said everything was good
19 inside, there was no more problems. And then while I
20 was in there with Sergeant Lige there was another
21 fight.

22 MR. FARINHA: Objection. Hearsay.

23 HEARING OFFICER: I'm sorry?

24 MR. FARINHA: Objection. Hearsay.

25 HEARING OFFICER: Your objection is noted.

1 A. Well, there was no -- there was no fight visible when
2 we walked in there. And then while we were inside
3 another fight broke out with five black females.

4 BY MR. WEST:

5 Q. You work a midnight shift, is that correct?

6 A. Yes, sir.

7 Q. And how long have you been working that shift?

8 A. Approximately 17. I'm on 18 years here.

9 Q. Do you know how long the Dream Niteclub, also known as
10 Studio 4, has been in operation?

11 A. I don't recall.

12 Q. And have you ever had an occasion on any other dates
13 to be present at Dream Niteclub during the midnight
14 shift?

15 A. Yes, several times.

16 Q. I am not asking you specifics, but just in general how
17 has this impacted the midnight shift at the Police
18 Department?

19 A. With all the fights that have been happening outside
20 the establishment and the parking lot and the street,
21 it causes all the officers that are on-shift to be
22 there. We had to shut down --

23 MR. FARINHA: Objection, Your Honor.

24 Objection. Foundation. Nothing laid for
25 this witness -- foundation objection.

1 HEARING OFFICER: Your objection is noted.

2 BY MR. WEST:

3 Q. You may continue.

4 A. Okay. It just caused all the officers that we had to
5 be there. U of M had to respond and help out, and
6 also the county has responded a couple times to help
7 out.

8 Q. Have you ever had occasion in the course of your
9 employment, particularly on midnight shift, to respond
10 to incidents or calls for service at other bars in Ann
11 Arbor?

12 A. Yes, in the past we have responded to calls. It's not
13 as frequent as we had with Studio 4.

14 MR. FARINHA: Objection.

15 HEARING OFFICER: Noted.

16 BY MR. WEST:

17 Q. Can you give us a comparison where this establishment
18 ranks in that order?

19 MR. FARINHA: Objection.

20 HEARING OFFICER: Basis for your objection?

21 MR. FARINHA: There's no foundation laid.

22 HEARING OFFICER: Noted.

23 A. I don't -- I can't say. I just know we spend a lot of
24 time at that establishment. I can't give you a
25 certain number. We try working midnight shift, and I

1 work down -- in working downtown area we like to have
2 a police vehicle monitoring every single bar. But a
3 lot of times we have to spend our time on South Fourth
4 Avenue to monitor the crowd that's leaving and the
5 problems that they have.

6 MR. WEST: I have no other questions at this
7 time.

8 MR. FARINHA: I just have a few.

9 EXAMINATION

10 BY MR. FARINHA:

11 Q. You have 19 years on the force, correct?

12 A. Yes, sir.

13 Q. And how many arrests have you made or citations have
14 you issued for felonious assault would you say in your
15 19 years?

16 A. We don't issue citations for felonious assault. It's
17 an arrestable offense.

18 Q. It's an arrestable offense. How many arrests have you
19 made for felonious assault?

20 A. At this establishment or in general?

21 Q. In general.

22 A. I can't recall, sir.

23 Q. More than a hundred?

24 A. I wouldn't say a hundred.

25 Q. More than 50?

1 A. Within Ann Arbor there's not many felonies that
2 happen.

3 Q. More than 20?

4 A. I believe around 20.

5 Q. Okay. How many tickets for disorderly person have you
6 issued?

7 A. I would have to say that's in the fifties.

8 Q. In the fifties?

9 A. Yeah.

10 Q. How many for assault and battery have you issued
11 arrests or --

12 A. Assault and battery is different. It's not an
13 arrestable offense. We kind of take a report and then
14 the person -- it's up to the person to contact the
15 Detective Unit if they want to prosecute. But I take
16 several reports, many reports of assault and battery.

17 Q. So if there's an assault and battery would you
18 typically and you identify would you make an arrest?

19 A. No. We will identify the person and then we just
20 release them, depending on the severity of the
21 assault. If it's an aggravated assault then we'll
22 arrest them.

23 Q. But you do take some police action?

24 A. Oh, yes, sir.

25 Q. And document --

1 A. Yes.

2 Q. -- the incident, correct?

3 A. We try to.

4 Q. And you're trained to secure a location where a crime
5 occurs; is that fair to say?

6 A. Yes, sir.

7 Q. So if you were at the site at 12:45 a.m. and you're
8 first responding to the scene you're trained to secure
9 the scene; is that fair to say?

10 A. Yes.

11 Q. And when the other officers arrive in a situation like
12 that typically you would investigate with the
13 witnesses, correct?

14 A. Yes.

15 Q. And on December 28th isn't it true that you issued no
16 citation, no arrests, no tickets for anything; is that
17 fair to say?

18 A. Yes, sir. When we went inside -- it was not safe for
19 me to go inside by myself when a large fight's going
20 on.

21 Q. Okay. But after the other officers arrived and you
22 secured the scene -- you secured the scene, none --
23 either you or none of the officers issued any
24 citations or tickets for disorderly person or anything
25 for that matter; is that fair to say?

1 A. Yes, sir. When I walked inside the large group that
2 was in there had all disappeared.

3 Q. Well, if you secured the scene they're not going to
4 disappear and run past you?

5 A. I can only secure the front of the scene, and no one
6 came out.

7 Q. Okay. So it's likely that they were in there; is that
8 fair to say?

9 A. It's likely to say they ran out the back door, sir.
10 We also went in the bathrooms and there was no one in
11 there.

12 Q. Okay. Well, you said there was another fight of
13 females that broke out right in front of this?

14 A. Yes.

15 Q. Did you arrest any of the females?

16 A. No. No one wanted to press charges.

17 Q. Did you arrest -- did you keep a record of who the
18 females were?

19 A. They didn't want identify themselves, they didn't want
20 to press charges. We broke it up. And then we let
21 the ladies go on their way.

22 Q. But being the fact that you were an eyewitness --

23 A. Yes.

24 Q. -- to the incident?

25 A. Yes.

- 1 Q. Couldn't you have made an arrest from what you saw and
2 observed?
- 3 A. If we had no victim then we can't prosecute, sir.
- 4 Q. That's not my question.
- 5 A. Yes.
- 6 Q. Could you have made an arrest --
- 7 A. We could have.
- 8 Q. But you did not?
- 9 A. But it would have gone nowhere.
- 10 Q. So the answer is no?
- 11 A. Yes, sir. No, sir.
- 12 Q. So besides your statement now there is no hard
13 evidence or documentation to support that there was an
14 actual fight in the club; isn't that fair to say,
15 Officer?
- 16 A. It's documented in my report that there was a fight.
- 17 Q. Besides your writing the statement in the report
18 there's no other hard evidence to support that there
19 was a fight in the club; isn't that fair to say,
20 Officer?
- 21 A. Unless you're calling me a liar.
- 22 Q. I'm asking you a question.
- 23 A. Okay.
- 24 Q. I just need you to answer.
- 25 A. No, there's the evidence that I put in the report.

1 Q. Besides your statement in the reports there is no --

2 A. Besides my statement there's no other evidence unless
3 I have Sergeant Lige who could be an eyewitness.

4 Q. Okay. Right now there is no other hard evidence to
5 support your statement, isn't that fair to say? Is
6 that a yes?

7 A. That's the report, that's it.

8 Q. That's a yes?

9 A. That's what's in my report.

10 MR. FARINHA: No further questions.

11 HEARING OFFICER: Cross?

12 MR. FARINHA: Oh, wait. My co-counsel has
13 some.

14 MR. LEDER: I have a couple questions, if
15 you don't mind.

16 EXAMINATION

17 BY MR. LEDER:

18 Q. Officer, what day of the week was February 27th, 2010,
19 do you recall?

20 A. I don't recall, sir.

21 Q. If I told you it was a Saturday would that ring a bell
22 to you?

23 A. I would have to take your word for it.

24 Q. Okay.

25 A. Because I could be lying.

1 Q. Okay. But you don't know what day of the week it was?

2 A. No, sir. I don't know if the report captures it
3 either.

4 Q. Well, for the sake of argument let's say it was a
5 Saturday, because I believe it was.

6 A. Okay.

7 Q. What was the makeup of the crowd at Dream Niteclub on
8 that Saturday night, based on your observations?

9 A. I believe it was African Americans.

10 Q. African American?

11 A. Uh-huh.

12 Q. Is that typical for a Saturday night at Dream Niteclub
13 in your experience?

14 A. I don't -- to tell you the truth, I can't honestly
15 say.

16 Q. You can't honestly say?

17 A. I don't -- I don't what the makeup. I know a Sunday,
18 a lot of times on Sundays they have private parties.
19 But I can't say the makeup, especially back in 2010,
20 what clientele go there. I know they have different
21 theme nights.

22 Q. Do you know what Saturday night is?

23 A. I don't recall.

24 Q. They do have different theme nights?

25 A. Yes, sir.

1 Q. So earlier in your testimony you stated that often
2 times the majority of the midnight shift needs to
3 position themselves on Fourth Street near Studio 4,
4 correct?

5 A. Yes, sir.

6 Q. How often have you been positioned there?

7 A. When I'm -- if I'm working, if there's not another car
8 there, like I stated earlier, it has been past
9 practice working downtown that we like to have a car
10 on each and every bar. But with manpower being
11 short -- usually if it's not me, since I work
12 downtown, it's someone else that works downtown.

13 Q. Okay. So based on all of your observations and the
14 amount of time you spend at Dream Niteclub, what would
15 you say the makeup is of the crowd or the demographics
16 on particular evenings? Could you speak to that?

17 A. No. Like I said, they have different ones. They have
18 college night I know sometimes. Sometimes they
19 have -- I don't know if it's Salsa night where there's
20 a large Mexican clientele. They have an African
21 American theme party. I don't know what. They
22 usually have something that has the football-related
23 where they have Eastern and Michigan. But like every
24 other bar, like even the Necto Niteclub they have
25 different themes, which has Emo night and they have

1 gay night and they have college night, and they have
2 different themes.

3 Q. Are any particular nights more hostile than other
4 nights?

5 A. Depending on what area. Like sometimes you had it
6 at --

7 Q. Let's talk about just with Dream Niteclub.

8 A. Oh. No, the majority -- sometimes most problems
9 happen with the private parties, like on Sundays.

10 Q. So you mentioned that there's a continuing pattern of
11 problems at Dream Niteclub, to characterize your
12 testimony; that's what you stated, correct?

13 A. Yes.

14 Q. How many times have you been called for a fight at
15 Dream Niteclub, you personally?

16 A. Sir, I can't give an honest answer. I don't know.

17 Q. Okay. Well, this report we're talking about is
18 February of 2010. It's over two years ago.

19 A. Yes.

20 Q. In that time how many times have you been called for a
21 fight at Dream Niteclub?

22 A. Oh, I've been dispatched there many times. I am
23 also -- at the time I am a firearms instructor and
24 also on the SWAT team so I carry less lethal
25 ammunition. I also carry a quart-size canister of

1 Mace, which is a fogger. And I also -- I deploy that
2 I would say twice a month on Third Avenue -- I'm
3 sorry.

4 Q. Why are there --

5 A. Fourth Avenue.

6 Q. Why are there no other reports to that effect?

7 A. Other officers would have had that report documented
8 and I would supplement theirs.

9 Q. But you have -- but as far as this testimony today the
10 only report that we're dealing with is an incident
11 that occurred February of 2010?

12 A. Yes. I didn't --

13 Q. And nothing -- I mean other than, you know, a typical
14 college night skirmish that you may have had to -- you
15 know, for crowd control or anything, there's nothing
16 that rose to a level of a report generated by you,
17 correct?

18 A. I was the originating officer on that one, so that's
19 why. The other reports I would supplement their
20 report saying my use of -- the use of the Mace.

21 Q. But there are no reports in evidence to that effect?

22 A. I didn't generate it.

23 MR. LEDER: Okay. Now, I guess you
24 wouldn't have knowledge of that. So I have nothing
25 further.

1 HEARING OFFICER: Mr. West?

2 MR. WEST: Briefly.

3 RE-EXAMINATION

4 BY MR. WEST:

5 Q. Did you prepare a report of this incident?

6 A. Yes, I did prepare a report on this incident.

7 Q. What report number would that be, do you know?

8 A. The report's right -- the report number would be
9 10-9819.

10 Q. Did you have a chance to review that before your
11 testimony today?

12 A. Yes, sir.

13 Q. To the best of your knowledge is that report fair and
14 accurate --

15 A. Yes, sir.

16 Q. -- of the events that you recorded that night?

17 A. Yes.

18 MR. WEST: I would move the admission of
19 proposed Exhibit, this would be 7A.

20 HEARING OFFICER: Counsel?

21 MR. LEDER: I object to the nature of the
22 report as hearsay, by its nature the testimony of the
23 officer should be able stand on its face. The
24 documentation is hearsay.

25 HEARING OFFICER: Your objection is noted.

1 The document is accepted into evidence as Exhibit 7A.

2 EXHIBIT 7A ADMITTED

3 8:58 a.m.

4 HEARING OFFICER: Mr. West?

5 MR. WEST: I have no other questions of this
6 witness.

7 HEARING OFFICER: Thank you, sir, for
8 coming.

9 MR. WEST: We have another Officer, Jeff
10 Tabeling. Would you come up.

11 HEARING OFFICER: Officer, have a seat.

12 MS. TURNER: Can we have your full name,
13 sir?

14 THE WITNESS: Jeffrey Tabeling.
15 J-e-f-f-r-e-y T-a-b-e-l-i-n-g.

16 OFFICER JEFFREY TABELING,
17 was thereupon called as a witness herein:

18 EXAMINATION

19 BY MR. WEST:

20 Q. What is your occupation?

21 A. I am a police officer with the city of Ann Arbor
22 Police Department. I've been here for 22 years.

23 Q. What is your current assignment?

24 A. My current assignment is road patrol on dayshift. I'm
25 temporarily at the front desk for a couple months. I

1 had shoulder surgery. I'll be back on the road in a
2 couple weeks.

3 Q. Were you working on the front desk on the date of
4 March 22, 2011?

5 A. I was.

6 Q. And what would be your responsibilities in part at the
7 front desk?

8 A. At the front desk we receive all kinds of calls;
9 information calls, information questions, as well as
10 report calls.

11 Q. On that date, did you have occasion to take a report
12 from a person identifying themselves as Rachel Adams?

13 A. Yes, I did.

14 MR. WEST: For the record, I am referring
15 to -- this will be Exhibit 7C.

16 BY MR. WEST:

17 Q. First of all, just so that we're clear, did you
18 actually meet this individual, or how did this contact
19 occur?

20 A. I did not meet her. She called the front desk. I
21 took her report over the phone. It was about an
22 incident at the niteclub.

23 Q. Was she asking for police assistance at that time?

24 A. She was asking for --

25 MR. FARINHA: Objection, Your Honor. That's

1 hearsay.

2 HEARING OFFICER: Your objection is noted.

3 BY MR. WEST:

4 Q. Was she asking for police assistance?

5 A. She was asking for police assistance in a business
6 matter with the niteclub.

7 Q. And did she give you the details of this incident?

8 A. Yes. As I recall, what she stated was --

9 MR. LEDER: Objection. Hearsay.

10 HEARING OFFICER: Noted.

11 A. What she had told me was that she was employed by the
12 niteclub, assisted hosting a party. She referred to
13 her and her girls, women that she employed. She said
14 that she had an agreement with Mr. Mangray that he
15 would be paying her \$500 cash at the end of the night.
16 As the night wore on, apparently the niteclub got a
17 little unruly. She felt that her --

18 MR. FARINHA: Objection. Hearsay.

19 HEARING OFFICER: You're --

20 MR. FARINHA: Same thing, hearsay.

21 HEARING OFFICER: Go ahead.

22 A. She indicated that her employees were being
23 disrespected and she felt some safety issues, she
24 decided to close and leave early. She asked to be
25 paid and Mr. Mangray refused initially and then agreed

1 to give her \$100, which was less than what the agreed
2 upon 500 was. She indicated that this was a breach of
3 contract and wanted to know what we could do to help
4 her with that. I told her that if it was, indeed, a
5 civil contract that's what it was, a civil contract
6 and the Police Department couldn't do anything for
7 her. She has to deal with it through Claims Court,
8 Small Claims Court.

9 BY MR. WEST:

10 Q. Did you have any follow-up contact with anyone at the
11 Dream Niteclub?

12 A. Yes. Miss Adams had indicated that she had had
13 several antagonistic-type e-mails between her and Mr.
14 Mangray.

15 Q. Mr. Mangray being who by name, first name, if you
16 know?

17 A. I think it was Reese, Reese Mangray.

18 Q. All right. And did you have contact with Reese
19 Mangray at some point?

20 A. Yes, I did. Over the years I've had contact with Mr.
21 Mangray in person. We know each other. I simply
22 called him, asked him if the e-mails occurred. And he
23 said yes, it was probably a bad idea. And I said --

24 MR. FARINHA: Objection, Your Honor. I have
25 a standing objection to the testimony of this witness.

1 HEARING OFFICER: Go ahead. Your standing
2 objection is noted. Go ahead.

3 A. I asked him if he would please discontinue the e-mails
4 between him and her and he stated that he would.

5 BY MR. WEST:

6 Q. Did you prepare an incident report in this matter?

7 A. I did.

8 Q. And what is the number of that?

9 A. The report number?

10 Q. Right.

11 A. It looks like the serial number is 13666, year '11.
12 11-13666.

13 Q. I have an incident number of 11-1697. Can you tell us
14 how those numbers may relate to each other?

15 A. Yes. At the time our report-writing system was
16 separate from our incident system, so each incident
17 would end up with two numbers. One would be the year
18 incident number, the other would be the case report
19 assigned number. Case report assigned number's much
20 smaller because it simply is only to cases that
21 generated reports.

22 Q. So the report that you just referenced with the number
23 of --

24 A. That is the case -- the report number. The case
25 number by year. The report number would be smaller.

1 Q. Is that 11-1697?

2 A. Yes.

3 Q. Did Miss Adams go into any other detail about what was
4 taking place at the club?

5 MR. LEDER: Objection. Hearsay,
6 foundation.

7 HEARING OFFICER: Your objection is noted.

8 BY MR. WEST:

9 Q. As reflected in your report?

10 A. I don't recall indicating that in the report.

11 Q. If I can draw your attention to the second paragraph.

12 MR. LEDER: Objection. The document hasn't
13 been admitted into evidence. He can't read from the
14 document.

15 MR. WEST: To see if that refreshes your
16 memory.

17 MR. LEDER: That's okay.

18 A. Yeah. Yes.

19 BY MR. WEST:

20 Q. What did you -- what is your recollection now of what
21 she reported to you?

22 MR. LEDER: Objection. Hearsay.

23 HEARING OFFICER: Noted.

24 A. As I indicated earlier, she had stopped earlier in the
25 night because there were fights breaking out. The bar

1 was getting out of control.

2 MR. WEST: Well, all right. At this time
3 I'd move the admission of proposed Exhibit 7C.

4 MR. FARINHA: May we cross-examine?

5 HEARING OFFICER: Please. Anything as far
6 as the document goes?

7 MR. LEDER: Objection.

8 MR. FARINHA: Objection.

9 HEARING OFFICER: Objection to the
10 admission of the document is noted. Over that
11 objection the document is admitted into evidence.

12 EXHIBIT 7C ADMITTED

13 9:05 a.m.

14 HEARING OFFICER: Please cross-examine the
15 witness.

16 EXAMINATION

17 BY MR. FARINHA:

18 Q. You're looking at the report in front of you; is that
19 correct, Officer?

20 A. Yes. I have it in my lap.

21 Q. Okay. And you're trained -- these reports actually
22 are a written documentation to a recorded incident
23 that may have occurred; is that fair to say?

24 A. That's fair to say.

25 Q. And you take time to review the report and you have

1 supervisors that review this report, correct?

2 A. That's correct.

3 Q. Okay. So once you enter it someone else looks at; is
4 that fair to say?

5 A. That's fair to say.

6 Q. In looking at the report you have in the second part
7 where it says disposition, are you looking at that
8 part, Officer?

9 A. I will be in a second.

10 Q. The first page.

11 A. Okay.

12 Q. And what would the disposition of this report be
13 according to what's written in your documentation in
14 front of you?

15 A. As it's written here, it says, disposition R/F, which
16 is report filed.

17 Q. Okay. And then go down a little bit further where it
18 says -- you see verified? I am looking at -- after
19 you entered it on March 22nd, going down that column
20 there's a line which says disposition. Do you see
21 that?

22 A. I think my report's printed out a little bit
23 differently than yours.

24 Q. Okay. I can show you one that I was provided.

25 A. Yeah, I would need to see it, because mine is not

1 printed like that. Mine's printed differently. I do
2 not have that page like that.

3 Q. If I showed you this -- this has been provided by your
4 counsel -- would it help?

5 A. Sure.

6 MR. FARINHA: May I approach the witness,
7 Your Honor?

8 HEARING OFFICER: Sure.

9 A. Is this what you're referring to?

10 BY MR. FARINHA:

11 Q. Yes.

12 A. Okay.

13 Q. What does it say?

14 A. It says not a crime, other service.

15 Q. Not a crime. Oh, does it say it later on, report
16 type?

17 A. It says not a crime, other service patrol.

18 Q. And you have no personal knowledge of who you were
19 talking to on the phone; is that fair to say?

20 A. That's fair to say.

21 Q. You never met that individual; is that fair to say?

22 A. The female?

23 Q. Yes.

24 A. Correct. I was just simply going by the name she
25 offered me.

1 Q. And you have no written statement to verify who that
2 person is, correct?

3 A. That's correct.

4 Q. And the report that you're taking is actually -- if
5 you look at the first page, the date that it occurred,
6 allegedly occurred was what date, sir?

7 A. It's the 19th.

8 Q. When was the report actually entered?

9 A. A couple days later, the 22nd.

10 Q. You have no other witnesses to support this report,
11 correct?

12 A. I do not.

13 Q. There was no charges made to Mr. Mangray; is that fair
14 to say?

15 A. At my level, no, there was not.

16 Q. Was there any charges made at any level against Mr.
17 Mangray based on this report?

18 A. Not that I'm aware of.

19 Q. No ticket, no citation issued; is that fair to say?

20 A. Not that I am aware of. I didn't -- I assumed that
21 our -- the lieutenant that handles Liquor Control
22 would review it. I don't know where it went from
23 there.

24 Q. I don't want you to assume, just from your personal
25 knowledge. You have no personal knowledge of this,

1 correct?

2 A. Correct.

3 MR. FARINHA: No further questions.

4 HEARING OFFICER: Mr. West?

5 MR. WEST: I have no other questions of this
6 witness. Thank you.

7 HEARING OFFICER: Thank you for coming.

8 MR. WEST: We have Sergeant Fox also as a
9 witness. With regard to the last witness, was the
10 proposed Exhibit C admitted into evidence?

11 HEARING OFFICER: Yes.

12 MR. LEDER: It was admitted?

13 HEARING OFFICER: Yeah, it was.

14 MR. LEDER: Oh. I just want to throw
15 another objection as to relevance.

16 HEARING OFFICER: Okay. I'll note your
17 objection.

18 MR. LEDER: Thank you.

19 HEARING OFFICER: After it was admitted as
20 to relevance.

21 SERGEANT EARL FOX,
22 was thereupon called as a witness herein:

23 EXAMINATION

24 BY MR. WEST:

25 Q. Can you please state your name for the record?

- 1 A. Sergeant Earl Fox.
- 2 Q. And your occupation?
- 3 A. Police officer, city of Ann Arbor.
- 4 Q. And what rank do you hold?
- 5 A. Sergeant.
- 6 Q. What is your present assignment?
- 7 A. Currently assigned to patrol. I am a patrol sergeant.
- 8 Q. And what shift do you work?
- 9 A. Now I only work days.
- 10 Q. All right. Has that recently changed?
- 11 A. Yes.
- 12 Q. What shift did you work prior to this?
- 13 A. I was on midnights.
- 14 Q. How long have you worked on midnights?
- 15 A. Off and on, I believe, for the last five or six years.
- 16 Q. Are you familiar with the business located at 314
- 17 South Fourth Avenue in Ann Arbor?
- 18 A. Yes, I am.
- 19 Q. How are you familiar with that business?
- 20 A. That's Studio 4, Club Dream. I've been there before
- 21 on calls for liquor inspections.
- 22 Q. You mentioned calls and liquor inspections?
- 23 A. Yes.
- 24 Q. Are those two separate categories?
- 25 A. Yes.

1 Q. What's, if you could tell us, the liquor inspection?

2 A. A liquor inspection is simply where we go to an
3 establishment. We'll walk through, make sure their
4 license is current, it's properly displayed, maybe
5 check for underage drinking and those kinds of things.

6 Q. On the date of March 26th, 2011, in the early morning
7 hours did you have occasion to be at the 314 South
8 Fourth Avenue address?

9 A. Yes, I did.

10 Q. What was your purpose there on that morning?

11 A. We had gotten called there for a disturbance or a
12 fight.

13 Q. When you arrived did you observe any disturbance or
14 fight?

15 A. No, I did not observe any fighting. I believe the
16 other officers had made contact with these individuals
17 that had been involved in that altercation.

18 Q. What action, if any, did you take?

19 A. After we had got their stories I, and the other
20 officers who were on scene, and we just did a
21 walkthrough the bar, a liquor inspection.

22 Q. Did you observe any violations during that liquor
23 inspection?

24 A. There was a person that I saw with an X on her hand
25 holding a bottle of beer.

1 Q. What did you believe that X to mean at that time?

2 A. The Studio -- Club Dream, it was at that point, would
3 put an X on a person's hand if they're underage so
4 they can't drink.

5 Q. Did this person have in your presence alcohol in her
6 possession?

7 A. Yes. She had a Bud Light beer.

8 Q. Did you make contact with that person?

9 A. Yes, I did.

10 Q. And did you take any enforcement action?

11 A. Yes. I brought her out and I did issue an MIP
12 violation after I put her in the back of my patrol car
13 and obtained her identification and issued her a
14 violation.

15 Q. MIP being what?

16 A. A minor in possession.

17 Q. All right. Did you take any other enforcement action
18 there at that place on that date?

19 A. No.

20 Q. Have you ever in the past had occasion to take other
21 enforcement action at that location?

22 A. Yes.

23 Q. In what nature?

24 A. In the past I have been involved with --

25 MR. FARINHA: Objection. Foundation.

1 HEARING OFFICER: Go ahead.

2 BY MR. WEST:

3 Q. You may continue.

4 A. In the past I've issued prior MIP violations, prior
5 minor in possession violations. I had an MLCC
6 violation there as well.

7 Q. What was the nature of that?

8 A. That one was, if I remember correctly here, their
9 license had been suspended and the actual license had
10 been taken. And they had made a photocopy of their
11 license and had put it back up on the wall. So when
12 we did an initial liquor inspection the license that
13 was actually present, the copy of it. We didn't
14 realize it at the time. And then it was approximately
15 a week later that I was notified by Lieutenant Pfannes
16 that their license should not be in the business
17 because it was seized by MLCC. And so we went back,
18 took the photocopy and generated another MLCC
19 violation for that incident.

20 Q. Did you prepare an incident report in connection with
21 the March 26th, 2011 date?

22 A. Yes, I did.

23 Q. And what is the report number on that?

24 A. It's 2011-1782.

25 Q. Have you had a chance to review that before today's

1 testimony?

2 A. Yes.

3 Q. Is that a fair and accurate copy of the report you
4 prepared that evening?

5 A. Yes.

6 MR. WEST: I would move the admission of
7 proposed Exhibit 7D. I have no other questions at
8 this time.

9 HEARING OFFICER: Counsel?

10 MR. FARINHA: Before I raise my objection I
11 have some questions for the officer.

12 EXAMINATION

13 BY MR. FARINHA:

14 Q. Officer Fox, when you -- and this is related to the
15 document. When you prepare a police report as part of
16 your training, there's training and procedures in
17 place how to prepare the report; is that fair to say?

18 A. Yes.

19 Q. And there are requirements to have someone besides
20 yourself, a supervisor review the report; isn't that
21 fair to say?

22 A. Besides myself?

23 Q. Yes.

24 A. Not necessarily.

25 Q. Well, there's a section on it that says verified by?

1 A. Correct.

2 Q. Do you verify your own reports, Officer?

3 A. Sometimes.

4 Q. Well, that means you're the only one that's reviewing
5 it; is that fair to say?

6 A. No.

7 Q. Well, if someone else is reviewing it shouldn't you
8 document it in your report?

9 A. It depends on the nature of the report. If it's a --
10 would you like me to explain?

11 Q. Sure.

12 A. If it's a criminal report in nature or -- we'll
13 forward it to our Detective Bureau. It's going to get
14 reviewed by at least a detective sergeant or a
15 detective lieutenant. If it's a report that's maybe
16 not a criminal matter but a significant noncriminal
17 incident, it's going to get reviewed at several
18 different levels. But in terms of the basic
19 first-step review, normally that's done by a different
20 sergeant, but we rotate. So if the report is stuck in
21 the queue to get reviewed and it's my night to sit at
22 the desk, then I am the one responsible for reviewing
23 those reports in the queue.

24 Q. Well, minor in possession is a criminal matter; isn't
25 that fair to say?

1 A. Correct.

2 Q. Someone's been charged; isn't that fair to say?

3 A. Yes.

4 Q. So shouldn't it be -- and it's going to go to court;
5 isn't that fair to say?

6 A. Yes.

7 Q. And is it important to have someone else besides
8 yourself, maybe the next day, to review this report;
9 isn't that fair to say?

10 A. It's important to have someone review the report.

11 Q. Can you look at this document. Do you have it in
12 front of you?

13 A. Yep.

14 Q. Where it says verified or reviewed, the only person's
15 name is Earl Fox; isn't that fair to say?

16 A. I don't have -- we have a different format that we
17 print these out on.

18 MR. FARINHA: Oh, I'm sorry. May I approach
19 the witness to show him what I have been given as the
20 exhibit?

21 A. So what are you looking at?

22 BY MR. FARINHA:

23 Q. Second section where it says verified by.

24 A. Okay.

25 Q. In that section there's no sergeant or anyone else

1 reviewing it besides you; is that fair to say?

2 A. Yes.

3 Q. Okay. So if there are there hearsay statements or
4 anything in this report there's no second party,
5 nobody else to verify or check what you've done; is
6 that fair to say?

7 A. No.

8 Q. Is there anyone else in the report to check what
9 you've done?

10 A. That's documented on what you're showing?

11 Q. Yes.

12 A. That's documented, no.

13 Q. No one -- when you were inside the location you did
14 not see anyone from the bar sell any intoxicants to
15 the person with the X you identified; isn't that fair
16 to say?

17 A. That's correct.

18 Q. And you issued no citation against the bar; isn't that
19 fair to say?

20 A. That is correct.

21 MR. FARINHA: No further questions.

22 MR. WEST: I have nothing else for this
23 witness. Thank you.

24 HEARING OFFICER: Are you moving the
25 admission?

1 MR. WEST: I am moving for the admission of
2 proposed Exhibit 7D.

3 MR. FARINHA: I object on the basis that
4 whatever is being marked in has not been verified by
5 their own procedures and policies to make sure it's an
6 accurate, proper report. So I would put my objection
7 on the record.

8 HEARING OFFICER: Your objection is noted.
9 The document is admitted as Exhibit 7D.

10 EXHIBIT 7D ADMITTED

11 9:20 a.m.

12 HEARING OFFICER: Thank you, Officer Fox.

13 OFFICER FOX: Thank you.

14 HEARING OFFICER: Mr. West?

15 MR. WEST: Yes, rather than Detective
16 Tucker, but we're not going to take testimony from him
17 at this point. We're going to have Detective Jatczak
18 instead.

19 MR. FARINHA: He's not testifying?

20 MR. WEST: No, not at this time.

21 HEARING OFFICER: Why don't we take a five
22 minute break here while the witnesses are getting
23 ready, anybody who would like to take a break. We'll
24 resume at 9:30.

25 (Off the record at 9:23 a.m.)

1 (Back on the record at 9:34 a.m.)

2 HEARING OFFICER: Are you ready to proceed,
3 Mr. West?

4 MR. WEST: Yes. The next witness is
5 Detective Sergeant Brian Jatczak. He'll spell his
6 name for you.

7 THE WITNESS: B-r-i-a-n, last name is
8 J-a-t-c-z-a-k.

9 DETECTIVE SERGEANT BRIAN JATCZAK,
10 was thereupon called as a witness herein:

11 EXAMINATION

12 BY MR. WEST:

13 Q. What is your present occupation?

14 A. I retired from the Ann Arbor Police Department in
15 December, and I am currently a background investigator
16 for the Washtenaw County Sheriff's Office.

17 Q. Directing your attention to -- well, how long did you
18 work for Ann Arbor Police Department?

19 A. 25 years.

20 Q. And you retired when?

21 A. December 30th, 2011.

22 Q. What was your rank at the time of your retirement?

23 A. Detective sergeant.

24 Q. And what were your duties at that time as a detective
25 sergeant?

1 A. I supervised the team of detectives that handled cases
2 in the downtown area of the city on the northeast
3 side.

4 Q. Directing your attention to May the 1st, 2011. Were
5 you working on that date?

6 A. Well, I was at home sleeping when I got a phone call
7 to come in to work.

8 MR. WEST: For purposes of the record we're
9 referring to Exhibit 7E, a report tabbed as 7E.

10 BY MR. WEST:

11 Q. What was -- you were called in to work for what
12 purposes?

13 A. I received a call from patrol command that there was
14 several subjects that were injured in an incident that
15 occurred at the Dream Niteclub and that three -- at
16 least three people were in the hospital.

17 Q. And again, what date was this?

18 A. I believe it was the early morning hours of May 1st.

19 Q. And what was your first involvement? Did you respond
20 to the Dream Niteclub or --

21 A. No. I responded to the Police Department, to my
22 office. I met with Detective Tacey. And then he and
23 I went to the hospital, because we had information
24 that at least a couple of the victims wanted to leave
25 and we wanted to speak with them before they left.

1 Q. Who did you speak with at the hospital?

2 MR. FARINHA: I'm raising an objection to
3 any characterization of victims.

4 HEARING OFFICER: Your objection's noted.

5 BY MR. WEST:

6 Q. Who did you speak with at the hospital?

7 A. I spoke with a female named Brittany. I don't recall
8 her last name.

9 Q. Where did you see this -- would it be -- I can't
10 pronounce it, A-j-e-g-b-a?

11 A. Yeah, I believe that's correct.

12 Q. Where did you speak with this individual?

13 A. In one of the emergency offices, rooms in the ER at
14 U of M Hospital.

15 Q. Did she have any injury that you observed?

16 A. Yeah, she had a, probably four or five inch long cut
17 along the front of her shin.

18 MR. FARINHA: Was that last word shin?

19 THE WITNESS: Shin, yes, s-h-i-n.

20 BY MR. WEST:

21 Q. When you talked to her did you form any impressions as
22 to whether or not she had been consuming alcohol?

23 A. She did not appear to be overly intoxicated.

24 Q. Did you ask her how she sustained this injury to her
25 shin?

1 A. Yes.

2 MR. FARINHA: Objection.

3 HEARING OFFICER: Noted.

4 BY MR. WEST:

5 Q. What is it that she told you about this?

6 A. She was at the Dream Niteclub. I believe she was
7 there for a U of M event. And she was standing just
8 off the dance floor. She was not dancing. She was
9 talking to friends. And she observed an altercation
10 or a fight occur on the dance floor. And she said
11 some of the bouncers came and grabbed the combatants
12 and a pile had fell on the ground, and they fell in
13 front of her and during that time when the people fell
14 her leg was cut.

15 Q. Did she describe what had been taking place in the
16 niteclub that evening?

17 MR. FARINHA: I want to make sure I have
18 objections for -- a standing objection to every
19 question that he's talking to as to this alleged
20 witness. A standing objection to every statement he's
21 reiterating from this alleged witness.

22 HEARING OFFICER: Your objection is noted.

23 A. She said throughout the night there were scuffles on
24 the dance floor. She was not directly involved with
25 any of the people that were in these altercations.

1 BY MR. WEST:

2 Q. Did you speak with any other people at the hospital
3 that evening, in the morning?

4 A. No, I did not.

5 Q. At some point did you have contact with a Marquis
6 Hargrove?

7 A. Detective Tacey had interviewed Mr. Hargrove.

8 Q. And where is Detective Tacey today, do you know?

9 A. His grandmother passed so he's not going to be able to
10 be here.

11 Q. Are you familiar with the -- first of all, is there an
12 incident report number that you contributed to
13 regarding this incident?

14 A. Yes. That is 11-2640.

15 Q. Is it also known as 20677?

16 A. Not that I'm aware of.

17 Q. Okay. Approach the witness, if I may show you a copy
18 of this report and potentially identify whether it's
19 the same one you're holding?

20 MR. FARINHA: May we see what you're showing
21 the witness, please?

22 MR. WEST: Sure. Excuse me one second.

23 MR. FARINHA: That's the one I have. Is
24 there a different one that he's looking at.

25 THE WITNESS: I think what the discrepancy

1 is when a call is dispatched it's given a number. And
2 then when it's made into a report it's given a second
3 number that overrides the first number. I believe
4 it's called a call for service.

5 MR. FARINHA: May I see what you're looking
6 at? May I?

7 HEARING OFFICER: Sure.

8 BY MR. WEST:

9 Q. So the question, Detective, is the report -- the
10 report number you referenced the same as the report
11 that has the number of 11-20677?

12 A. Yes.

13 Q. And did you contribute to that report?

14 A. Yes.

15 Q. Were you working with Detective Tacey in the
16 investigation of this case?

17 A. Yes.

18 Q. Did Detective Tacey, to your knowledge, contribute to
19 this report as well?

20 A. Yes.

21 Q. Do you know if he was able to speak with a Marquis
22 Hargrove?

23 A. He was.

24 Q. And who is Mr. Hargrove?

25 A. He was one of the people on the dance floor that --

1 MR. FARINHA: Objection, Your Honor.

2 Objection. Is this -- is he testifying from his
3 personal knowledge or the other officer's report?

4 MR. WEST: I will clarify.

5 BY MR. WEST:

6 Q. Did you speak personally with Mr. Hargrove?

7 A. No, I did not.

8 Q. Have you reviewed Detective Tacey's report in this
9 regard?

10 A. Yes.

11 Q. I am going to ask the questions anyway in light of
12 Officer -- Detective Tacey's inability to attend.

13 MR. LEDER: Objection. It's now double
14 hearsay. We're talking -- he's testifying to a
15 hearsay document from a person who cannot be here to
16 be present.

17 HEARING OFFICER: Your objection is noted.

18 MR. LEDER: Thank you.

19 BY MR. WEST:

20 Q. First of all, was Mr. Hargrove at the hospital, do you
21 know?

22 A. I do not know that.

23 MR. FARINHA: I didn't hear that answer.

24 A. I do not know if he was at the hospital.

25 BY MR. WEST:

1 Q. Is it your understanding that Detective Tacey spoke
2 with Mr. Hargrove?

3 A. He did.

4 Q. Do you know whether or not Mr. Hargrove was injured in
5 this altercation?

6 A. Yes, he was one of the victims that received a cut.

7 MR. FARINHA: Objection.

8 HEARING OFFICER: Noted.

9 BY MR. WEST:

10 Q. Do you know where it is that he was cut?

11 A. I believe he was cut on his cheek.

12 MR. FARINHA: Objection to the
13 characterization of a cut. I don't see any evidence
14 introduced as to any medical records to support what
15 that allegation and what the statement that he's
16 giving is.

17 HEARING OFFICER: Your objection is noted.

18 MR. FARINHA: Thank you.

19 BY MR. WEST:

20 Q. Are your pages numbered? And they may be numbered
21 differently. But my numbering is page 21 of 33.

22 A. This says two of four. But the way the report system
23 works, if you print out the whole report it numbers
24 it. If you print out individual officer's
25 supplementals it numbers it just on those pages, if

1 you follow that.

2 Q. And reviewing that report can you find any indication
3 from Detective Tacey as to whether there was an injury
4 to Mr. Hargrove?

5 A. He has cut -- received a cut to his eye that needed 12
6 stitches.

7 Q. Do you know an individual or have you had occasion to
8 have contact with an individual named Sean Foster?

9 A. Yes.

10 Q. And where did you have contact with Sean Foster?

11 A. Detective Tacey interviewed him at the Police
12 Department and attempted to complete a composite on
13 the suspect involved in the assault.

14 Q. Were you there at that time?

15 A. For parts of it. Not the entire time.

16 Q. Was Mr. Foster injured in this incident of May 1st,
17 2011?

18 A. Yes.

19 Q. To your knowledge --

20 MR. FARINHA: Objection.

21 HEARING OFFICER: Noted.

22 BY MR. WEST:

23 Q. To your knowledge what injury, if any, did he sustain?

24 A. He received a cut to his face that required -- I
25 think --

1 MR. FARINHA: Objection.

2 A. -- stitches to his cheeks to close.

3 HEARING OFFICER: Objection noted.

4 BY MR. WEST:

5 Q. Did Mr. Foster indicate how this injury was sustained?

6 A. When he was on the dance floor he was approached by
7 someone. A pushing match started and some punches
8 were thrown.

9 MR. FARINHA: I have a standing objection,
10 Your Honor. A standing objection to all the
11 testimony, hearsay testimony.

12 HEARING OFFICER: Your objection is noted.

13 A. He did not know. He did not see a knife. He doesn't
14 know how he was cut.

15 BY MR. WEST:

16 Q. Did you have occasion to interview anyone else,
17 personally interview anyone else in connection with
18 this incident and this investigation?

19 A. Yes. I spoke with a subject named Jason James.

20 Q. Who is Jason James?

21 A. He was employed at the Dream Niteclub as a bouncer.

22 Q. Where did this contact take place and when?

23 A. I believe it was on May 3rd. He and another employee
24 of the club came to the Police Department and made
25 contact with me.

1 Q. Did you call him in or did he come in of his own
2 accord, if you know?

3 A. He came in on his own.

4 Q. Did you subsequently interview him about the events
5 that took place at Dream Niteclub on May 1st?

6 A. Yes.

7 Q. Was he there that night?

8 A. Yes, he was.

9 Q. In what capacity?

10 A. He was working as a bouncer and restocking the bar.

11 MR. FARINHA: Objection.

12 HEARING OFFICER: Noted.

13 BY MR. WEST:

14 Q. Now you say this took place on May 3rd, correct?

15 A. I believe that's the date that he came in to see me.

16 Q. Did you have contact with him previous to that time?

17 A. Yes, I did.

18 Q. When and where?

19 A. I went back to the Dream Niteclub on Monday, which I
20 believe was May 2nd, because we weren't able to get
21 into the club on the night of the incident, because by
22 the time we got there it was closed and all employees
23 were gone. So, we went to the club at about 11:00
24 o'clock and Jason James was inside cleaning.

25 Q. 11:00 in the morning?

1 A. Yes.

2 Q. Did you speak with him there on May the 2nd?

3 A. I did.

4 Q. What was the nature of that conversation?

5 MR. FARINHA: Objection.

6 BY MR. WEST:

7 Q. What is it you asked him at that time?

8 HEARING OFFICER: Your objection is noted.

9 A. I told him who we were, myself and Detective Tacey,
10 and we were investigating the incident that occurred
11 on Saturday night, Sunday morning. I asked if he was
12 working that night. He said no. He said his job is
13 to clean the club for the owners.

14 BY MR. WEST:

15 Q. So he indicated he was not working on the night of the
16 incident at that time?

17 A. Correct.

18 Q. When he came to see you on May the 3rd did he indicate
19 whether or not he was working on the night of the
20 incident we referred to?

21 A. Yes. When he came in he said that he was actually, in
22 fact, working as a bouncer on the night that this
23 incident occurred.

24 Q. Did you ask him why his story was different now than
25 it was the day earlier?

1 A. He said he was told by the owners to tell me --

2 MR. FARINHA: Objection.

3 A. -- he was the maintenance person.

4 MR. FARINHA: Objection.

5 HEARING OFFICER: Your objection is noted.

6 You may continue your testimony.

7 BY MR. WEST:

8 Q. I'm sorry, he was told by the owners what?

9 A. If I asked to tell me that he was just the maintenance
10 person and he was not working on the night of the
11 incident and he was not a bouncer.

12 Q. Did he tell you what took place on the night of, I
13 guess it would be April the 30th, May 1st; did he tell
14 you what took place at the Dream Niteclub that night?

15 A. He said that --

16 MR. FARINHA: Objection.

17 HEARING OFFICER: Noted.

18 A. He said there was five or six bouncers working and it
19 was a pretty good crowd. He said there were several
20 fights throughout the night. They had removed people
21 from the club throughout the night.

22 BY MR. WEST:

23 Q. Did he ever -- did he tell you that he observed anyone
24 to have been injured at the club that night?

25 A. Yes.

1 Q. What is it that he told you in that regard?

2 A. He said he was standing at his post by one of the
3 doors.

4 MR. FARINHA: Objection.

5 HEARING OFFICER: Noted.

6 A. And he looked out to one of the other areas where the
7 bouncer should have been, his friend John. He looked,
8 he didn't see him there, so he started scanning the
9 crowd and saw a disturbance on the dance floor. So he
10 walked over there to see if he could assist in
11 breaking up whatever was going on on the dance floor.

12 BY MR. WEST:

13 Q. Did he see anyone injured there at that time?

14 A. He said when he approached his friend John was trying
15 to --

16 MR. FARINHA: Objection.

17 HEARING OFFICER: Go ahead.

18 A. -- was trying to pull someone off the crowd, off the
19 people that were throwing punches at each other. And
20 during that time when he walked up he grabbed somebody
21 and the group fell to the ground. And then he looked
22 at one person that he had and told him that he was
23 bleeding, he had a cut on his face. And he walked
24 that person out of the bar and then turned around and
25 went back in. He didn't have any conversation with

1 him.

2 BY MR. WEST:

3 Q. Did you have occasion to speak with any other
4 employees of the club regarding this incident?

5 A. I briefly spoke with the subject that Detective Tacey
6 had interviewed that came in with Mr. James.

7 Q. Who would that be?

8 A. I think his last name is Heflin.

9 Q. First name John?

10 A. Yeah.

11 Q. And what was Mr. Heflin's role, if you recall?

12 A. He was also working as a bouncer that evening at the
13 niteclub.

14 Q. Had he previously indicated that he was not working
15 there that night?

16 A. Not to me.

17 Q. In the course of this interview was it discussed --
18 let me ask it in a different way. At any point did he
19 tell you that he had been asked, or did he in his
20 interview indicate that he had also been asked to lie
21 about his presence at the club that night?

22 MR. FARINHA: Objection.

23 HEARING OFFICER: Noted.

24 A. I don't recall that.

25 MR. WEST: Our page number is not going to

1 match up, so if I could just approach the witness.

2 The record should reflect I am showing detective the
3 same report but the page numbering is different.

4 A. Okay.

5 BY MR. WEST:

6 Q. Does that help refresh your recollection of this part
7 of the investigation?

8 A. Yes.

9 Q. All right. So the question was: At any point did Mr.
10 Heflin indicate that he was asked to lie?

11 A. Yes, it does indicate that.

12 Q. And what were the circumstances?

13 MR. FARINHA: Objection.

14 HEARING OFFICER: Noted.

15 A. He was asked to not let us know that Jason James, the
16 individual I talked to, was a bouncer the evening of
17 the incident; and also that Jason James was just a
18 maintenance person, which is what Jason had told me
19 initially.

20 BY MR. WEST:

21 Q. Who was it that he indicated told him to say that?

22 A. He said it was possibly Jeff Mangray, one of the
23 owners.

24 Q. Now was Mr. Heflin present during any fights that
25 evening at the bar?

1 A. Yes, he was working that evening.

2 Q. What did he describe about that?

3 A. Again --

4 MR. FARINHA: Objection.

5 HEARING OFFICER: Noted.

6 A. Again, there were several different incidents
7 occurring in the bar. He did see -- I recall him
8 saying he did see the girl's leg that was cut and he
9 did see blood on the floor in the bar.

10 BY MR. WEST:

11 Q. Now did you have any contact with any other
12 individuals in the course of your investigation in
13 connection with this May 1st, May 2nd -- I'm sorry,
14 May 1st incident?

15 A. No.

16 MR. WEST: I don't have any other questions
17 at this time, but I would move the admission of
18 proposed Exhibit 7E.

19 MR. LEDER: Major objection.

20 HEARING OFFICER: Absolutely.

21 MR. LEDER: And I'd actually -- I would
22 like to ask a question of the officer and then I would
23 like to state the objection on the record, if I may.

24 HEARING OFFICER: Okay. Go ahead.

25 EXAMINATION

1 BY MR. LEDER:

2 Q. Detective sergeant, you were not present on April
3 30th, correct, at Dream Niteclub?

4 A. Correct.

5 Q. You were not present at the niteclub on May 1st
6 either, correct?

7 A. Correct.

8 Q. You have no personal knowledge, you yourself, of
9 anything that occurred inside of Dream Niteclub on
10 that specific dates, correct?

11 A. Just from what the statements that I took, correct.

12 MR. LEDER: Thank you. As to the exhibit,
13 this -- all of the other objections for hearsay are
14 duly noted based on the Rules of Evidence. All the
15 police reports that have been admitted thus far,
16 hearsay. This is a report that contains numerous
17 statements from multiple third party witnesses who
18 have not been subject to cross-examination. It
19 implicitly violates Crawford and the Sixth Amendment.
20 My clients have not had the opportunity to question
21 these witnesses. We don't know the nature of who
22 these witnesses are, their relationship to anyone else
23 in here. And the only testimony we have is from
24 somebody with no personal knowledge of the events as
25 to the nature of the statements. These statements

1 cannot be considered for any purpose without having
2 Mr. James, Mr. Hargrove, Mr. Heflin, or anybody else
3 that has been mentioned in detective sergeant's
4 testimony; and to consider such would be such a gross
5 violation of the Rules of Evidence, as well as my
6 clients' constitutional rights, that this report
7 should not and cannot be admitted for any purpose.

8 HEARING OFFICER: Response?

9 MR. WEST: Well, I would note that this
10 being an administrative hearing the Rules of Evidence
11 are not applicable. Further, much of the testimony
12 from this witness regarding the contact with the
13 individuals about whom he testified was gained by him
14 personally. So, including the fact that he's spoken
15 to people at the hospital who had obvious injury.
16 Further, there will be testimony later that, in fact,
17 the Dream Niteclub admitted to LCC violations in
18 connection with this event, specifically referring to
19 Mr. Foster and Mr. Hargrove.

20 MR. LEDER: And since no foundation to that
21 has been laid there should be no admission -- or that
22 should not be considered into the admission of the
23 report at this time and it should not be admitted.

24 HEARING OFFICER: Noting the objections.
25 Nonetheless the document is admitted as Exhibit 7?

1 MR. WEST: E.

2 HEARING OFFICER: E as in echo.

3 EXHIBIT 7E ADMITTED

4 9:57 a.m.

5 MR. WEST: I have no other questions at this
6 time.

7 HEARING OFFICER: Counsel?

8 EXAMINATION

9 BY MR. FARINHA:

10 Q. Detective, according to your statement you've been 25
11 years with the Ann Arbor Police Department?

12 A. Yes.

13 Q. And you're currently with the State Police?

14 A. Washtenaw County.

15 Q. Washtenaw County. And you've received training in
16 preparing cases for hearings at trial; is that fair to
17 say?

18 A. Yes.

19 Q. And in your preparation for hearings or trial it's an
20 important part of your procedures to get statements
21 from witnesses you're talking to; isn't that fair to
22 say?

23 A. Yes.

24 Q. Now not just you writing down what you think they're
25 saying, but having them actually write down and

1 document what they're claiming; isn't that fair to
2 say?

3 A. That's done on occasion.

4 Q. So you pick and choose when you have a witness write
5 down a statement; is that what you're telling us?

6 A. I don't do that for every person I speak with.

7 Q. When you're preparing a case that involves a stabbing,
8 according to you that's a serious offense; isn't that
9 fair to say?

10 A. Yes.

11 Q. So in preparing that case, witness' statements,
12 written witness statements is an important thing to
13 have; isn't that fair to say, Detective?

14 A. It would be good to have, yes.

15 Q. Not good to have, it's important or crucial for a
16 case; isn't that fair to say?

17 A. I would not say it's crucial.

18 Q. Oh, it's not important, Detective? Is that what
19 you're telling us?

20 A. I didn't say that.

21 Q. So it is important?

22 A. It would be nice to have.

23 Q. It's important; isn't that fair to say?

24 A. It would be nice to have.

25 Q. Nice to have. Okay. Now when you've got a witness

- 1 statement it's important to get the names and address
2 of the witnesses; isn't that fair to say?
- 3 A. Yes.
- 4 Q. So when you take one part of a name and leave another
5 part of a name out that's delinquent on your part;
6 isn't that fair to say, Detective?
- 7 A. I am not following you on that.
- 8 Q. When you got the first name of the witness but didn't
9 get the last name of the witness?
- 10 A. His name is Jason James.
- 11 Q. I didn't say Jason. You said there was a female
12 witness and you only got her first name; isn't that
13 fair to say?
- 14 A. I said I don't recall their first name.
- 15 Q. Did you write down a first name and last name?
- 16 A. Yeah. It's in the report.
- 17 Q. Did you write down the address?
- 18 A. Yeah, her address should be noted somewhere.
- 19 Q. Do you have it in front of you?
- 20 A. No.
- 21 Q. So it's no way for us to figure it out beyond you
22 saying, yeah, it's written somewhere?
- 23 A. Are we talking about the young lady in the hospital?
- 24 Q. The young lady in the hospital, yes.
- 25 A. Is that the person you're speaking of?

1 Q. Yeah.

2 A. Okay. Detective Tacey should have that information.

3 Q. I am asking you because you spoke to her; isn't that
4 fair to say?

5 A. I was there. Detective Tacey actually interviewed
6 her, but I was --

7 Q. Did -- sorry. Did you write down her first, last name
8 and address?

9 A. I did not.

10 Q. Now, you're preparing a case, you have all these
11 witnesses you've listed. Did you take written
12 statements from James Heflin, any of these witnesses
13 to prepare this case?

14 A. I did not take a written statement from Mr. James.

15 Q. So we have no way to verify if these witnesses are
16 accurate or to challenge them because all we have is
17 your interpretation; is that fair to say?

18 A. Yeah. You have my notes from the interview.

19 Q. Now, in preparing a case and it's a stabbing, did you
20 produce any medical records for the incident that
21 allegedly occurred?

22 A. We never made an arrest in the case, so if the medical
23 records were obtained by Detective Tacey I am not
24 sure.

25 Q. How could you make an arrest if you haven't taken

1 witness' statements or taken any medical records,
2 Detective?

3 A. I am not following you on that.

4 Q. Let me rephrase it. Medical records would be
5 important to substantiate that a stabbing or a cut
6 occurred; isn't that fair to say?

7 A. We would get medical records.

8 Q. And you were negligent in not getting those medical
9 records; isn't that fair to say, Detective?

10 MR. WEST: I would object to the form of the
11 question, the reference to negligent. First of all,
12 it hasn't been established that the medical records
13 were or were not obtained. Secondly, I believe he
14 said that no arrest was ever made in the case.

15 HEARING OFFICER: Your objections are
16 noted.

17 A. It wouldn't have been my function to get the medical
18 records.

19 BY MR. FARINHA:

20 Q. Oh, I'm sorry. So you're preparing this case, you're
21 meeting with witnesses, you're at the hospital, but
22 you don't think it's important for you to get the
23 medical records so we can take a look and see what
24 you're saying?

25 A. We would not get the medical records on the same day

1 we were at the hospital.

2 Q. Isn't it true, in fact, that no one obtained any
3 medical records, Detective?

4 A. I am not sure on that.

5 Q. So you have no medical records in front of you to
6 support that any stabbing occurred or cut occurred;
7 isn't that fair to say?

8 A. That's fair to say.

9 Q. You issued no tickets, no citations, isn't that fair
10 to say, as of the May 1st incident?

11 A. To the establishment?

12 Q. To the establishment?

13 A. No.

14 Q. Isn't that fair to say?

15 A. Right.

16 MR. FARINHA: No further questions.

17 HEARING OFFICER: Mr. West?

18 MR. WEST: I have no other questions of this
19 witness on this incident.

20 HEARING OFFICER: Okay. There being no
21 further questions this witness is excused. Thank you
22 for coming. Mr. West?

23 MR. WEST: Yes. The next witness is going
24 to be Officer David Ried.

25 OFFICER DAVID RIED,

1 was thereupon called as a witness herein:

2 EXAMINATION

3 BY MR. WEST:

4 Q. Can you tell us your occupation, please?

5 A. Police officer with the city of Ann Arbor.

6 Q. Were you working -- how long have you been so
7 employed?

8 A. 12 years.

9 Q. Are you familiar with the property located at -- the
10 business located at 314 South Fourth Avenue in the
11 city of Ann Arbor?

12 A. Yes, I am.

13 Q. What is that place?

14 A. Dream Niteclub.

15 Q. I would refer your attention to the date of October
16 30th, 2011. Did you have occasion to be in the area
17 of Dream Niteclub on that date?

18 A. Yes, I did.

19 Q. And what were you -- what was your assignment on that
20 date?

21 A. Road patrol.

22 Q. So what caused you to be in the area of Dream
23 Niteclub?

24 A. I was driving my car northbound on South Fourth Avenue
25 just south of the niteclub.

1 Q. And about what time was that?

2 A. It was close to 2:00 a.m..

3 Q. Anything unusual occur at that time?

4 A. People were leaving the bar. I think it was closing
5 time. I saw a large disturbance outside. It looked
6 like a group of people that were getting ready to
7 fight or had fought. I don't know. There were just a
8 bunch of people yelling and they were out in the
9 street in front of the bar. It looked like there was
10 going to be some sort of altercation. Probably about
11 50 or 60 people outside, but a small group of that was
12 yelling and screaming at each other.

13 Q. Did you make contact with that group?

14 A. Yeah. I kind of hit my air horn to let everybody kind
15 of disperse. And then I saw a bunch of people coming
16 in front of the bar over towards the parking
17 structure. And that's when I exited my patrol car and
18 made contact.

19 Q. Where did you go?

20 A. I walked to the -- I guess it would be the north end
21 of the Fourth and William parking structure on the
22 ground floor. It looked like a group of two -- like
23 two men that were probably just being -- they were
24 kind of getting pulled away by a group of -- each
25 others friends were pulling them away. It looked like

1 they had just fought.

2 MR. FARINHA: Objection to the last
3 statement, what he just said.

4 HEARING OFFICER: On the basis?

5 MR. FARINHA: He said it looked like they
6 just fought. I didn't hear what he said.

7 BY MR. WEST:

8 Q. Do you want to finish that? I don't know.

9 A. It looked like they had just been engaged in a fight.
10 I didn't see the actual fight, but I saw them being
11 pulled apart by like their friends. And it looked
12 like they were in a rage yelling at each other.

13 MR. FARINHA: Objection to his
14 characterization of what.

15 HEARING OFFICER: Your objection is noted.

16 BY MR. WEST:

17 Q. What is the proximity of that location to the Dream
18 Niteclub?

19 A. 20 feet; 20, 30 feet.

20 Q. All right. And did anything else happen as you
21 arrived on the scene at the parking garage end of it?

22 A. After that myself and Sergeant Lance were just
23 monitoring the crowd because of the actions by some of
24 the people out there being disorderly. While we were
25 standing there I observed a black male, later

1 identified as William Peavey, swinging a belt at a
2 female about a hundred feet from my location where I
3 was standing on the first floor just south of me.

4 Q. Did you respond to that location?

5 A. I did. I went down there after I saw him strike a
6 female with his belt overhand. I ran down. At that
7 point he was being dragged away by his friends that
8 were trying to get him away from this girl that he was
9 attacking with a belt. He broke free from his friends
10 and started going back after the girl. Still had the
11 belt in his hand. I had to order him to drop the
12 belt, which he didn't do. I deployed my pepper spray,
13 which had somewhat of an effect on him. But he
14 continued to walk away from me. And then I had to
15 throw him on the ground physically and arrest him.

16 Q. For what did you arrest him?

17 A. Felonious assault.

18 Q. You identified him as a --

19 A. William Peavey.

20 Q. William Peavey. Did you ever have contact with the
21 female that you said was struck by Mr. Peavey?

22 A. There were actually two females, but the one -- yes, I
23 made contact with -- I'd have to look at my report. I
24 know their last names were Roberts and Redmon, I
25 believe.

1 Q. Where did you speak with --

2 A. They were still on the scene right where I arrested
3 him at.

4 Q. And what did Miss Roberts tell you about this?

5 A. They said they were in the club, in the Studio --

6 MR. FARINHA: Objection.

7 HEARING OFFICER: Go ahead.

8 A. They said they were inside Dream Club, and she was --
9 she knows Mr. Peavey from a mutual friend. They're
10 not really friends but they know each other. She said
11 that he was in the club dancing with another girl and
12 it made another group of men mad; and that he got,
13 basically, jumped is what she said by a group of men
14 inside the club for dancing with a girl. And when --
15 after this happened he was blaming her for starting
16 the fight with a group of men. And she said that
17 that's why he was attacking her is he believed her to
18 be the cause of them getting into a fight inside the
19 club.

20 BY MR. WEST:

21 Q. Did she have any injury that you observed?

22 A. Not -- she had some redness. She didn't have any --
23 anything bleeding or anything like that.

24 Q. On what part of her body that you saw?

25 A. It was her face. And the other girl had a small mark

1 on her back where she got hit with the belt.

2 Q. Who was the other girl you just talked about?

3 A. I'd have to look at my report.

4 Q. Earlier you gave us the last name of Redmon, is
5 that --

6 A. Redmon, yeah. Redmon.

7 Q. Did you speak with Miss Redmon?

8 A. Yes.

9 Q. Where did that take place?

10 A. Same location.

11 Q. And did she indicate that she had been in the club as
12 well?

13 MR. FARINHA: Objection.

14 HEARING OFFICER: Noted.

15 A. She did. She didn't know what was going on until the
16 end, I believe, when she was walking out and saw Miss
17 Roberts getting in an altercation with Mr. Peavey; and
18 walked with her to kind of give her some support,
19 because she felt like Mr. Peavey was being aggressive
20 towards her.

21 MR. FARINHA: I'm objecting to the hearsay
22 statements that he's saying. Just as a housekeeping
23 matter, do we have -- is there a report or something
24 that you're --

25 MR. WEST: Yes.

1 MR. FARINHA: I need to get it identified
2 so I know what you're -- I am trying to find it, but.

3 BY MR. WEST:

4 Q. Do you have an incident report for this?

5 A. Yeah, here's my -- this is my police report.

6 Q. What is the number that you have on yours?

7 A. It's 11-53410.

8 Q. All right. Which would be tab 7G.

9 MR. FARINHA: What's the date again on that?

10 MR. LEDER: October 30.

11 BY MR. WEST:

12 Q. Was Miss Redmon also struck by Mr. Peavey, if you
13 know?

14 A. Yes. When she tried to intervene with the first
15 assault that's when he struck her in the back with the
16 belt.

17 Q. You say you arrested Mr. Peavey, correct?

18 A. Yes.

19 Q. Did you at any point interview him?

20 A. I did.

21 Q. And where did that take place, first of all?

22 A. At the Ann Arbor Police Department.

23 Q. So he was in custody at that time?

24 A. Yes.

25 Q. Did you advise him of anything prior to taking his

1 statement?

2 A. His Miranda rights.

3 Q. All right. Did he -- first of all, did he have any
4 apparent injury that you saw?

5 A. Yeah. He had a bloody nose.

6 Q. Did he tell you how he got that bloody nose?

7 A. Yes, he did.

8 Q. How did that occur?

9 A. He told me that he --

10 MR. FARINHA: Objection.

11 HEARING OFFICER: Noted.

12 A. He told me that he got the bloody nose from being
13 jumped inside the club by about ten men, started
14 punching him inside the club.

15 BY MR. WEST:

16 Q. And then what happened outside?

17 A. He said when he left the club it continued outside and
18 he got hit again by the same men.

19 MR. WEST: All right. I don't have any
20 other questions of this witness. But I am offering
21 into evidence 7G, which is report number 11-53410.

22 MR. LEDER: Same objection.

23 HEARING OFFICER: It's been noted that it
24 has been objected to. Nonetheless, I am going to put
25 into evidence the document which has been labeled as

1 Exhibit 7G.

2 EXHIBIT 7G ADMITTED

3 10:13 a.m.

4 MR. WEST: I have no other questions at this
5 time.

6 HEARING OFFICER: Counsel?

7 EXAMINATION

8 BY MR. LEDER:

9 Q. Officer, what night of the week did this occur?

10 A. I don't recall. I remember on my police report it
11 says the 30th. I don't recall the actual.

12 Q. It would be the day before Halloween?

13 A. Correct.

14 Q. Halloween was a Monday in 2011, if I remember
15 correctly. So that was a Sunday morning?

16 A. Probably.

17 Q. And the event at the club would have been Saturday
18 evening, correct?

19 A. Possibly, yeah. Without looking at a calendar I
20 assume you're right.

21 Q. When you drove through the street what is the makeup
22 of the crowd?

23 A. What was the makeup of the crowd?

24 Q. Yeah, demographic-wise.

25 A. They were mostly African American.

1 Q. Okay. It was testified earlier that that's African
2 American night at the club is on Saturdays. Do you
3 have any knowledge --

4 A. I have no idea if there is.

5 Q. Now all of the incidents that you're testifying to
6 occurred in the parking structure?

7 A. I am sorry?

8 Q. The parking structure?

9 A. The assaults?

10 Q. Yes.

11 A. That I -- I'm sorry, I don't understand.

12 Q. That you observed?

13 A. That I observed, yes.

14 Q. In the parking structure?

15 A. Yes.

16 Q. Who owns the parking structure?

17 A. I guess the city of Ann Arbor does.

18 Q. Who is responsible for the security at the parking
19 structure?

20 A. Well, they have Republic Parking who works there. But
21 generally, we patrol it but they're in charge.

22 Q. Does the parking structure have a liquor license?

23 A. No.

24 MR. LEDER: Okay. Thank you.

25 EXAMINATION

1 BY MR. FARINHA:

2 Q. Officer, you said that you drove around the club and
3 the crowd looked like almost. You couldn't be for
4 sure that there were actually a fight; isn't that fair
5 to say?

6 A. No, I didn't see the fight.

7 Q. Oh, okay.

8 A. I saw a bunch of people running around.

9 Q. So you didn't see the fight, you're just guessing
10 there was a fight?

11 A. I could hear people yelling. It sounded heated, but
12 I did not see a fight. I've seen enough incidents
13 that I believe that there was going to be a fight, but
14 I did not see one.

15 Q. So you're just going on the basis you think there may
16 be a fight, but you never actually saw a fight?

17 A. That's correct.

18 Q. Okay. Just for clarification purposes, co-counsel
19 asked, your observations of any activities actually
20 were in the parking structure; is that fair to say?

21 A. The actual assault, yes, was in the parking structure.

22 Q. Did you -- there's no indication here that you ever
23 walked into the club that night; isn't that fair to
24 say?

25 A. That's correct.

1 Q. So you never walked in the club or interviewed any
2 patrons in the club, any --

3 A. I was --

4 Q. Is that fair to say?

5 A. Yeah, that's correct. It was closed by then.

6 Q. Okay. Did you talk to any cleanup people? And this
7 is 1:28, correct, in the morning?

8 A. Yes.

9 Q. So you didn't walk in or go in the next day and talk
10 to anyone in the club; isn't that fair to say?

11 A. I did not.

12 Q. So there's no knowledge -- there's no evidence besides
13 your guessing or what you had about what actually
14 happened in the club personally, correct?

15 A. I'm sorry?

16 Q. You have no personal knowledge of any fight in the
17 club; is that fair to say?

18 A. No, none myself.

19 Q. And you never issued any citation to the club; is that
20 fair to say?

21 A. Correct.

22 Q. And you never found any violations; isn't that fair to
23 say?

24 A. That's correct.

25 HEARING OFFICER: Mr. West?

1 MR. WEST: No other questions of the
2 witness. However, again, I'd offer 7G as evidence,
3 Officer Ried's report.

4 HEARING OFFICER: That is accepted.

5 MR. FARINHA: We had our objections put on.

6 HEARING OFFICER: Yeah, it's noted. Mr.
7 West?

8 MR. WEST: Detective David Monroe.

9 HEARING OFFICER: Welcome.

10 THE WITNESS: Thank you.

11 DETECTIVE DAVID MONROE,
12 was thereupon called as a witness herein:

13 EXAMINATION

14 BY MR. WEST:

15 Q. Would you tell us your name, please?

16 A. David Monroe.

17 Q. And what is your occupation?

18 A. Detective with the Ann Arbor Police Department.

19 MR. WEST: Do you need the spelling for
20 Monroe?

21 MS. TURNER: Sure.

22 A. M-o-n-r-o-e, first name David.

23 BY MR. WEST:

24 Q. How long have you been employed as a detective with
25 the Ann Arbor Police Department?

1 A. A detective 15 to 17 years, and just hit my 25th year
2 as a police officer here.

3 Q. Are you familiar with the business at 314 South Fourth
4 Avenue?

5 A. I am.

6 Q. And how so?

7 A. By working in the City and being familiar with some of
8 the bars and niteclubs, I was also involved in a
9 shooting investigation that occurred there last year.

10 Q. I am going to ask you about that now. Do you recall
11 the date of that event?

12 A. I had reviewed the report earlier. It was May 29th,
13 2011.

14 Q. Going into May 30th? Was it the evening of the 29th?

15 A. I believe I called after midnight. I thought it had
16 occurred on the 29th. It could be within a day.

17 Q. Okay. So we're clear, the date being May 29?

18 A. I believe so.

19 Q. 2011?

20 A. Correct.

21 Q. What was your involvement in that event?

22 A. The officer, detective in charge of the shooting
23 incident, interviewing subjects. Eventually having
24 the case reviewed by the Prosecutor's Office,
25 assisting other detectives at the scene with the

1 evidence.

2 Q. Could you give us just an overview of what your
3 investigation revealed, and then I'll ask you more
4 specific questions.

5 A. The subject, I believe, the last name of Ussery or
6 Ussery. I believe U-s-s-e-r-y, (sic), or very close
7 to that. Had been inside the bar and had become
8 involved in a --

9 MR. FARINHA: Objection.

10 HEARING OFFICER: Noted. Go ahead.

11 A. Had been involved in a confrontation inside where he
12 indicated to us he was getting stomped. He said he
13 got up, was assaulted again, stomped again. The fight
14 was broken up. At one point he said he was struck by
15 a bar stool being thrown at him, that he knocked out
16 of the way.

17 He said after things calmed down he exited
18 and heard a couple of girls making reference to
19 they're going to be shooting. He said he became
20 concerned at that point.

21 MR. FARINHA: Objection. Standing objection
22 to everything about this witness.

23 HEARING OFFICER: Your objection is noted.

24 A. He indicated that as he went around the corner, so
25 walking north on Fourth Avenue, walking west toward

1 his vehicle parked on the south side of the parking
2 lot, he observed a couple subjects, which one of them
3 pointed him out. He said as he was getting back to
4 his vehicle he heard gunshots and retrieved a gun that
5 turned out to be a .40 caliber handgun, which was
6 registered to him and he had a permit to carry. He
7 said he discharged that in the air at that point in
8 time.

9 There's several shell casings that I
10 observed while -- or after I got called out to the
11 scene or investigating at the scene. There was .40
12 caliber shell casings by his vehicle. There was
13 multiple, I believe, .380 shell casings that were
14 along the sidewalk east of his location.

15 I became aware of a subject identified as
16 Cornelius Wilson that had been taken in custody by
17 Officer Brad Rougeau near William -- make sure I have
18 the street correct here. I believe at William and
19 Fourth Avenue near the corner there. In that area a
20 .380 caliber handgun was recovered so we believed he
21 had taken the subject who was doing the shooting at
22 the sidewalk into custody, and the weapon found was
23 consistent with that caliber.

24 BY MR. WEST:

25 Q. Now did you speak personally with Mr. Usseny?

1 A. I did.

2 Q. Where did that conversation take place?

3 A. At the Police Department, the Security Section.

4 Q. Was he in custody at that time?

5 A. He was.

6 Q. For what?

7 A. For discharging a weapon. And again, we have -- the
8 initial reports was that people were shooting
9 firearms. So officers took people who were shooting
10 firearms into custody prior to my arrival. And
11 speaking with him and witnesses, including one officer
12 witness, as that night went on it became apparent to
13 us that, from the evidence and information that he was
14 discharging into the air and not pointing his weapon
15 or discharging it at any individuals.

16 Q. Was he ultimately charged with a crime?

17 A. Mr. Usseny or Ussery was not charged. Cornelius
18 Wilson was charged.

19 Q. All right. Did you observe any injuries to Mr.
20 Usseny?

21 A. He did have some type of injury to his forehead. And
22 it wasn't an actual injury, but he said he was being
23 stomped inside the bar. And he did have a shoe print
24 on the back of his shirt as well.

25 MR. FARINHA: Objection.

1 HEARING OFFICER: Objection is noted.

2 BY MR. WEST:

3 Q. Did you observe the shoe print on his shirt?

4 A. I did. And it actually was not analyzed by a lab. I
5 don't think the investigation got to that point of
6 needing to do that. But to myself and anyone looking
7 at the impression, that the footwear impression was
8 consistent with shoes that Mr. Wilson was wearing.

9 Q. Who is Mr. Wilson?

10 A. Cornelius Wilson was the subject seen running from the
11 area and Officer Brad Rougeau took into custody south
12 of the bar location. He had a physical description
13 consistent with who Mr. Usseny said was involved in
14 the confrontation inside the bar, who had thrown a bar
15 stool in his direction. He was also the person --

16 MR. FARINHA: Objection.

17 HEARING OFFICER: Your objection is noted.
18 You may continue.

19 A. -- consistent with Officer Rougeau seeing running from
20 the area, reaching backwards discharging a firearm
21 from the sidewalk back into the parking lot area.

22 BY MR. WEST:

23 Q. All right. Now Mr. Wilson was arrested, correct?

24 A. He was.

25 Q. And where did you speak with him?

1 A. In the Security Section as well of our Police
2 Department.

3 Q. Did you ask him whether or not he had been inside the
4 Dream Niteclub that evening?

5 A. I did, yes. He had gone there with a friend.

6 MR. FARINHA: Objection.

7 HEARING OFFICER: Noted.

8 BY MR. WEST:

9 Q. And what did he tell you had taken place inside the
10 club?

11 MR. FARINHA: Standing objection to all the
12 hearsay that's going to follow.

13 HEARING OFFICER: Noted.

14 A. You may have to refresh my memory on that area. I
15 know he did not admit to any direct involvement. May
16 I look at it to refresh my memory?

17 BY MR. WEST:

18 Q. Yes. If you can find that in your report. I am
19 looking for the same.

20 A. I don't know if it's consistent with the copy I have,
21 statements, page fifty -- I believe it's going to be
22 numbered differently.

23 Yes. I did review the information.

24 Q. Does that help refresh your memory?

25 A. It does.

1 Q. And did you speak with Mr. Wilson, and what did he
2 tell you about this event?

3 A. That he got there later --

4 MR. FARINHA: Objection.

5 A. Maybe 10:30, 11:00 o'clock.

6 HEARING OFFICER: Your objection is noted.
7 Go ahead.

8 A. Did make reference to fighting going on in the bar
9 until the end of the evening when lights came on.
10 There was fighting inside. Exited the bar, saw that
11 there was fighting outside. Not involved -- he wasn't
12 involved in it, and fled the area when he heard shots.

13 BY MR. WEST:

14 Q. Did he indicate -- well, first of all, was he arrested
15 for something?

16 A. He was. And again, Officer Rougeau observed a subject
17 flee the area. He gave pursuant to that individual.
18 That person was seen reaching -- he observed that
19 person pointing his hand and the gun in the direction
20 of the parking lot discharging weapons; again on the
21 sidewalk along the east side of the building
22 discharging a weapon in a westward direction back into
23 the parking lot on the north side of the Dream. He
24 gave foot pursuit to that individual and take him into
25 custody at a house on William Street between Fourth

1 Avenue and South Main Street. That was the person
2 that was found in that area. And then a further
3 search of that area found a .380 near a house, I
4 believe, in some type of lower vegetation it was found
5 in. And that gun was a .380 and rounds found at the
6 scene were a .380.

7 Q. Was Mr. Wilson ultimately charged with anything?

8 A. I believe he was charged with seven felony counts for,
9 I believe, assault with intent to murder, felony
10 firearms, felony possession of a firearm. And one
11 additional charge. There were four individuals that
12 were -- one person being struck and then three other
13 individuals at or near the cars that were being fired
14 at or in that direction. And then there was bullet
15 damage to three cars, consistent with the direction in
16 which that individual was firing back in that westward
17 direction.

18 Q. Following up on that, you said one individual was
19 struck by a bullet?

20 A. Correct.

21 Q. Did you have occasion to speak with that person?

22 A. I don't believe I had interviewed him that night.
23 Another detective did.

24 Q. But in the course of your investigation you learned
25 that he had been struck by the bullet?

1 A. Correct. In the arm.

2 MR. WEST: All right. I don't have any
3 other questions of this witness. I do. I am sorry,
4 one more question.

5 BY MR. WEST:

6 Q. What is your incident report number on this?

7 A. 11-0025663. And I believe it may have been a
8 different four digit number at the time of the
9 incident that was transferred to a new system.

10 Q. Is the report you reviewed the 11 --

11 A. 25663.

12 Q. -- 25663. It is the report you prepared in this?

13 A. Yes.

14 MR. WEST: I move the admission of that
15 report.

16 HEARING OFFICER: Do you have it in the
17 file?

18 MR. WEST: I do. It's part of 7F. We'll
19 take testimony next from another detective, another
20 officer who -- there are two reports that are part of
21 7F. And the other report is Lieutenant Blackwell's
22 report.

23 HEARING OFFICER: Counsel, with regard to
24 this document?

25 MR. LEDER: Objection. Sixth Amendment,

1 hearsay. Same objections.

2 HEARING OFFICER: Same, Counsel?

3 MR. FARINHA: Yes, sir.

4 HEARING OFFICER: Okay. It has been noted
5 that the objection has been made on the basis of
6 hearsay on this document. But this is a portion of
7 the same one, so should we -- are you going to have
8 questions on the same report on the next witness?

9 MR. WEST: I am going to ask Lieutenant
10 Blackwell about the report he authored and those are
11 both part of 7F.

12 HEARING OFFICER: Are you moving 7F now?

13 MR. WEST: Let me defer on that until we
14 have Lieutenant Blackwell's testimony.

15 HEARING OFFICER: Okay. Your objection to
16 this noted. We will then proceed to the next witness.

17 MR. FARINHA: Can we ask some questions of
18 this witness?

19 HEARING OFFICER: Oh, I'm sorry, Counsel.
20 Please, your cross-examination.

21 EXAMINATION

22 BY MR. FARINHA:

23 Q. Detective.

24 A. Yes, sir.

25 Q. I want you to look at this picture and I want you to

1 note the yellow tape. Just take a look at this
2 picture and tell me what you observe?

3 A. You asked me to note the yellow tape, I see -- it
4 appears to be yellow tape toward the west end of the
5 parking lot and going in a eastward direction,
6 basically segmenting or boxing in vehicles along the
7 south wall of the Dream, if I am viewing this
8 correctly.

9 Q. Would that be a fair description of the parking lot
10 that night, the adjacent parking lot to the club that
11 night?

12 A. It does appear to be.

13 Q. And is that -- is that parking lot actually federal
14 property?

15 A. I've been told that.

16 Q. Have you looked at the site?

17 A. I've seen the site. I believe I was told it was
18 somehow connected with the Post Office, perhaps.

19 Q. Aside from what you've been told, from your personal
20 observations you've seen signs posted that it is a
21 Federal Post Office parking lot; is that fair to say?

22 A. I can't say that for certain.

23 Q. Okay. Not from this picture or just in general?

24 A. I can't say that from the picture, and I don't recall
25 if I observed signs. I may have. I know that was a

1 discussion that was occurring at the time of the
2 investigation.

3 Q. Let me ask you. When you do an investigation isn't it
4 important to keep track of the location or situs of an
5 incident as serious as a shooting?

6 A. It is.

7 Q. And isn't it important in doing your investigation
8 that you look and describe and keep a record of what
9 that -- in your head what that site is?

10 A. I was not the person doing the scene investigation at
11 this time. Also, from my experience, even though
12 you're asking that question, and it was discussed
13 whether it was federal parking lot property being used
14 by the bar or not, still as an investigator I don't
15 see the relevance to intent and evidence in shooting
16 and --

17 Q. I didn't ask you that. I just asked you is it
18 important that you keep a record of the site of a
19 location of something so important as a shooting?

20 A. Again, I was not the person documenting the actual
21 site.

22 Q. So the answer is no, it's not important to keep a
23 record of a site where a shooting occurred; is that
24 your answer?

25 A. My answer is what I said earlier; that you're asking

1 me if I believe it's relevant or important depending
2 on the circumstances.

3 Q. You can't tell us today if that location is federal
4 property or not, Detective?

5 A. I believe it is.

6 Q. Okay. So it is, it's a federal property, right?

7 A. Again, I can tell you what I believe and what
8 information I had, and I'm telling you what I believe.

9 Q. Okay.

10 A. I don't know that factually.

11 Q. Now that parking lot is pretty deep; isn't that fair
12 to say?

13 A. It appears to be -- well, I don't know exactly where
14 the picture ends and begins, but at least ten vehicles
15 deep.

16 Q. Okay. So --

17 A. And again side park ten vehicle spaces deep.

18 Q. Okay. Do you see any large crowds in that picture?

19 A. I do not.

20 Q. In that picture you see a number of cars, though;
21 isn't that fair to say?

22 A. I do.

23 Q. Okay. So cars are parked in the federal parking lot.
24 You've marked off the scene at the federal parking
25 lot. The shooting occurred in the federal parking

1 lot; is that fair to say?

2 A. Again, I don't know exact relationship for certain, so
3 I cannot say with certainty that this is a federal
4 parking lot.

5 Q. Well, it would be important to show your capacity to
6 conduct a proper investigation that you know the situs
7 of where a shooting occurred and who owns that
8 property; wouldn't that be fair to say?

9 A. Repeat the question.

10 Q. Wouldn't it be important -- isn't it important that
11 you note or you keep a record or understanding of the
12 site where a shooting occurred; isn't that fair to
13 say?

14 A. Not necessarily.

15 Q. So the site's not really important, is that
16 what you're --

17 A. It is important.

18 Q. Oh.

19 A. I told you what I believed at the time. I told you
20 another investigator was in charge of the scene, and
21 no one's questioned our jurisdiction prior to this
22 date as to whether we could have investigated this
23 crime.

24 Q. Okay. So your answer is that it's not your
25 responsibility to keep a record of -- it's not

1 important where the site is to you?

2 A. I didn't say that.

3 Q. Now, there's a report --

4 HEARING OFFICER: Are you offering that --
5 Counsel, are you offering that as an exhibit?

6 MR. FARINHA: Yes, I am Judge. I'll put it
7 in.

8 HEARING OFFICER: Mr. West?

9 MR. FARINHA: We'll offer it as our Exhibit
10 No. 1.

11 MR. WEST: What, the photograph?

12 MR. FARINHA: Yes.

13 MR. WEST: Well, aside from the fact that we
14 don't have anyone to establish when that photo was
15 made or of what date it supposedly depicts something.

16 MR. FARINHA: We do. We have a witness that
17 would testify if we need him to --

18 MR. WEST: Well, then --

19 MR. FARINHA: -- as to the actual location.
20 Or we can stipulate to it, as to where this shooting
21 occurred.

22 MR. WEST: Well, let me say this. If the
23 whole issue is if this property belonged to the
24 federal government I'll stipulate to that.

25 MR. FARINHA: Perfect.

1 HEARING OFFICER: Does that satisfy you?

2 MR. FARINHA: No. In this report -- I'll
3 get this into evidence.

4 BY MR. FARINHA:

5 Q. In your report it says, referenced multiple shots
6 fired. Could you read that sentence here, please?

7 A. Again, in my -- it's a report authored by Lieutenant
8 Blackwell.

9 Q. Okay.

10 A. You're asking me --

11 Q. But you guys did it together, correct?

12 A. No, I wouldn't say that.

13 Q. Is it being kept in the regular course of business?

14 A. It is. It's part of the Police Department.

15 Q. All right. Where does it say shots were fired?

16 A. First reference, multiple shots were fired outside the
17 Dream Niteclub & Lounge.

18 Q. Okay. That's not an accurate statement; isn't that
19 fair to say?

20 A. I don't know if I am missing something. It sounds
21 accurate.

22 Q. Shots are fired in the parking lot; isn't that fair to
23 say?

24 A. May I look at the statement again?

25 Q. Sure.

1 A. Shots were fired outside the Dream Club, Dream
2 Niteclub & Lounge.

3 Q. The parking lot and the Dream Niteclub are two
4 different locations; isn't that fair to say?

5 A. The shots were fired outside the business. Is that an
6 accurate statement?

7 Q. Did you recover any shell casings in front of the
8 business, Detective?

9 A. We recovered shells outside the Dream Niteclub.

10 Q. You recovered shell casings in the parking lot; isn't
11 that fair to say?

12 A. Two locations; on the sidewalk, in the drive area and
13 then also in the parking lot.

14 Q. Where are the exhibits that show, that are marked that
15 show that there were shell casings outside of the
16 niteclub, sir?

17 A. I do not have those with me. There are photographs
18 showing that.

19 Q. We have never seen any of those photographs, sir. It
20 has never been produced; isn't that correct?

21 A. I have not been asked to produce those. I don't know
22 what you've been shown and --

23 Q. Do you have those?

24 A. Those are part of the investigation. They can be
25 retrieved.

1 Q. Do you have those today?

2 A. I do not have those today.

3 Q. Do you have any witness statements from anyone that
4 was allegedly involved in this today?

5 A. I have witness statements in the police report.

6 Q. Do you have any witness statements with you today?
7 Not what you summarized they said, but actual
8 statements from these witnesses?

9 A. Clarify, please.

10 Q. Do you have actual witness statements from these
11 persons you named? Not just what they told you, but
12 their written statements of what happened?

13 A. I don't believe there's any written statements other
14 than what's reported by the police officers in the
15 police report.

16 MR. FARINHA: I would ask that this be
17 marked as our Exhibit No. 1.

18 HEARING OFFICER: Okay.

19 MR. WEST: I would ask that there be a
20 witness called who can actually authenticate what
21 that's supposed to depict.

22 HEARING OFFICER: Counsel, do you have a
23 witness to do that?

24 MR. FARINHA: Yes, we do.

25 HEARING OFFICER: All right. You're

1 temporarily excused and we're going to have a witness
2 to identify the photograph.

3 MS. TURNER: State your full name, sir.

4 THE WITNESS: Rishi Mangray.

5 MS. TURNER: Reese Mangray?

6 THE WITNESS: Rishi, R-i-s-h-i,
7 M-a-n-g-r-a-y.

8 RISHI MANGRAY,
9 was thereupon called as a witness herein:

10 EXAMINATION

11 BY MR. FARINHA:

12 Q. Mr. Mangray, could you identify what this document is,
13 sir?

14 A. This is a picture that I took the night of the
15 shooting. I went on the roof of the club and took
16 pictures into the Federal Post Office of all the cars
17 parked illegally in that area.

18 Q. Okay. And those were cars parked on the site, is that
19 correct?

20 A. Yeah. In the Federal Post Office.

21 Q. You took this picture, correct?

22 A. Yes.

23 MR. FARINHA: We ask our Exhibit No. 1,
24 Judge.

25 RESPONDENTS' EXHIBIT 1

1 10:42 a.m.

2 HEARING OFFICER: What was the date of that
3 again?

4 BY MR. FARINHA:

5 Q. What's the date on this?

6 A. I'd have to look it up.

7 Q. Was it the day of the shooting?

8 A. Yeah. The day of the shooting, yeah. You can see the
9 yellow tape, you can see the cop cars right there.
10 They blocked it off. There's two cop cars in the
11 entrance. There's the victim -- or not the victim.
12 The guy who shot the gun in the air's car; the
13 Suburban, I believe. And these cars here I don't
14 know. People park there illegally all the time.

15 Q. The Federal Post Office does not keep its chain up or
16 lock it?

17 A. No, they do not.

18 HEARING OFFICER: Mr. West, any objections
19 to this?

20 MR. WEST: Just one question.

21 EXAMINATION

22 BY MR. WEST:

23 Q. This is right next door to your club, is it not?

24 A. Yes.

25 MR. WEST: I have no objection.

1 HEARING OFFICER: Okay. The document then
2 is admitted as Respondents' Exhibit No. 1.

3 MR. FARINHA: Thank you.

4 RESPONDENTS' EXHIBIT 1 ADMITTED
5 10:42 a.m.

6 BY MR. FARINHA:

7 Q. You have no control over this parking lot, correct?

8 A. No. There's signs that say no trespassing, you're not
9 supposed to go there. It says owned by federal
10 property. It's clearly stated in front. It says no
11 trespassing.

12 MR. FARINHA: Okay. Thank you.

13 DETECTIVE DAVID MONROE,
14 thereupon resumed testimony as a witness herein:

15 EXAMINATION

16 BY MR. FARINHA: (Continued.)

17 Q. Now, Detective, isn't it fair to say that most of the
18 patrons have cellphones attending -- in this day and
19 age that attend these niteclubs?

20 A. I believe so.

21 Q. Isn't it true that you received no phone calls of any
22 fights that occurred in the club that night?

23 A. I don't recall having been informed of any phone
24 calls.

25 Q. When you investigated and went inside the club isn't

1 it true that you found no evidence of any fight inside
2 the club that night?

3 A. I was -- I am trying to recall if I had been the
4 person inside the niteclub. I may not have been.

5 Q. Okay. But you haven't seen any reports or evidence to
6 show that there was any fight inside the niteclub;
7 isn't that fair to say?

8 A. Other than statements to that effect.

9 Q. And none of the statements say that a gun was
10 brandished or shown inside the niteclub; isn't that
11 fair to say?

12 A. There may have been one individual who said he was
13 struck in the head or face. I don't know if he said
14 with a gun. But there may be some information saying
15 that.

16 Q. You don't have it with you, do you?

17 A. I may.

18 Q. Could you show it to us?

19 MR. WEST: If it might, if I could direct
20 your attention to Mohammed Alajelli, A-l-a-j-e-l-l-i.

21 THE WITNESS: Being conducted by Sergeant
22 Jatczak?

23 MR. FARINHA: I am asking this witness what
24 he has.

25 MR. WEST: Well, he has report with that

1 information in it.

2 MR. FARINHA: Is it in. Okay. I would ask
3 it be stricken what counsel's testifying to.

4 HEARING OFFICER: I'm sorry?

5 MR. FARINHA: I would ask it be stricken
6 what counsel's testified to. It's not from the
7 witness and what the witness said.

8 HEARING OFFICER: Your objection is noted.

9 MR. FARINHA: Thank you.

10 A. Okay. I have reviewed the report and information
11 regarding that.

12 BY MR. FARINHA:

13 Q. Is there any evidence that there was a gun inside the
14 niteclub, Detective?

15 A. The evidence is a person's statement saying that a
16 handgun was pointed at him inside the niteclub.

17 Q. Okay. So you have no hard evidence, no written
18 statements or any proof of a weapon being in the club,
19 isn't that fair to say, beyond what you claim someone
20 said?

21 A. I have no written statement. I do have some proof. A
22 statement is evidence and may be some proof there was
23 a gun.

24 Q. If some -- if the club allowed a patron to enter with
25 a weapon the club would be cited for a serious

1 violation; isn't that correct?

2 A. I am not sure what we would cite the club for.

3 Q. You let -- a club letting a patron in with a weapon,
4 you don't know what they would be cited for; is that
5 your testimony?

6 A. The person would be responsible for, if he had CCW or
7 carrying it in a bar he wouldn't be permitted to do
8 that. I suppose somehow a bar could be charged with
9 knowingly allowing that to happen, perhaps. It would
10 be up to the prosecutor.

11 Q. In fact, doesn't the bar have a policy where people
12 are screened from entering --

13 A. I believe they do that.

14 Q. And it would be a good thing if people with weapons
15 were kept out of the bar, the bar would be
16 complimented for that, correct?

17 A. Absolutely.

18 Q. So if there's no evidence of any weapons in the bar
19 then the bar did a good thing by keeping anyone out
20 that allegedly had guns; isn't that fair to say?

21 A. Repeat back -- you said if there's no evidence?

22 Q. If there's no evidence that anyone inside had a
23 weapon?

24 A. Again, I can only repeat back there is evidence if
25 someone --

- 1 Q. Do you have it?
- 2 A. I have a statement from someone. That is evidence.
- 3 Q. What is the statement from someone that you have?
- 4 A. That the individual said he came out of a restroom and
- 5 had a gun pointed at him.
- 6 Q. Okay.
- 7 A. That is evidence.
- 8 Q. Okay. You're claiming -- can you show me what the
- 9 evidence is, Detective? Yes or no.
- 10 A. Yes.
- 11 Q. Can you show it to me now?
- 12 A. An individual statement?
- 13 Q. Whatever you have.
- 14 A. I can show you page 64 of page 81 of the police report
- 15 that I have a copy of. I am not sure if those page
- 16 numbers are consistent with the printing of it.
- 17 Q. Okay. And that's at hearsay statement; isn't that
- 18 fair to say?
- 19 A. It's hearsay for me to say it today, yes. It was
- 20 directly from the witness that day.
- 21 Q. But you didn't take a witness statement; isn't that
- 22 fair to say?
- 23 A. Correct.
- 24 Q. Now, based on that statement, you never issued or took
- 25 any action against the club; is that fair to say? Or

- 1 anybody that you have; is that fair to say?
- 2 A. That we have not taken?
- 3 Q. Right. Any criminal action or any citation --
- 4 A. Correct.
- 5 Q. -- for a gun being brought into the club?
- 6 A. Correct.
- 7 Q. Were any of the suspects arrested in the niteclub?
- 8 A. Suspects involved in the assault, no. The person who
- 9 said he was being assaulted was one of the individuals
- 10 arrested, but no other -- no other arrests, no, sir.
- 11 Q. No one was arrested inside the club?
- 12 A. Correct.
- 13 Q. No documentation besides the two that you charged for
- 14 the fighting; is that fair to say?
- 15 A. That's fair to say.
- 16 Q. And no way we can question anyone that you allegedly
- 17 said was in the club; isn't that fair to say?
- 18 A. Repeat, please.
- 19 Q. No written statements so we can question anyone that
- 20 allegedly was in the club; isn't that fair to say?
- 21 A. No individual wrote a statement out that night, I
- 22 believe, correct.
- 23 Q. Did you talk to the DJ's inside the club that night?
- 24 A. I don't believe I did, no.
- 25 Q. Did you talk to the managers inside the club that

1 night?

2 A. I did not.

3 Q. Did you go into the club to verify if there was any
4 scuffle or any blood anywhere on the floor in the
5 club, sir?

6 A. I may have gone inside, but I don't recall for certain
7 I did; and I don't recall seeing any blood or physical
8 evidence.

9 Q. Okay. Did you go in any other time during that week
10 to verify, talk to any other patrons or any other
11 people working inside the club?

12 A. I don't believe I did.

13 Q. So we have no evidence to show, no other records of
14 any statements from any other witnesses, besides the
15 ones arrested, as to any fight occurring in the club,
16 isn't that fair to say, that night or that week?

17 A. Again, repeating who had said that, it was Mr. Usseny,
18 Mr. Wilson and Mohammed, I'd have to look at his last
19 name again, but that's the person who said he had a
20 gun pointed at him inside the bar.

21 Q. You prosecuted these people, is that correct?

22 A. The Prosecutor's Office did.

23 Q. But you were a witness, a key witness to putting
24 together the complaint for the prosecution; isn't that
25 fair to say?

- 1 A. I was one of them, yes.
- 2 Q. Did you include any witness, written statements from
3 these witnesses?
- 4 A. Again, there's no handwritten statements.
- 5 Q. And in conducting your investigation isn't it
6 important to get written statements from witnesses --
- 7 A. Not necessarily.
- 8 Q. -- detective?
- 9 A. Not on a regular basis, no, sir.
- 10 Q. So you can pick and choose when you want to get
11 written statements and when you don't; is that fair to
12 say?
- 13 A. Depending on the resources, the manpower, the evidence
14 we may ask for witness statements at times.
- 15 Q. Did get any written statements from both the victims?
- 16 A. I don't believe so.
- 17 Q. Don't you need written statements to go forward with
18 the case?
- 19 A. I do not.
- 20 Q. You don't keep it as evidence, a record? Is that your
21 training and your policy for your department?
- 22 A. Keep what?
- 23 Q. A record of witness' statements?
- 24 A. We do have witness statements. They're statements put
25 in the police report after detectives or police

1 officers have interviewed those witnesses or witness
2 statements.

3 Q. No personal written statements; is that fair to say?

4 A. No. Again, handwritten statements from the
5 individuals themselves, no. I don't believe so in
6 this case.

7 Q. Is it possible that in the parking lot there could
8 have been an argument between two individuals and a
9 gun in a trunk could have been pulled; is that
10 possible?

11 A. It's possible.

12 MR. FARINHA: Thank you. No further
13 questions.

14 HEARING OFFICER: Mr. West?

15 MR. WEST: No other questions for this
16 witness.

17 At this time I am going to have Lieutenant
18 Blackwell.

19 HEARING OFFICER: I would like to take a
20 five minute break. Thank you. You're excused.

21 (Recess taken at 10:54 a.m.)

22 (Back on the record at 11:13 a.m.)

23 HEARING OFFICER: We will now return to the
24 hearing with regard to V.R. Entertainment Network,
25 Inc., doing business as Dream Niteclub & Lounge.

1 Mr. West.

2 MR. WEST: Yes. We would call Lieutenant
3 Myron Blackwell.

4 LIEUTENANT MYRON BLACKWELL,
5 was thereupon called as a witness herein:

6 EXAMINATION

7 BY MR. WEST:

8 Q. I'm sorry, did you state your name for the record?

9 A. For the record, my name is Myron, M-y-r-o-n,
10 Blackwell, B-l-a-c-k-w-e-l-l.

11 Q. Tell us your occupation, please?

12 A. I am a midnight police commander for the city of Ann
13 Arbor Police Department.

14 Q. How long have you worked for the Ann Arbor Police
15 Department?

16 A. 24 years and six months.

17 Q. Are you familiar with the business located at 314
18 South Fourth Avenue in the city of Ann Arbor?

19 A. Yes.

20 Q. I want to ask you specifically about the date of May
21 29, 2011 in reference to a shooting incident. Are you
22 familiar with that incident?

23 A. Yes.

24 Q. What was your involvement in that?

25 A. My duties for that night were to be inside of the Ann

1 Arbor Police Department. Again, I am the midnight
2 commander of the Police Department. I am in charge of
3 the sergeants and the officers working that night. So
4 I was inside the whole night.

5 Q. Did you prepare any report in connection with that
6 event or that incident?

7 A. Yes.

8 Q. And what is it that you prepared?

9 A. I prepared two reports, basically a synopsis of what
10 happened on that particular date by me listening to
11 the radio. And then also the, I believe the five
12 suspects, maybe six or seven witnesses that responded
13 to the Police Department I interviewed, I believe,
14 three or four of them.

15 Q. What is the incident report number that you reference
16 here?

17 A. I would have to look at my notes.

18 Q. If you could please, just the number of the report.

19 A. The number is 11-25663.

20 Q. And do you have something that's also numbered 25813?

21 A. Yes.

22 Q. Is that the same report or how do we get two different
23 numbers?

24 A. One is -- the 11-25663 is a report that I wrote on the
25 night of. And the next report, 11-25813, is MLCC

1 violation report.

2 Q. All right. Let's talk about the -- you mentioned

3 interviewing individuals?

4 A. Yes.

5 Q. First, whom did you interview?

6 A. Again, I would have to refer to my report for the

7 actual names.

8 Q. All right.

9 A. I interviewed Mr. Brooks.

10 Q. Do you know his first name?

11 A. His first name is Montez.

12 Q. All right.

13 A. I interviewed Vincent, his first name is Steve Marcus

14 Vincent. And I interviewed Usseney, U-s-s-e-n-y. His

15 first name is DeAndre, D-e-A-n-d-r-e.

16 Q. Where did those interviews take place?

17 A. At the Ann Arbor Police station inside of Security.

18 Q. Were these people in custody at that time?

19 A. Yes, they were.

20 Q. All right. Let's start with Mr. Montez Brooks. You

21 talked to him at the Police Department?

22 A. Yes.

23 Q. Did you ask him whether or not he was at the club that

24 night?

25 A. Yes.

1 Q. And what did he tell you about that?

2 A. He said that he was at the club.

3 Q. What took place at the club that he saw?

4 A. Again, if I can refer to my notes real quickly?

5 Q. All right.

6 A. He stated that there was a fight inside --

7 MR. FARINHA: Objection.

8 HEARING OFFICER: Your objection is noted.

9 A. -- Dream Niteclub located at 314 South Fourth.

10 BY MR. WEST:

11 Q. How many people were involved in that fight?

12 A. He said that there were probably eight to ten people,
13 from what he could see, and they were beating up on
14 one particular person.

15 Q. Did you later find out who that person was?

16 A. Not 100 percent sure, but I do believe the person that
17 was beaten up was -- I would have to refer to my notes
18 again.

19 Q. All right. Well, let's continue. This fight between
20 eight and ten people versus one person was inside the
21 club?

22 A. Yes.

23 Q. And what happened with that?

24 A. He stated that a fight broke out. There was an
25 argument. A fight broke out and eight to ten people

1 were beating up on one particular guy. He then stated
2 that after the fight was over, but he said --

3 MR. FARINHA: A standing objection to this
4 hearsay testimony.

5 HEARING OFFICER: Okay.

6 MR. FARINHA: Everything relating.

7 HEARING OFFICER: Your objection on the
8 basis of hearsay is noted. You may continue.

9 A. He stated that the bouncers quickly intervened and
10 broke up the fight. Kicked the eight to ten guys out
11 that were fighting this one particular gentleman.
12 They then picked up this person. And Mr. Brooks
13 stated that it was clear that he was out of it, that
14 he had injuries upon himself. They gave the guy a few
15 seconds to --

16 MR. FARINHA: Objection.

17 A. -- get to his feet.

18 MR. FARINHA: I am objecting to the
19 testimony. I don't have a timeframe or any indication
20 what this witness -- it's hearsay. But even in the
21 hearsay I don't have a statement as to the time when
22 this is occurring or any framework of what this
23 witness is testifying to. If there's some document
24 that he can look to, I am going ask his testimony be
25 stricken until he can come up with some way of

1 verifying the time of the incident and what he --

2 HEARING OFFICER: Your objection is noted.

3 Mr. West.

4 BY MR. WEST:

5 Q. Following up on that. Do you know what time of the
6 evening this occurred?

7 MR. FARINHA: Well, no. Objection. Not the
8 time of the evening this is occurring. He's stating
9 that some witnesses told him that that happened, and I
10 want to know the timing of what those witnesses told
11 him, if it exists.

12 BY MR. WEST:

13 Q. Let me back up. What time are you having this
14 interview in the Police Department?

15 A. I am having this interview in the Police Department
16 probably around 3:00, 3:00 o'clock.

17 Q. And does it relate --

18 A. In the morning.

19 Q. -- to the events that had been -- that had transpired
20 that evening and early in the hours of the following
21 morning?

22 A. Correct. At 2:06 is when we receive a call at the --
23 in the 300 block of South Fourth referenced shots
24 fired. And as a result, Mr. Brooks was brought in
25 with a bunch of other people and he was interviewed

1 subsequently, you know, shortly thereafter. Anywhere
2 from 45 to an hour later.

3 Q. Did Mr. Brooks indicate a timeframe as to when this
4 fight was going on in the club?

5 A. He stated prior to ending -- probably about a half an
6 hour prior to the ending of the -- of the -- excuse
7 me -- the bar closing.

8 Q. Okay.

9 A. So we're looking at 1:30, 1:40.

10 Q. Now you said that -- you were saying that the bouncers
11 had come to the assistance of the person who was
12 beaten up. What happened with that person?

13 A. They picked him up off his feet.

14 MR. FARINHA: Objection. This is not his
15 testimony of personal observations, is that correct?

16 MR. WEST: I believe that is correct.

17 MR. FARINHA: Okay. So I need him to
18 clarify. He's rephrasing what somebody said, not what
19 he saw or observed.

20 HEARING OFFICER: Your objection is noted.

21 MR. FARINHA: Thank you, Judge.

22 HEARING OFFICER: You may continue.

23 A. Mr. Brooks then told me that the bouncers got the
24 eight to ten people off of the victim that was being
25 beaten, and that they quickly pushed the eight to ten

1 suspects out the door of the Dream Niteclub and then
2 picked up the victim. Mr. Brooks stated that they
3 waited a few seconds for the victim to catch his
4 bearings, basically. And then they could clearly see
5 injuries upon -- Mr. Brooks said that he could clearly
6 see injuries upon the victim. And he said that he
7 then watched the bouncers push the victim out the same
8 door that they just pushed the suspects out.

9 BY MR. WEST:

10 Q. And where was Mr. Brooks during this time?

11 A. He was inside the bar of the Dream Niteclub. That's
12 what he stated.

13 Q. Did he have anything else to add about what took place
14 in the club?

15 A. He then gave me his own personal -- Mr. Brooks gave me
16 his own personal opinions of what actually happened
17 that night and his personal feelings.

18 Q. His observations?

19 A. His observations of what happened, yes.

20 Q. Well, you've already testified to --

21 A. He gave me some more information also.

22 Q. All right. Which was what?

23 A. He said that --

24 MR. FARINHA: Objection.

25 HEARING OFFICER: Noted.

1 A. Mr. Brooks stated that he could not believe that these
2 bouncers would pick up -- scoot out eight suspects,
3 eight to ten suspects, pick up the victim and then
4 push them out the same door, knowing that these guys
5 had just beat up the victim and now they're pushing
6 the same victim back out to the suspects.

7 BY MR. WEST:

8 Q. Anything else with Mr. Brooks?

9 A. No.

10 Q. Did you talk with anyone else?

11 A. Yes.

12 Q. Who was that?

13 A. Mr. Vincent, V-i-n-c-e-n-t.

14 Q. And I think you already gave us the first name, but
15 what is that?

16 A. His first name is Steven or Steve, Marcus Vincent.
17 And Marcus is M-a-r-c-u-s.

18 Q. Was Mr. Vincent also at the Police Department that
19 night?

20 A. Yes, he was.

21 Q. What did you talk to him about?

22 A. I talked to Mr. Vincent. Mr. Vincent told me that he
23 was at the Dream Niteclub. He stated that he also was
24 a victim of a fight. Stated that --

25 MR. FARINHA: Objection.

1 HEARING OFFICER: Noted.

2 A. Mr. Vincent stated that people were fighting in the
3 club. Somebody hit him. He decided to go down to the
4 ground and ball up. And he said eventually he had to
5 crawl out of the bar, basically what he said. He
6 didn't know anyone that was being assaulted. He just
7 said there was a fight inside the bar. Somebody had
8 hit him.

9 BY MR. WEST:

10 Q. Did you talk to anyone else then?

11 A. Yes. I then talked to a third person. Again, I am
12 pronouncing his name wrong, but Usseney. First name
13 would be DeAndre, D-e-A-n-d-r-e. And I spoke to him
14 also.

15 Q. How do you spell his last name? How do you have it
16 spelled?

17 A. U-s-s-e-n-y.

18 Q. All right. What did you observe about him? What were
19 your observations of him?

20 A. My observations of him were that he was disheveled,
21 his shirt was wrinkled. He had footprints on the back
22 of his back, on his shirt. I could actually see
23 footprints, like boot prints on his back, several of
24 them. Shirt was ripped in certain places. Just small
25 nicks in the shirt. Also there was blood on him. He

1 had a cut on his head. He had a swollen lip, swollen
2 face.

3 I then wanted to make sure he wasn't shot,
4 so I asked him to pull up his shirt to see where this
5 blood was coming from. I did not see any bullet
6 wounds, obviously, on his body but just the nick in
7 his head or the cut in his head. And then that's when
8 I noticed that he had a holster on his side, an empty
9 holster, gun holster.

10 Q. Did you ask him how he received those injuries?

11 A. Yes.

12 Q. What did he tell you in that regard?

13 A. He advised me that he received those injuries while at
14 the bar, 314 --

15 MR. FARINHA: Objection.

16 HEARING OFFICER: Noted.

17 MR. FARINHA: Standing objection to all the
18 hearsay testimony from this witness.

19 HEARING OFFICER: Your objection is noted.

20 A. He stated that he was in a verbal argument with a
21 particular person that's unknown to him. And then out
22 of the blue eight to ten people jumped on him and
23 started beating him down; stomping on him, kicking
24 him, et cetera. And that's how he received those
25 injuries.

1 BY MR. WEST:

2 Q. At some point did he leave the club?

3 A. He stated that -- and I do believe that this was the
4 same person that the other witnesses were referring to
5 as the person that was getting beat by eight to ten
6 people. He advised that the bouncers broke up the
7 fight. He advised me that they kicked the suspects
8 out. He advised me that he then was picked up by the
9 bouncers, allowed to regain his bearings and then they
10 pushed him out the same door that they pushed the
11 other suspects out.

12 Q. Did you make any determination about the holster that
13 you saw on his person?

14 A. Yes. I inquired, Where was his weapon, did he have a
15 weapon him? And he advised me that the baldheaded
16 officer, which we later learned was Officer Stoner,
17 took his gun outside of the bar.

18 Q. All right. Did you speak with anyone else in
19 connection with this?

20 A. One second. No.

21 Q. Now you said that you prepared a separate report,
22 11-25813, as part of an LCC complaint?

23 A. 25813?

24 Q. Yeah, whatever I said. 25813?

25 A. Yes, I did.

1 Q. Is that, again, in connection with this event of May
2 29, 2011?

3 A. Yes, it is.

4 Q. And that's the report you authored?

5 A. Yes.

6 MR. WEST: I don't have any more questions.
7 But I would move the admission of -- this is now also
8 part of F. It's both -- this report that we just
9 talked about, 11-25813, and the other one that
10 Detective Monroe testified to, 11-25663. So I would
11 offer those as Exhibit 7F.

12 MR. LEDER: Again, we have the objections
13 based on hearsay, Sixth Amendment.

14 HEARING OFFICER: Okay. Your objections
15 are noted. Those two reports that are, the portion of
16 the report that is designated as 7F will be admitted.

17 EXHIBIT 7F ADMITTED

18 11:30 a.m.

19 MR. WEST: I have no other questions of the
20 witness at this time.

21 EXAMINATION

22 BY MR. LEDER:

23 Q. Officer, where did the shooting occur?

24 A. I believe the shooting occurred in the 300 block of
25 South Fourth.

- 1 Q. How many buildings are there in the 300 block of South
2 Fourth?
- 3 A. How many buildings? I would probably say -- probably
4 seven buildings, a parking structure and maybe two
5 parking lots.
- 6 Q. A lot of area?
- 7 A. A lot of closed areas at that time of the night, yes.
- 8 Q. But it's still a lot of area?
- 9 A. Yes, it is.
- 10 Q. Okay.
- 11 A. Yes.
- 12 Q. What's in the 400 block?
- 13 A. What's in the 400 block?
- 14 Q. Yeah, the 400 block.
- 15 A. Homes, a funeral home.
- 16 Q. Where was the weapon recovered?
- 17 A. I do not know.
- 18 Q. You don't know?
- 19 A. No.
- 20 Q. Why not?
- 21 A. Because I was inside the station.
- 22 Q. Oh, you weren't in the 300 block?
- 23 A. No, I wasn't.
- 24 Q. You weren't in the 400 block either?
- 25 A. No.

1 Q. So you were nowhere near where the shooting occurred?

2 A. Correct.

3 Q. So you have no personal knowledge of anything that
4 actually occurred on Saturday, 5-28, Sunday morning,
5 5-29?

6 A. No, I do.

7 Q. How?

8 A. Because I was sitting there listening to the radio.

9 Q. Oh, okay. So you heard the radio reports of what
10 happened?

11 A. The radio reports of what happened and also I
12 interviewed witnesses that were at -- and suspects
13 that were at the scene, yes.

14 Q. But those were just interviews. So you just heard the
15 play by play?

16 A. Yes.

17 Q. You didn't see it live?

18 A. No.

19 Q. No. Okay. Next question I have for you is: As your,
20 in your position -- are you the commander of the
21 midnight shift?

22 A. Yes.

23 Q. So you hear -- are you always on midnights?

24 A. Yes.

25 Q. Do you always work Saturdays?

- 1 A. Yeah. I have Mondays, Tuesdays off.
- 2 Q. Okay. And how long have you had this specific shift?
- 3 A. For the last three years.
- 4 Q. Okay. Is this a typical incident on a Saturday night
- 5 in Ann Arbor?
- 6 A. No.
- 7 Q. Is it commonplace?
- 8 A. No.
- 9 Q. No?
- 10 A. Hu-huh.
- 11 Q. Isolated you'd say?
- 12 A. Becoming more frequent, but no.
- 13 Q. Becoming more frequent?
- 14 A. Yeah. Isolated, yes. It doesn't happen much.
- 15 Q. It's sort of perfect storm of circumstances, so to
- 16 speak, correct?
- 17 A. Yes, I'd agree with that.
- 18 Q. A felon willing to brandish a weapon and another
- 19 person willing to engage with that, in a confrontation
- 20 with that person, right?
- 21 A. I don't know what you're talking about there.
- 22 Q. This is based on the individual acts of certain
- 23 people, correct, who decided to fire a weapon?
- 24 A. It sounds like it, yes.
- 25 Q. Yeah. Nothing to do with anything else. I mean these

1 are individuals that don't work at the club, correct?

2 A. You're talking anyone else and that's always a real

3 big thing there. I mean --

4 Q. That's good.

5 A. -- be more specific.

6 Q. Do they work at the Dream Niteclub?

7 A. I don't think they do, no.

8 Q. No. Are they frequent patrons of the Dream Niteclub?

9 A. I do not know.

10 Q. Have they ever been in the city of Ann Arbor before?

11 A. I do not know.

12 Q. Do they live in Ann Arbor?

13 A. I do not know.

14 Q. Do they attend the University of Michigan?

15 A. I do not know.

16 Q. So we have no idea about any of these individuals and

17 what drove them to do this, do we?

18 A. I'd say no.

19 Q. No. Okay. But you interviewed them?

20 A. Yes.

21 Q. But you didn't ask that question?

22 A. No.

23 Q. Okay. Next question I have for you is on the -- let

24 me back up a second. On the night in question was

25 there -- did anybody else call the police that night?

- 1 You listened to the radio there had to be --
- 2 A. I don't know how many calls our dispatch received.
- 3 They received several. That's why calls for service.
- 4 That's why the police were sent to the area.
- 5 Q. Do you know where those calls came from?
- 6 A. Do I know where the calls came from?
- 7 Q. Yeah. Do you know where they originated from?
- 8 A. No.
- 9 Q. Okay. So calls could have came from inside the
- 10 niteclub of -- the owners of the niteclub?
- 11 A. I don't know where they came from.
- 12 Q. Okay. But they could have is what you're saying. It
- 13 was -- it was a melee, it was a lot of things going
- 14 on, a lot of action, right?
- 15 A. It sounded like it. Again, I wasn't there.
- 16 Q. All right. Is this an ongoing investigation?
- 17 A. What do you mean by that?
- 18 Q. Is there -- there was one suspect that was arrested
- 19 and charged, correct?
- 20 A. Again, I am patrol.
- 21 Q. Okay.
- 22 A. So once I called the detectives the detectives come
- 23 and then they take care of everything from that point
- 24 on, so I don't know --
- 25 Q. You have no idea if there was a disposition in this

1 matter?

2 A. I do not know the disposition of this case.

3 Q. All right. So you don't know if the witnesses that
4 you interviewed are -- have testified or will testify
5 at the criminal hearing of Mr. Wilson?

6 A. That is a correct statement; yes, I don't know.

7 MR. LEDER: Thank you. I have nothing.

8 HEARING OFFICER: Mr. West?

9 MR. FARINHA: Just a couple of follow-up
10 questions.

11 HEARING OFFICER: I'm sorry.

12 EXAMINATION

13 BY MR. FARINA:

14 Q. You're the desk sergeant; is that fair to say?

15 A. I am in charge --

16 Q. Commander in charge?

17 A. I am a lieutenant, the commander or lieutenant I'm in
18 charge of -- I am in charge of six sergeants and I'm
19 in charge of 34 officers.

20 Q. Now, Lieutenant, being in charge of all those
21 sergeants and all those officers, and you're
22 monitoring the calls that are coming in at night; is
23 that fair to say?

24 A. Yes.

25 Q. So you're listening attentively to the calls that are

1 coming in; is that fair to say?

2 A. Yes.

3 Q. And you're listening to the calls, who is making the
4 calls that coming in; is that fair to say? You're
5 listening to who is making the calls that are coming
6 in?

7 A. What are you --

8 Q. Is that fair to say?

9 A. No. I don't know what you mean by making the calls.
10 Are you talking about 911 calls or are you talking
11 about officers talking to one of the other officers
12 making traffic stops.

13 Q. Let's go on that basis. All the calls that you were
14 receiving were 911 calls; is that fair to say?

15 A. I do not know because I was not in communications.
16 Communications is in a separate location and I do not
17 hear the 911 calls coming in. I just hear them
18 dispatching the 911 calls.

19 Q. Okay. So you hear them dispatching the 911 calls in
20 response, so you're hearing the dispatch?

21 A. Right.

22 Q. You're not hearing the actual call?

23 A. Correct.

24 Q. And isn't it fair to say you didn't hear any dispatch,
25 anyone calling in saying they were a victim of a

1 fight; isn't that fair to say?

2 A. I did not hear the dispatch calls. I just heard --
3 there's a tone alert which means something big is
4 happening. And then they were dispatched to shots
5 fired at the location.

6 Q. So all the calls that you heard related to shots
7 fired; is that fair to say?

8 A. Yes. And then another officer informing our
9 dispatcher --

10 Q. I am not asking what another officer informed you.

11 A. Yes, you did.

12 Q. I'm asking what you heard. Is that correct? All the
13 calls you heard were related to shots fired; is that
14 fair to say?

15 A. Yes.

16 Q. And you never heard a call from any alleged victim
17 saying there was a fight 45 minutes earlier; isn't
18 that fair to say?

19 A. Yes, I never heard a dispatch call saying that there
20 was a fight 45 minutes prior to this.

21 Q. Now doesn't it make sense to you, Lieutenant, that if
22 someone had a fight maybe 40 minutes before he made a
23 phone call, your police officers would have been
24 dispatched prior to 2:00 o'clock that morning; isn't
25 that fair to say?

- 1 A. If someone had made a phone call, yes.
- 2 Q. But no one was dispatched, correct?
- 3 A. Maybe no one made a phone call. I don't know.
- 4 Q. Okay. So there's no -- the victim, alleged victim
- 5 never called the police to say he was involved in a
- 6 fight and jumped by ten people; isn't that fair to
- 7 say?
- 8 A. He told me that he did not make a phone call, right.
- 9 Q. Did he tell you how he got to the club that night?
- 10 A. I don't recall.
- 11 Q. Did you ask him how he got to the club that night?
- 12 A. And I don't recall.
- 13 Q. Isn't it important to ask -- you'll need to look at --
- 14 A. I can look at the report.
- 15 Q. Why don't you look at your report.
- 16 A. Someone did mention about who they rode with. From my
- 17 reports it sounds like Usseney, U-s-s-e-n-y, came to
- 18 the club with Vincent, although he did not know
- 19 Vincent.
- 20 Q. Is that written in your report?
- 21 A. Yes.
- 22 Q. So he came with someone he didn't know?
- 23 A. Correct.
- 24 Q. That's your testimony. All right. Now, did you get
- 25 any calls from Vincent or anyone else that he came

1 with that there was a fight inside the club?

2 A. No.

3 Q. So someone is beaten down by ten people, they leave
4 the club but they don't call the police; is that your
5 testimony?

6 A. Yes.

7 Q. Now, when you were looking at the investigation isn't
8 it true that there was a mention of a purse being
9 taken inside the parking lot by individuals? Do you
10 recall seeing that at all?

11 A. Nothing in my report, no.

12 Q. Not your report. Did you see it in any other reports
13 from any of the witnesses?

14 A. No.

15 Q. If there was a person, a purse snatcher taken, that
16 could be another explanation for the fight in the
17 parking lot; isn't that fair to say?

18 A. I don't know.

19 Q. It could be, though; isn't that fair to say?

20 A. Yes.

21 Q. So nothing to do with anything that happened inside
22 the club, in the parking lot someone might have taken
23 something from someone and that could have
24 precipitated an argument or a fight, correct?

25 A. Yes.

1 Q. The night that this occurred -- and you're familiar
2 with the Dream Niteclub, is that --

3 A. That's a fair statement.

4 Q. -- fair to say? And you're familiar with the
5 different ethnic nights that they have at the club; is
6 that fair to say?

7 A. Yes.

8 Q. What would you categorize Thursday night typically to
9 be?

10 A. A Thursday night?

11 Q. A Thursday night at the club, the niteclub.

12 A. I don't know. I don't get on the road much.

13 Q. Do you get calls coming in Thursday nights?

14 A. Yeah.

15 Q. Okay.

16 A. But it --

17 Q. From the Dream Niteclub?

18 A. Yeah, but it doesn't say the makeup of the people.

19 Q. Do your officers respond and tell you who's at the
20 club on Thursday nights?

21 A. No, they don't get into who was in the club, the
22 racial makeup of who was in the club, no.

23 Q. No racial makeup. Okay.

24 A. No, you said that first.

25 Q. What is the makeup of the club on Saturday nights?

1 A. I don't know.

2 Q. You have no idea?

3 A. Nope. Me personally, no.

4 Q. But there are people that you know that do know the
5 makeup of the club on Saturdays nights; is that fair
6 to say?

7 A. I don't know.

8 Q. I don't know means that it could be, people that do
9 know the makeup of the club, police officers on
10 Saturday nights; isn't that fair to say?

11 A. I would say if they're doing their job and stopping by
12 the clubs and looking inside seeing who's in clubs,
13 then yeah, they probably would know. I don't know
14 that. I sit inside a building.

15 MR. FARINHA: Thank you. No further
16 questions.

17 MR. WEST: I have no other questions of this
18 witness.

19 HEARING OFFICER: Thank you for coming,
20 Officer.

21 MR. WEST: Briefly we'll recall Detective
22 Jatczak again.

23 HEARING OFFICER: Detective, welcome back.

24 THE WITNESS: Thank you.

25 HEARING OFFICER: Mr. West.

1 DETECTIVE BRIAN JATCZAK,
2 was thereupon recalled as a witness herein:

3 RE-EXAMINATION

4 BY MR. WEST:

5 Q. Could you again state your name for the record?

6 A. Brian Jatczak, J-a-t-c-z-a-k.

7 Q. Now I am going to ask you about the event of 5-29, May
8 29, 2011. Are you familiar with that incident?

9 A. Yes.

10 Q. And this was the night that the reported shooting
11 occurred outside of Dream Niteclub?

12 A. Correct.

13 Q. What was your involvement in this?

14 A. I got called by patrol command at approximately 2:00,
15 2:15 in the morning. They advised that there was one
16 person that was shot in the parking lot on South
17 Fourth Ave. and that person was at the hospital. And
18 I was informed that they had a person in custody.

19 Q. All right. Did you speak with anyone in connection
20 with your investigation of this incident?

21 A. Yes.

22 Q. Who would that be?

23 A. There was several people that were either brought from
24 the scene of the incident or came on their own that
25 were brought to City Hall to be interviewed.

1 Q. Did you speak with someone named Mohammed Alajelli?

2 A. Yes.

3 Q. And where did that take place?

4 A. It occurred in the police building.

5 Q. And what was the circumstances that brought this
6 individual to the station? Did they come by
7 themselves, were they arrested? How did that happen?

8 A. He was not arrested. But I don't know if he was
9 driven or he came on his own.

10 Q. So, first of all, what observations, if any, did you
11 make of this individual at that time?

12 A. He had some abrasions on his face that looked like
13 they were fresh.

14 Q. Did he indicate how that occurred?

15 A. Yeah, he said he was at the --

16 MR. FARINHA: Objection.

17 HEARING OFFICER: Noted.

18 A. -- at the Dream Niteclub. And they were having fun
19 with a group of friends that he came with. And he had
20 gone into the bathroom. When he came out of the
21 bathroom he noticed that there were some arguing
22 going on. He was talking to one of his friends and
23 while he was talking to his friends somebody hit him
24 in the head from behind and knocked him to the ground.
25 And he said while he was on the ground someone pulled

1 out a handgun and pointed it at him, and then left.

2 MR. FARINHA: This is a standing objection
3 to hearsay.

4 HEARING OFFICER: Your objection is noted,
5 Counsel.

6 BY MR. WEST:

7 Q. At some point do you know if that person left the
8 club, Mr. Alajelli left the club?

9 A. Yes. After he was knocked to the ground his friend
10 that he was talking to picked him up. And it was the
11 end of the night so they were all leaving and walked
12 out of the club.

13 Q. Did anything happen outside that he observed and told
14 you about?

15 A. As he was walking in the parking lot on the north side
16 of the building, and there was large group that had
17 come out of the club behind them. And they were
18 walking towards their vehicle. Once they got to their
19 vehicle one of their friends was in a fight. There
20 were some other disturbances going on in the parking
21 lot. And then as he was getting in his vehicle he
22 said he heard several gunshots.

23 Q. Did he testify about any damage to property that
24 occurred as a result of those gunshots?

25 A. I believe the vehicle he was getting in was a

1 Trailblazer and one of the windows was shattered.

2 Q. Did you speak with someone named Essam Jabbar?

3 A. Yes.

4 Q. Where did you speak with that person?

5 A. Outside the police station.

6 Q. Was arrested or in custody?

7 A. No.

8 Q. Why were you talking to him?

9 A. He was near the vehicle, the Trailblazer, where the

10 window was shot out.

11 Q. Did he know Mr. Alajelli?

12 A. Yes.

13 Q. What about Mr. DeAndre Usseny or Ussery?

14 A. He was standing between the Trailblazer and a Mercury

15 Mountaineer vehicle.

16 Q. And the question, though --

17 A. When the shooting started.

18 Q. Did Mr. Essam Jabbar indicate that he was familiar

19 with that individual?

20 A. Yes.

21 Q. Did Mr. Jabbar tell you that he had been inside the

22 club?

23 A. Yes.

24 Q. For what reason -- did he say what had occurred inside

25 the club?

1 MR. FARINHA: Objection.

2 HEARING OFFICER: Your objection's noted.

3 A. He had said that his friend, DeAndre, and a couple of
4 other people had gotten into a fight right towards the
5 end of the evening inside the club.

6 MR. LEDER: I just have a quick question,
7 sort of just to try to save some time. Are you asking
8 about the statements in the report that we've already
9 admitted?

10 MR. WEST: Yes.

11 MR. LEDER: So, essentially, it's been
12 admitted. There's been an objection. His testimony
13 is duplicative of what's already been admitted in the
14 report. We're going to cross-examine him, basically,
15 the exact same way we have the last people regarding
16 the report. Is he going to offer anything new?

17 MR. WEST: No. In fact, I'm actually
18 finished with my line of questioning.

19 MR. LEDER: Okay. Because I don't think
20 there's any -- I mean I don't have any questions. I
21 think it -- essentially, what's been going on is we're
22 just going to be rehashing the same report that we've
23 already objected to. We can't cross-examine the
24 witnesses who have actually made the statements. I
25 don't see what the officer's testimony relating to the

1 report will offer, or any further officers' testimony
2 relating to any reports will offer.

3 HEARING OFFICER: Well, your objections to
4 his trial strategy are noted. But I think he just
5 indicated also he's done with this witness.

6 MR. LEDER: Okay.

7 MR. FARINHA: I just have a couple
8 questions.

9 EXAMINATION

10 BY MR. FARINHA:

11 Q. Detective, you've been how long, 25 years?

12 A. Yes.

13 Q. In your experience, and you've talked to witnesses,
14 you guys witnesses lies; isn't that fair to say?

15 A. That's fair to say.

16 Q. And isn't this true when witness' statements, you look
17 at the statements sometimes in the statements they're
18 false or made-up allegations; isn't that fair to say?

19 A. Their statements aren't always totally truthful, I
20 will agree with that.

21 Q. That's why it's important to get a written statement
22 from the witness so they can be cross-examined or
23 challenged; isn't that fair to say?

24 A. I'm never in the habit of getting written statements
25 from witnesses.

1 Q. But a defense attorney might want to see what the
2 witness writes out because witnesses lie; isn't that
3 fair to say?

4 A. They do at times.

5 Q. Okay. You're familiar that in this case and this
6 is -- I'll just ask this question. That a woman named
7 Partridge testified or gave a statement to one of your
8 detectives that a purse was taken inside that parking
9 lot; isn't that fair to say?

10 A. I don't recall that, but I do recall we did find a
11 purse in the parking lot between some cars.

12 Q. Okay. And the witness said that the purse was taken
13 was the name of Partridge; isn't that correct?

14 A. That I don't know.

15 Q. But if a purse was taken that could have been the
16 reason for the fight or the argument or the shooting
17 that occurred other than something that occurred in
18 the club; isn't that fair to say?

19 A. It's possible.

20 MR. FARINHA: Thank you.

21 HEARING OFFICER: Anything further,
22 Counsel? All right. This witness is excused.

23 MR. WEST: We call Officer Bradley Rougeau.

24 HEARING OFFICER: Mr. West.

25 MR. WEST: Yes.

1 OFFICER BRADLEY ROUGEAU,
2 was thereupon called as a witness herein:

3 EXAMINATION

4 BY MR. WEST:

5 Q. Could you state your name for the record?

6 A. Brad Rougeau, R-o-u-g-e-a-u.

7 Q. What is your occupation?

8 A. I am a police officer in the city of Ann Arbor.

9 Q. Were you working in that capacity on the early morning
10 hours of May 29, 2011?

11 A. Yes, I was.

12 Q. What was your assignment at that time?

13 A. I was assigned to the Crime Response Unit.

14 Q. Which is?

15 A. It's directed patrol, surveillance, fugitive
16 apprehension, things of that nature.

17 Q. Were you in a police vehicle at that time?

18 A. Yes, I was.

19 Q. Marked or unmarked?

20 A. It was unmarked.

21 Q. And were you in a police uniform at that time?

22 A. Yes, I was.

23 HEARING OFFICER: Excuse me, would the
24 witness slow down, please.

25 BY MR. WEST:

1 Q. Now, at around -- at some point in the evening or
2 early morning hours of May 29, 2011 were you in the
3 area of the Dream Niteclub?

4 A. Yes, I was.

5 Q. And did you notice anything unusual at that time?

6 A. I did.

7 MR. FARINHA: Excuse me. Counsel, just a
8 matter of housekeeping. Could you identify which
9 report? I have one written by Murphy which refers to
10 Officer Rougeau. Is there another report?

11 MR. WEST: This would be part of 11-25663.
12 Depending on how yours is numbered, mine says at the
13 bottom left corner page 16 of 81.

14 MR. FARINHA: Oh, 16.

15 MR. WEST: So it's early on in the report.

16 MR. LEDER: This has already been admitted
17 theoretically, correct?

18 MR. WEST: It has.

19 MR. LEDER: Is he going to offer anything
20 that's not in the report?

21 MR. WEST: He may. I am asking for his
22 firsthand observation of what took place there.

23 HEARING OFFICER: You may continue.

24 BY MR. WEST:

25 Q. What is it that you saw that caught your attention?

1 A. I noticed a large group of people gathered out in
2 front of the club, in front of the parking structure
3 and also in the fenced parking area directly north of
4 the bar, which is the Postal lot. A group of people
5 was getting kind of unruly in the parking lot and it
6 looked like they were getting ready to start fighting.
7 They eventually did start fighting. And I went to
8 pick up my radio to call for a couple additional cars
9 to come down to help quell the disturbance. And at
10 that time I started hearing gunshots.

11 Q. Did you see the person shooting?

12 A. I did not see the first person shooting. I did see
13 the second person shooting, though, because he ran
14 right across the front of my car while he fired into a
15 crowd of people.

16 Q. And what did you do in response to that?

17 A. I exited my car. I drew my firearm, pointed it at
18 him, told him to drop his weapon. He looked back at
19 me and he started running.

20 Q. Did you chase?

21 A. I did.

22 Q. Where did that lead?

23 A. First past the -- past the bar into the parking
24 structure, through the parking structure, out across
25 East William Street into the alley adjacent to the

1 Beer Depot. He then ran behind the Beer Depot where I
2 lost sight of him for a couple minutes -- or a couple
3 seconds rather.

4 Q. Did you find that person again?

5 A. I did. As soon as he ran behind the Beer Depot where
6 I couldn't see him, he popped back out about two
7 seconds later. I told him to get on the ground and he
8 immediately did.

9 Q. Did you take him into custody?

10 A. Yes, I did.

11 Q. Who was that person?

12 A. It was Cornelius Wilson.

13 Q. Did you recover a weapon?

14 A. I personally did not, but a weapon was recovered.

15 Q. Do you know where it was recovered?

16 A. It was recovered from the backyard of a house directly
17 behind the Beer Depot. It appears it had been thrown
18 over the fence.

19 Q. Were there other officers involved in that part of the
20 incident?

21 A. Yes, sir.

22 Q. Who would that be?

23 A. A Trooper Reeber from the State Police was there. And
24 I believe shortly after he was taken into custody
25 Sergeant Ouellette arrived there.

1 Q. Why was there a state trooper present?

2 A. He happened to be patrolling in the area and he heard
3 the gunshots. And as he came northbound on Fourth
4 Avenue he saw me running after the suspect. He jumped
5 out of his car and ran with me.

6 Q. Did you speak with Mr. Wilson?

7 A. I did. I did speak with him briefly before he was
8 transported from the scene, yes.

9 Q. What did he tell you about the shooting?

10 A. He indicated that he was running because there were
11 people shooting. And I told him I was aware of that
12 because he, in fact, was the one that I saw shooting.

13 Q. Did you speak with anybody else in connection with
14 this?

15 A. I did. Another individual did approach me while I was
16 out there on the scene.

17 Q. Do you know who that person is, by name?

18 A. I believe his name was Montez Brooks or something
19 close to that.

20 Q. Anybody else that you spoke to?

21 A. Possibly. I'd have to review my report. But I did
22 speak to a number of people out there.

23 MR. WEST: All right. I don't have any
24 other questions of this witness at this time. I'm
25 sorry, I do.

1 BY MR. WEST:

2 Q. How many businesses are open operating at that hour in
3 the morning in the 300 block of South Fourth Avenue?

4 A. I would think that would be the only one in that
5 particular block.

6 MR. WEST: All right. I don't have any
7 other questions.

8 HEARING OFFICER: Counsels?

9 EXAMINATION

10 BY MR. FARINHA:

11 Q. Officer, in your report -- I don't know if it's the
12 same one we're all looking at. You don't have one in
13 front of you?

14 A. I don't.

15 Q. Okay. You made a note that, "I looked at a group but
16 it was not apparent if the group was fighting or just
17 very animated"?

18 A. Right. At the beginning I wasn't sure what was going
19 on.

20 Q. So, in other words, there could have been a lively
21 discussion between people, it doesn't necessarily mean
22 there was a fight; isn't that fair to say?

23 A. No, that would not be fair to say.

24 Q. Well, you took the time to use the words "or just very
25 animated"?

1 A. Well, if I may explain.

2 Q. Okay.

3 A. When I first pulled up and first started observing
4 them I could not tell if they were fighting or if they
5 were animated. After several moments of watching them
6 it became clear they were fighting.

7 Q. Okay. You put in there animated. So they could have
8 been talking, you're just saying that now you
9 concluded --

10 A. Yes.

11 Q. -- after you got out of your car?

12 A. No, before I got out of my car I could see that they
13 were fighting.

14 Q. Well, they were yelling, right?

15 A. Yes.

16 Q. That's not unusual for people to yell at each other,
17 right?

18 A. It's not.

19 Q. Okay. Now when you went to the -- you stopped the
20 suspect that was walking with a dark ponytail dressed
21 in a black jacket, correct?

22 A. Did you say he was walking?

23 Q. Yeah. You said you saw a black male with a dark
24 ponytail dressed in a black jacket while walking
25 quickly out of the lot towards the sidewalk; is that

1 fair to say?

2 A. Yes.

3 Q. And this night, by the way, this is a night where
4 black patrons attend the club; isn't that fair to say?

5 A. I believe the majority of the people that I saw were
6 black, yes.

7 Q. Okay. And this is Saturday night; is that fair to
8 say?

9 A. I don't recall if it was a Saturday or a Sunday. It
10 must have been either a Friday or a Saturday because I
11 didn't work on Sundays.

12 Q. You said in your report, or wrote in your report, "I
13 could see his right arm pointed behind him as I heard
14 five to six shots fired." Correct?

15 A. Correct.

16 Q. That's the first time that night that you heard any
17 shots fired; isn't that fair to say?

18 A. No, it's not.

19 Q. You heard shots fired beforehand?

20 A. Yes, I did.

21 Q. Where did you see shots fired?

22 A. Where did I see shots -- I didn't --

23 Q. Or hear shots fired?

24 A. From the direction, from the area where that group of
25 people was gathered inside the parking lot.

- 1 Q. So the shots you heard were inside the parking lot,
2 the first time you heard shots, correct?
- 3 A. I believe so, yes.
- 4 Q. And then you heard shots again?
- 5 A. Yes.
- 6 Q. A little bit further inside the parking lot?
- 7 A. No, actually closer to me.
- 8 Q. Okay. But it came from inside the parking lot; is
9 that fair to say?
- 10 A. It came from the gentleman that was shooting as he
11 walked in front of my car, from about the distance
12 from where I am to where you are sitting.
- 13 Q. From inside the parking lot; isn't that fair to say?
- 14 A. No. From the sidewalk. He was crossing the sidewalk.
15 I was by the parking lot.
- 16 Q. Where did the come from?
- 17 A. From inside the parking lot.
- 18 Q. From inside the parking lot?
- 19 A. Yes.
- 20 Q. Now, isn't it true that there was an alleged purse
21 snatched inside the parking lot?
- 22 A. A purse snatched?
- 23 Q. Yes. Or taken?
- 24 A. I have no idea.
- 25 Q. If there was a purse taken and that came from inside

1 the parking lot, that could explain why there was a
2 fight inside the parking lot; isn't that fair to say?

3 A. I don't know.

4 Q. When you ran from the parking lot what direction did
5 he run towards?

6 A. Originally he ran from the parking lot out toward the
7 sidewalk.

8 Q. And he dropped his gun or had his gun on him when you
9 left the parking lot?

10 A. Well, as he was leaving the parking lot he was firing
11 his gun into a crowd of people.

12 Q. Inside the parking lot?

13 A. He was basically coming out of the parking lot, across
14 the sidewalk firing behind him like this.

15 Q. So whatever started started inside the parking lot;
16 isn't that fair to say?

17 A. Yeah, that would be fair to say.

18 MR. FARINHA: Thank you. No further
19 questions.

20 MR. LEDER: I just have one question.

21 EXAMINATION

22 BY MR. LEDER:

23 Q. Who's -- Montez Brooks is whom?

24 A. He approached me out on the scene after Mr. Wilson was
25 arrested, and he identified himself to me as Mr.

1 Wilson's cousin.

2 Q. And Mr. Wilson was the individual who was ultimately
3 charged with this, correct?

4 A. Yes.

5 Q. And ultimately convicted?

6 A. I believe he was convicted of something, yes. He pled
7 to something.

8 Q. So Mr. Brooks was related to the assailant?

9 A. According to him, yes.

10 Q. So did he make any statements to you that tried to
11 alleviate the blame that could be associated to Mr.
12 Wilson?

13 A. He did.

14 Q. What were those statements?

15 A. The only thing that he said is that he had ran -- that
16 his cousin had ran because there were people shooting.

17 Q. Okay. Did he mention anything about the Dream
18 Niteclub itself?

19 A. I believe he did make statements that they were both
20 there.

21 Q. Okay. Nothing to the effect that the Dream Niteclub,
22 something should happen to the owner?

23 A. I don't recall.

24 Q. Do you recall that?

25 A. I don't recall.

1 Q. But Mr. Brooks is related to the person charged with
2 attempted murder?

3 A. That's correct.

4 MR. LEDER: Okay. Thank you. I have
5 nothing further.

6 MR. FARINHA: Nothing further.

7 HEARING OFFICER: Mr. West?

8 MR. WEST: No questions of this witness.

9 HEARING OFFICER: Thank you for coming.

10 THE WITNESS: Thank you.

11 MR. WEST: We have Deputy Chief John Seto.

12 HEARING OFFICER: Mr. West, how many more
13 witnesses do you have?

14 MR. WEST: Two. And these are relatively
15 short witnesses, Your Honor.

16 HEARING OFFICER: Mr. West.

17 DEPUTY CHIEF JOHN SETO,
18 was thereupon called as a witness herein:

19 EXAMINATION

20 BY MR. WEST:

21 Q. Tell us your name, please?

22 A. John Seto, S-e-t-o.

23 Q. And what is your present occupation?

24 A. I am an Ann Arbor police officer, Deputy Chief.

25 Q. And are you at this point Acting Chief?

1 A. Not yet.

2 Q. All right. I want to show you what's marked as
3 proposed Exhibit No. 4 and ask if you've seen this
4 document before? It's under tab four.

5 A. Yes, I have.

6 Q. What is that document?

7 A. That is the complaint that I signed in June of 2011.

8 Q. Is that entitled city of Ann Arbor versus Jeff
9 Mangray, V.R. Entertainment Network, Inc.?

10 A. Yes.

11 Q. And it's case number -- does it have a case number on
12 it? 11-597-CH?

13 A. Yes.

14 Q. And that's a verified complaint signed by yourself?

15 A. Yes.

16 MR. WEST: At this time I would move the
17 admission of proposed Exhibit No. 4, the verified
18 complaint.

19 HEARING OFFICER: Any objections to this?

20 MR. LEDER: No.

21 HEARING OFFICER: Then Exhibit No. 4, the
22 verified complaint, city of Ann Arbor versus V.R.
23 Entertainment Network and Dream Niteclub is admitted
24 into evidence.

25 EXHIBIT 4 ADMITTED

1 12:05 p.m.

2 BY MR. WEST:

3 Q. I have also now handed you proposed Exhibit 5. Could
4 you identify that?

5 A. It's a recommendation for nonrenewal signed by the
6 Chief, Barnett Jones.

7 Q. As Deputy Chief is that the position of the Ann Arbor
8 Police Department at this time, that V.R.
9 Entertainment, Inc. license be recommended to be not
10 renewed?

11 A. Yes, it is.

12 MR. WEST: I would also move the admission
13 of proposed Exhibit No. 5.

14 MR. FARINHA: Objection. This witness did
15 not -- it's not his report, it's not prepared by him,
16 it does not have his name on it.

17 MR. WEST: He's testified that this is the
18 position of the Ann Arbor Police Department. He is
19 the Deputy Chief, soon to be the Acting Chief. I
20 believe that he would have knowledge of whether that
21 is, in fact, the position of the department at this
22 time.

23 HEARING OFFICER: The objections having
24 been noted the exhibit is admitted as Exhibit No. 5.

25 EXHIBIT 5 ADMITTED

1 12:06 p.m.

2 BY MR. WEST:

3 Q. Finally, I would show you proposed Exhibit No. 6. Can
4 you tell me what that is?

5 A. It is a report from our Records Management System of
6 police reports initiated at 314 South Fourth Street
7 from a period of time from January -- I'm sorry. It
8 looks like it's from March of 2009 to January of 2012.

9 Q. And when you say reports would you be -- I am not
10 asking about the details of any particular incident,
11 but how does the mechanism -- what's the mechanism by
12 which incidents become listed here?

13 A. It's a call for service. These are reports that we
14 receive for a request for police service.

15 Q. Police service at?

16 A. 314 Fourth.

17 MR. WEST: All right. I would move the
18 admission of proposed Exhibit No. 6.

19 MR. FARINHA: I would like the opportunity
20 to voir dire on these calls.

21 EXAMINATION

22 BY MR. FARINHA:

23 Q. Do you have any -- do you respond to the scene?

24 A. No.

25 Q. Okay. So you have no personal knowledge of any of

1 these calls beyond the statistic numbers that you have
2 there?

3 A. Correct. I did not respond to the scene.

4 Q. Are you aware that the -- what's the number you have
5 on that list?

6 A. I do not know the exact number.

7 Q. Would you -- isn't it true that of those calls at
8 least 35 were police officers calling to other police
9 officers?

10 A. I do not know.

11 Q. Are you aware of that?

12 A. No, I am not. I do not know.

13 Q. Were you aware that of those calls 79 were calls
14 related to incidents outside of the club but around
15 the area, nonthreatening, nonviolent of any nuisance
16 ordinances; were you aware of that?

17 A. I am not aware.

18 Q. Were you aware of all those calls that you had, 18 of
19 them were for the parking structure, incidents
20 relating to the parking structure; were you aware of
21 it?

22 A. No.

23 Q. Were you aware that of those calls 11 were related to
24 people just using the location to identify where they
25 were standing, where they were, but not related to the

1 Dream Club; were you aware of that?

2 A. Not specifically, no.

3 Q. Were you aware that some of those calls related to
4 people walking into the station that may have lost
5 their wallet or lost their keys or something of that
6 nature; were you aware of it?

7 A. No.

8 Q. Were you aware of all those calls, actually just 14 in
9 four years, 2007 to 2011, actually was related to
10 incidents involving the niteclub?

11 A. I do not believe that's true.

12 Q. Were you aware of it?

13 A. No.

14 Q. Were you also aware that some of those 14 calls -- or
15 actually most of those were from patrons in the club
16 asking for police assistance for different issues over
17 the past four years; were you aware of that?

18 A. No.

19 MR. FARINHA: No further questions.

20 EXAMINATION

21 BY MR. LEDER:

22 Q. The only questions I have is: If there was an
23 incident inside of the club that would need a police
24 presence would you want the police called?

25 A. Yes.

1 Q. Isn't the city of Ann Arbor's responsibility to serve
2 and protect the community?

3 A. Yes.

4 Q. So how is calling the police a bad thing?

5 A. It's not necessarily a bad thing.

6 MR. LEDER: Okay. Thank you.

7 HEARING OFFICER: Any further questions?

8 MR. WEST: I have no other questions.

9 HEARING OFFICER: No other questions?

10 MR. FARINHA: Yes.

11 MR. WEST: I did move the admission of
12 proposed Exhibit No. 6 listing the numbers of calls
13 for service at the address 314 South Fourth in
14 timeframes that were acknowledged by the officer
15 prior --

16 MR. LEDER: And we have an objection to that
17 based on that the report -- the officer himself has
18 not taken any of those 200 calls. He had no personal
19 knowledge of context of those 200 calls. Mr.
20 Farinha's just questioning the officer is the basis of
21 parceling out these calls. He has no knowledge as to
22 that. So this is basically an exhibit that's a
23 print-off that nobody can authenticate as to what this
24 exhibit actually says.

25 HEARING OFFICER: Your objections are

1 noted. The report is accepted as Exhibit No. 6.

2 EXHIBIT 6 ADMITTED

3 12:11 p.m.

4 MR. WEST: I don't have any other questions
5 of this witness.

6 HEARING OFFICER: Thank you, Chief, for
7 coming.

8 MR. WEST: Our last witness is Lieutenant
9 Pfannes.

10 MS. TURNER: State your name?

11 THE WITNESS: Robert Pfannes. Last name is
12 P, like Paul, F like Frank, a-n-n-e-s like Sam.

13 LIEUTENANT ROBERT PFANNES,
14 was thereupon called as a witness herein:

15 EXAMINATION

16 BY MR. WEST:

17 Q. Can you tell us your occupation, please?

18 A. I'm a lieutenant with the Ann Arbor Police Department.

19 Q. What are your duties and what are your assignments at
20 this time?

21 A. I am currently the detective -- in charge of the
22 Detective Bureau as an lieutenant. But up until
23 recently I did Professional Standards as well as
24 Liquor Control.

25 Q. And in that capacity as Liquor Control did you ever

1 have contact with the Dream Niteclub, 314 South Fourth
2 Avenue?

3 A. I had contact with reports regarding Dream Niteclub.

4 Q. All right.

5 A. And one MLCC hearing.

6 Q. I am going to show you what's marked as proposed
7 Exhibit No. 3. If you could identify this?

8 A. The top portion of this is from the State's LARA or
9 Liquor Control Website, official Website, that lists
10 all the licensed establishments; specifically one that
11 has V.R. Entertainment, what its d/b/a is, its
12 business ID number, whether they have a violation
13 history, how much alcohol they purchased.

14 Another page describes a violation from May
15 1st, 2011, and the MLCC complaint number 147103. And
16 this is in regards to fights or brawls on the premises
17 and a disposition.

18 Q. Were you involved in processing that violation?

19 A. Yes.

20 Q. That liquor violation?

21 A. Yes.

22 Q. What was the basis for bringing that complaint?

23 A. There was a -- this is entitled as a stabbing. I
24 believe the reports have already been placed into
25 evidence. It was based on a police report of 11-2640

1 and 11-25813.

2 Q. What were the allegations that you brought against the
3 Dream Niteclub?

4 A. Well, I don't bring the allegations, per se. I give
5 the -- forward the police reports to the Attorney
6 General, the MLCC. They review it and they actually
7 are the ones that authorize a particular MLCC
8 violation charge.

9 Q. All right. Well, ultimately what was the disposition
10 of this LCC complaint?

11 A. They ended up with -- if I may, I actually have a copy
12 of the official --

13 Q. Is this the one?

14 A. In this stack, I didn't get all the way through the
15 stack, I guess.

16 Q. Okay.

17 A. This also contains the -- from the state of Michigan
18 Department of Licensing and Regulatory Affairs,
19 commonly known as the MLCC. Originally Dream Niteclub
20 was charged with five different counts; allowing
21 fights and brawls on the premises, allowing unlicensed
22 premises, improper use of firearms, knives, et cetera;
23 allowing annoying and/or molesting of a customer.
24 Three different counts of that. And they handed out a
25 negotiated settlement of two pleading -- responsible

1 for two different counts of allowing the annoying or
2 molesting of a customer.

3 MR. FARINHA: Before we go further, he's
4 reading from a document. I'd like to see a copy of
5 what he's actually reading from.

6 MR. WEST: It's part of tab number four.

7 MR. FARINHA: Would you just show me? Tab
8 number four. But sometimes the documents aren't
9 matching what we have you and what you have.

10 MR. WEST: It's number four under your tab
11 number three.

12 MR. FARINHA: Okay.

13 MR. WEST: I said number four. I could be
14 wrong. I'm sorry. What's the number of that one?

15 MR. FARINHA: Three.

16 MR. WEST: Yes, number three. Is there any
17 other question now?

18 MR. FARINHA: We can continue till you
19 finish cross.

20 BY MR. WEST:

21 Q. In the negotiated settlement, again, which of the
22 charges were admitted to?

23 A. It turned out to be four and five, which was allowing
24 the annoying and/or molesting of a customer.

25 Q. Do they identify the customer?

1 A. I knew you were going to ask me that. Marquis
2 Hargrove and Sean Foster.

3 MR. WEST: I would at this time move the
4 admission of proposed Exhibit No. 3.

5 HEARING OFFICER: Counsels?

6 MR. LEDER: I have no objection.

7 MR. FARINHA: No objection.

8 HEARING OFFICER: There being no objection,
9 the document Exhibit 3 is entered into evidence.

10 EXHIBIT 3 ADMITTED

11 12:18 p.m.

12 MR. WEST: If I could have just one moment.

13 BY MR. WEST:

14 Q. If I could ask the witness to look at proposed Exhibit
15 No. 11. Could you tell us what that is, please?

16 A. It's a BING map showing the approximate location of
17 Dream Niteclub.

18 Q. Is that an accurate representation, to the best of
19 your knowledge, of the location of Dream Niteclub in
20 Ann Arbor?

21 A. Yes.

22 MR. WEST: I would move the admission of
23 that proposed exhibit as well. That would be No. 11.

24 MR. LEDER: Just to verify the address?

25 MR. WEST: Just to give an indication of

1 where this is located in the city.

2 MR. LEDER: I think everybody knows where.

3 But you need a map to do it, I don't have any problem.

4 MR. WEST: The Liquor Control Commission
5 might benefit from having a map, because they're not
6 always familiar with the location of it.

7 HEARING OFFICER: We can take judicial
8 notice of a map and add it to the record.

9 MR. LEDER: That's fine.

10 EXHIBIT 11 ADMITTED

11 12:20 p.m.

12 BY MR. WEST:

13 Q. Finally, I would -- two more things. Proposed Exhibit
14 No. 8, can you tell me what that is?

15 A. It's a printout, once again, from the State's Website
16 that contains some active listings for licensees in
17 Washtenaw County.

18 Q. And does that indicate whether Dream Niteclub or V.R.
19 Entertainment Network, Inc. is an active licensee at
20 this time?

21 A. Yes.

22 MR. WEST: I move the proposed Exhibit No. 8
23 into evidence.

24 HEARING OFFICER: Counsel?

25 MR. LEDER: Again, no objection.

1 MR. FARINHA: No objection.

2 HEARING OFFICER: Exhibit No. 8 is also
3 admitted into evidence.

4 EXHIBIT 8 ADMITTED

5 12:21 p.m.

6 BY MR. WEST:

7 Q. Finally, proposed Exhibit No. 12. Can you tell me
8 what that is?

9 A. Once again, it's from the state of Michigan Website
10 pertaining to corporate entity details and other
11 corporate filings from V.R. Entertainment, Articles of
12 Incorporation and legal documentation regarding their
13 status.

14 Q. It showed to be an active corporation, active in the
15 state of Michigan at this time?

16 A. It does.

17 MR. WEST: All right. I would move for
18 admission of proposed Exhibit No. 12.

19 MR. LEDER: I don't believe that he's
20 qualified to testify to that document. The fact is we
21 don't object.

22 MR. WEST: All right. I have no --

23 MR. LEDER: And he could have just asked.

24 HEARING OFFICER: There being no
25 objection --

1 MR. LEDER: Being no objections.

2 HEARING OFFICER: -- this document is also
3 admitted as Exhibit No. 12.

4 EXHIBIT 12 ADMITTED

5 12:21 p.m.

6 MR. WEST: We have no other questions at
7 this time and no additional witnesses.

8 MR. LEDER: I have a couple of questions.

9 EXAMINATION

10 BY MR. LEDER:

11 Q. Sergeant, when were you responsible for the liquor
12 violations in Ann Arbor? When did that start for you?

13 A. July of 2009.

14 Q. July of 2009. Was Dream Niteclub licensed at the time
15 that you started?

16 A. I believe they were. And there was a period of time
17 of time where they were in the process of transferring
18 their license.

19 Q. Okay. So their current license was established
20 sometime in 2009, as far as you know?

21 A. I don't know when it was established, but it was in
22 existence when I took the position.

23 Q. Okay. And how many violations, other than the
24 contents of Exhibit 3, have there been to your
25 personal knowledge?

- 1 A. Since I've been in the position?
- 2 Q. Yes.
- 3 A. There's been two that have been -- the two counts were
4 adjudicated and then potential pending.
- 5 Q. And that's currently pending?
- 6 A. So to answer your question, literally two.
- 7 Q. Literally two. In three and a half years?
- 8 A. Yes.
- 9 Q. Okay. Do you handle all of the MLCC violations for
10 all of Ann Arbor?
- 11 A. Yes.
- 12 Q. How many violations do you do per month would you say?
- 13 A. I don't know that I can answer that accurately.
14 They're sporadic. Sometimes you'll get several
15 violations in a short period of time and you may go a
16 long time without it. Without one that the State
17 authorizes a charge on?
- 18 Q. I would say how many do you -- yeah, do you
19 investigate and then -- let's ask this in two parts.
20 How many do you investigate in a given month would you
21 say?
- 22 A. I would say a year might be a better barometer.
- 23 Q. Okay. Let's go with a year.
- 24 A. I probably send in five or six a year.
- 25 Q. Only five or six a year?

1 A. Yes.

2 Q. In all of Ann Arbor those are the only MLCC
3 violations, about five or six a year?

4 A. That were initiated by me.

5 Q. That were initiated -- okay. Well, do you know how
6 many that were initiated period?

7 A. No. The State initiates violations directly and just
8 informs me of the results.

9 Q. Okay. Then you wouldn't know how many the State
10 initiates for the city of Ann Arbor?

11 A. Not off the top of my head.

12 Q. Could you harbor a guess?

13 A. No.

14 Q. No. Is it more than a hundred per year?

15 A. I wouldn't think so.

16 Q. You wouldn't think so. Now underage serving, being a
17 college town, you wouldn't think there's more than a
18 hundred?

19 A. Well, you have to have staffing to send people in to
20 investigate those type of activities, so there's less
21 of those type of violations now just because there's
22 less staff to conduct those investigations.

23 Q. So you wouldn't -- we'll just say you don't know. But
24 you personally do about five or six a year?

25 A. Yes.

1 Q. What do you do with the rest of your day?

2 A. That was only one of the hats that I was wearing.

3 Q. Okay. What else were you doing at the time?

4 A. Well, actually the liquor, probably 95 percent of it
5 is on the application side, people trying to get
6 liquor licenses, transfers and different permits and
7 one day licenses. That's probably 95 percent of it,
8 at least the way it was staffed. The rest of the day
9 was professional standards work.

10 Q. And then when the investigation -- how do you decide
11 to initiate an investigation? How do you get the
12 information? Is that a complaint from the officer?

13 A. Generally it's either they write it as a tentative of
14 MLCC violation report or an officer just sends me a
15 copy of a report that they believe to be an MLCC
16 violation.

17 Q. And then how many of those reports would you get that
18 don't turn into anything, that they may just say, hey,
19 take a look at this, this might be something? Do you
20 get a lot of those or no?

21 A. Yes.

22 Q. About how many would you say?

23 A. I might get a couple hundred of those a year.

24 Q. A couple hundred of those a year?

25 A. Yes.

1 Q. And then you only find violations of five or six?

2 A. That are provable, that follow the MLCC Code that I
3 think meet the criteria based on conversations I've
4 had with the MLCC.

5 MR. LEDER: Okay. Thank you.

6 EXAMINATION

7 BY MR. FARINHA:

8 Q. So what you're saying is that you basically, of the
9 hundred or so that you may get, you pick five or six a
10 year that go forward; is that fair to say?

11 A. That I think might fit the MLCC's criteria for a
12 violation, yes.

13 Q. And are you responsible for the liquor inspections by
14 the police officers in the bars in Ann Arbor?

15 A. Be more specific.

16 Q. How does the system work, who -- I should rephrase
17 that. How are the bars identified for a liquor
18 inspection by the Police Department in the city of Ann
19 Arbor?

20 A. Well, officer, uniformed officers have discretion at
21 any time to do a liquor inspection.

22 Q. I see. So --

23 A. Also we make -- well, just to finish answering the
24 question.

25 Q. Go ahead.

1 A. Also if we get a tip that a bar is doing something or
2 there's grant money available to have decoy
3 operations, things like that. So it's not one answer.
4 It's depending on the circumstances.

5 Q. How many bars did you investigate last year? Sorry.
6 From January to today's date for liquor violations?

7 A. I have no idea how many liquor inspections were done
8 by officers.

9 Q. Isn't it your job to keep track of how many
10 inspections are done?

11 A. No, you can't measure a negative. If they send me
12 that they found a violation then I would know. But if
13 they didn't send me -- if they hadn't found a
14 violation then I would not know.

15 Q. So basically what you're telling us is that your
16 department could pick and choose which bar to walk in
17 and do a liquor inspection without any oversight or
18 accountability; isn't that fair to say?

19 A. No.

20 Q. What is the oversight or the accountability that an
21 officer can identify one bar, or officers in your
22 department identify one bar and continuously go into
23 that bar and conduct liquor inspections?

24 A. Well, certain -- like I said, either we get tips or
25 certain bars draw attention to themselves because of

1 the calls for service.

2 Q. They can draw attention to themselves because there's
3 maybe a black crowd coming in; isn't that fair to say?

4 A. No, I don't think that's fair to say.

5 Q. Well, do you have any accountability to check and see
6 what your officers are doing on a regular basis?

7 A. I have no accountability over the discretionary
8 checks. However, officers are assigned to certain
9 areas of the city, so they would be doing checks in
10 those areas of the city.

11 Q. Oh, okay. Now what are your policy and procedures to
12 guide the officers when to conduct a liquor
13 inspection?

14 A. They have the discretion to do a liquor inspection
15 whenever they want. Also, if they're directed by a
16 supervisor to do one; or once again, if we receive
17 tips or if we're having a problem with a particular
18 establishment.

19 Q. Now isn't it true that you don't keep a record of when
20 that bar passes liquor inspections; isn't that true to
21 say -- fair to say?

22 A. No, not necessarily. Officers do activity logs that
23 note liquor inspections on them, so I guess it would
24 be measuring a negative, but they would -- it's a
25 somewhat generically used term. Certain bars, if an

1 officer sits outside to make sure there's not fights
2 they might write that down as an LI.

3 Q. If I have pictures of the Dream Niteclub receiving
4 attention of your police officers and your police cars
5 night after night after night walking in with liquor
6 inspections then there would be a record of this;
7 isn't that fair to say?

8 A. Of a car parked there?

9 Q. Cars parked there.

10 A. Of cars parked there?

11 Q. Police cars.

12 A. There may or may not. Depending on what they're there
13 for.

14 Q. If your officers are targeting a bar and the bar
15 passes you do not send a letter or notify the bar that
16 they have passed the liquor inspections that your
17 officers are doing; is that fair to say?

18 A. It's fair to say, but it's using liquor inspection in
19 a very, very broad sense. By your definition that's
20 fair to say.

21 Q. Listen to my question. Okay. Is that fair to say?
22 Yes or no.

23 A. Sure.

24 Q. So technically a bar may have two violations but may
25 have passed 40 inspections by your police officers; is

1 that fair to say?

2 A. Sure.

3 Q. But you keep no record to show this counsel or show
4 the Liquor Commission the positive side of what the
5 bar does; isn't that fair to say?

6 A. The record would be exception-based. In other
7 words --

8 Q. That's not my question.

9 A. If there was no violation --

10 Q. That's not my question. Okay. You keep no record of
11 how many times the bar passes your liquor inspections;
12 is that fair to say?

13 A. Not necessarily. If they noted on their activity log
14 they did a liquor inspection and there was no
15 violation, if you're counting that as passing then
16 there is a record of that.

17 Q. Okay. Do you say it in the report sometimes?

18 A. No.

19 Q. Do you send a letter out to the bar saying you passed
20 a liquor inspection on this day?

21 A. No.

22 Q. So you keep no record or any communication that could
23 be documented for the public to see when the bar
24 passes your liquor inspections; isn't that fair to
25 say?

1 A. Yes.

2 Q. So basically you can sit down by yourself, or your
3 officers can target one bar and create a picture that
4 there's all this negative activity at the bar; isn't
5 that fair to say?

6 A. I don't think that's a fair statement. But in that --
7 given that hypothetical I guess you could do that.

8 Q. Isn't it true in that order that -- in that order that
9 you quoted, isn't it -- in paragraph two of the order,
10 isn't it true that it says in determining whether to
11 approve the negotiated settlements as proposed above,
12 the commissioner considered the licensee's total
13 record which shows no previous violation history since
14 being licensed on December 7th, 2009 at the above
15 named location under the current ownership?

16 A. Yes.

17 Q. That would be a positive reflection on the bar; isn't
18 that fair to say?

19 A. Sure.

20 Q. Are you aware that the Sunday nights receive a crowd
21 from Ypsilanti, sir?

22 A. No.

23 Q. Your officers don't take the time to tell you when
24 they go and do inspections on a Sunday night what type
25 of crowd is in the club?

1 A. Once again, using inspection very loosely, but I
2 don't speak to the -- I didn't speak to the road
3 officers in that position very frequently.

4 Q. But you set it up that it can be loose inspections
5 because the officers can go in at any time and call it
6 a liquor inspection and walk into the facility?

7 A. I am saying the term is used loosely, because it
8 has -- you have a full-blown liquor inspection or you
9 can have an officer just walking inside to see if
10 there's any fights going on and walking back out.

11 Q. But to get into the bar he would announce that he's
12 doing a liquor inspection; isn't that fair to say?

13 A. No.

14 Q. If there's no incident of any fight or anything else;
15 isn't that fair to say?

16 A. Announce it?

17 Q. Yeah, I'm coming to do a liquor inspection?

18 A. No. Just walking and looking around he's going to
19 know there's a liquor inspection. If he puts that on
20 their activity log also.

21 Q. Okay. So he can walk in and say a liquor inspection
22 and do an inspection, not as long as you would
23 normally think, but it certainly fit a liquor
24 inspection; isn't that fair to say?

25 A. I am saying that that terminology would be used by the

1 officer, but announcing that they're doing a liquor
2 inspection, I don't think they do much.

3 Q. So if there's evidence that's presented to show that
4 they were they would be violative of their policy and
5 procedures; isn't that fair to say?

6 A. No, that's not fair to say.

7 Q. So your policy and procedures allow them to walk in
8 and announce I'm doing a liquor inspection and walk
9 into the premises; is that what your policies allow?

10 A. I think you -- I think you lost me.

11 Q. Your policies allow the officers to walk into the
12 niteclub and say I'm doing a liquor inspection without
13 any kind of -- and any other forms or any other
14 evidence present; isn't that fair to say?

15 A. They can use that verbiage or cannot use that
16 verbiage.

17 Q. And they can pick and choose what night or what time
18 to go in; isn't that fair to say?

19 A. That's fair to say. But once again, it's generally
20 based on calls for service or other reasons that drew
21 your attention to that.

22 Q. Are you aware that how their Asian -- Friday night is
23 primarily Asian?

24 A. I am not aware of the racial makeup of any of them.

25 Q. But your officers would be aware of it; is that fair

1 to say?

2 A. I don't know.

3 Q. Have you ever asked them?

4 A. No.

5 Q. Have you ever asked them what nights things happen,
6 typically happened?

7 A. I wouldn't -- no, I don't generally speak to the
8 uniformed officers unless there is a violation, and
9 that probably would not be a question I would ask
10 them.

11 Q. You talked about resources. Do you keep a record of
12 the other clubs in Ann Arbor that you frequently
13 inspect for liquor violations on a regular basis?

14 A. Do I personally keep a record of that?

15 Q. Do you personally keep a record of it or does your
16 department keep a record of it?

17 A. The department would keep a record of calls for
18 service at the different establishments.

19 Q. Do your officers keep a logbook?

20 A. You're saying that plural?

21 Q. Do your officers, when they come back from patrol, do
22 they keep a logbook?

23 A. They do a running activity log in the car, if that's
24 what you mean.

25 Q. An activity logbook. And they keep a video?

1 A. Well, it's a piece of paper.

2 Q. Yeah, it's a piece of paper but it says activity log;
3 isn't that correct?

4 A. Yes.

5 Q. And it's a document of really all the runs they do
6 that night in their patrol; isn't that fair to say?

7 A. Yes.

8 Q. Is there oversight or review of those logs?

9 A. Yes.

10 Q. Who does the oversight and review of those logs?

11 A. Their immediate supervisor.

12 Q. Is there one supervisor that's in charge of that or
13 are there numerous supervisors in charge of it?

14 A. The officers are divided into smaller groups with a
15 sergeant.

16 Q. Okay. And how many sergeants do you have working on
17 that part of your routine?

18 A. Which shift are you referring to?

19 Q. The routine of checking the logs and checking the
20 logbooks when the officers come back?

21 A. Well, the activity logs are turned in every night, and
22 generally four sergeants per shift.

23 Q. Okay. And that data, is it kept somewhere to show
24 where the officers respond to or what the officers
25 respond to on a regular basis?

1 A. I am not sure I understand the question.

2 Q. In other words --

3 A. Where the activity log's kept?

4 Q. When they do a run to a bar, a run to a location that
5 takes time and money; isn't that fair to say?

6 A. Yes.

7 Q. And it costs the department time, the officers' time
8 to go to that location; isn't that fair to say?

9 A. Yes.

10 Q. And there are statistics kept of the time that they
11 spend doing log runs or runs to different locations in
12 the city; is that fair to say?

13 A. Yes. By the RMS system, not by that piece of paper.

14 Q. So do you have any documentation or any evidence to
15 show how many other bars from January to March
16 received runs by your police officers?

17 A. You could research that by the address of the bar.

18 Q. Do you keep track of it?

19 A. Do I randomly run the bars, no; for calls of service,
20 no.

21 MR. FARINHA: No further questions.

22 MR. WEST: No other questions.

23 HEARING OFFICER: No other questions? Then
24 this witness is excused.

25 MR. WEST: We have no additional witnesses.

1 HEARING OFFICER: Okay. It is now about 20
2 to 1:00. I suggest we take about a 40 minute break.
3 Let's get back here at 1:15 and then we'll take it
4 from there. Thank you. The hearing is recessed until
5 1:15.

6 (Recess taken at 12:37 p.m.)

7 (Back on the record at 1:21 p.m.)

8 HEARING OFFICER: We're back on the record
9 again. And I wanted to give the opportunity, from
10 both sides, for any further evidence or any further
11 comments. I think Mr. West had closed his case.

12 And we would ask the attorneys for the
13 respondent as to whether they wanted to add anything
14 on the record at this point, either a statement,
15 evidence or witnesses?

16 MR. FARINHA: We would like to do a joint
17 closing statement.

18 HEARING OFFICER: Okay.

19 MR. FARINHA: I don't know if they're doing
20 a closing statement as well, but we would like to do a
21 joint closing statement.

22 HEARING OFFICER: Yes. Mr. West?

23 MR. WEST: Yes.

24 HEARING OFFICER: Okay. Why don't we start
25 with Mr. West and then we'll go to your joint

1 statement.

2 MR. WEST: The notice of objection to
3 renewal of liquor licenses by the City that was sent
4 to V.R. Entertainment Network, Inc. Outlined several
5 factors pursuant to the Code Section of 9:79 of the
6 Ann Arbor City Codes as to why this license should not
7 be renewed.

8 We have presented testimony -- as I started
9 out this morning saying that the issue of the failure
10 to pay personal or real property taxes has been
11 withdrawn. That was listed as 1(b) in the notice of
12 objection letter.

13 1(c) is repeated violation of State liquor
14 law. 1(d), violations of the Liquor Chapter
15 Ordinances. 1(e) was maintaining a nuisance, and two
16 was MLCC violations.

17 We have heard testimony today that, in
18 reverse order there was, in fact, an MLCC violation
19 with respect to the stabbing incidents. Two of the
20 people who are identified as victims of stabbing were,
21 in fact, it would be a Marquis -- I'll get the name in
22 a minute -- and Sean Foster were, in fact, identified
23 as the persons, not only in the police report were the
24 victims of the stabbing, but later in the MLCC
25 complaint they were identified as the patrons who were

1 molested that were part of the stipulated settlement
2 of that complaint. It was agreed that, in fact, those
3 patrons were molested. So we think that has been
4 established. That was, again, number two.

5 In 1(e), maintaining a nuisance upon or in
6 connection with the licensed premises, including a
7 pattern of patron conduct in the neighborhood of the
8 licensed premises in violation of the law or which
9 disturbs the peace, order and tranquility of the
10 neighborhood. We've heard a number of incidents; a
11 stabbing, a shooting. While these events,
12 particularly the shooting allegedly occurred outside,
13 there's no question that this was the aftermath of
14 events that happened inside the Dream Niteclub. These
15 were patrons of the Dream Niteclub that were involved
16 in the shooting. And it's in our estimation not
17 possible to separate out the conduct and operation of
18 the Dream Niteclub from the events that followed and
19 which may have taken place outside.

20 We also heard testimony of another event
21 where a woman was beaten with a belt in the parking
22 garage adjacent to the Dream Niteclub. Once again,
23 the result of an altercation that occurred inside the
24 niteclub and which later then spilled to the outside.

25 Also with respect to 1(e), numerous police

1 contacts. Well, we've introduced the exhibit that
2 showed by my count 162 calls for service to that
3 particular address in about 34 months. And I would
4 note that this club is only open on certain nights of
5 the week. And anecdotally, I would submit that there
6 were long stretches of time in that period of 34
7 months when they weren't open at all. So 162
8 complaints in 34 months is remarkable.

9 Finally, 1(c), repeated violations of State
10 liquor law. We've heard some testimony today of
11 minors in possession, but certainly the cumulative
12 effect of all the other events that we've heard about
13 with respect to patrons being assaulted in the club
14 are violations of State liquor law.

15 And for all of these reasons we would
16 recommend that this Committee make a recommendation to
17 Council for nonrenewal.

18 HEARING OFFICER: Thank you, Mr. West.
19 Counsel?

20 MR. LEDER: Yeah, briefly. With respect to
21 the items that were taken into account, there was
22 testimony that there was only one occurrence where the
23 city of Ann Arbor has actually initiated an MLCC
24 violation within the Dream Niteclub. The numerous
25 police contact -- the Deputy Chief himself said

1 calling the police is not a bad thing. And that we
2 had presented evidence that all of these calls, these
3 160 calls, if parceled out break down to negligible
4 amounts of calls relating to incidents that are
5 occurring inside the club and the fact that you can't
6 separate what's inside and what's outside. The
7 argument is yes, you can. If the people within the
8 niteclub are in a controlled environment and the
9 niteclub is taking responsibility for what happens
10 inside, it is the responsibility of the city of Ann
11 Arbor and the police in order to take care of what
12 happens outside. And if that's something that the
13 parties can work together on, we're more than willing
14 to do that.

15 Additionally, maintaining a nuisance upon
16 or in connection with the licensed premises. This is
17 the area that I take umbrage with specifically, in
18 order to maintain a nuisance. There's an action
19 currently pending in the State Court to determine
20 whether or not a nuisance, in fact, exists. To state
21 here, where the advantage of not having to deal with
22 the Rules of Evidence, as Brother Counsel so stated,
23 or allowing hearsay testimony or utilizing a forum in
24 which evidence can be presented that cannot exist in a
25 State Court to maintain that nuisance action is a

1 simple example of a collateral attack, to try to use
2 the same factual circumstances and pull the liquor
3 license out from under them because they can't
4 maintain the action in State Court. In fact, the
5 action has been dismissed twice because it's been
6 unable to be maintained in State Court. And using
7 this administration and this Council as an extension
8 of that fact is disingenuous as to the purpose of it.

9 This is a thriving business who's paying
10 their taxes, that is providing a service to the city
11 of Ann Arbor that has done -- by their own testimony,
12 only had one incident where a violation of the State
13 liquor law occurred. Repeated violations of State
14 Liquor law? Then why is there only one five count
15 complaint that exists in the three years in which the
16 City has been licensed. The question is simple,
17 because they're not repeated violations of State
18 liquor law. If they were they would have been brought
19 forward.

20 And, you know, we have already addressed
21 the failure to timely pay. What we have here is a bar
22 that by its very nature, everywhere within the City,
23 caters to a crowd between the ages of 18 and 30. And
24 they're not the only bar in the city of Ann Arbor.
25 They're not the only bar that has fights. They're not

1 the only bar that has police contact. They're not the
2 only bar that has MLCC violations.

3 The minor in possession that occurred,
4 there was no ticket given to the bar, there was no
5 culpability extended to the bar. This is one person
6 who had an X on her hand who tried to sneak a drink;
7 and she's not the first and she won't be the last.

8 I attended the school at the University of
9 Michigan here and I can tell you I saw it on numerous
10 occasions at dozens of locations. Locations that are
11 still in business and still maintain their liquor
12 license. And every Saturday afternoon during the
13 football game I would bet 60 to 70 percent of the
14 people drinking are probably underage that are
15 tailgating outside. And you can't contain the
16 problem, you do their best.

17 Our clients have maintained a strict policy
18 of checking IDs at the door, maintaining X's on
19 everybody's hands, providing wristbands. Their
20 bartenders do not serve multiple drinks to people who
21 have one -- you've got to have a wristband to get a
22 drink. If you want to order two drinks you need two
23 wristbands. If you want to order three drinks you
24 need three people with wristbands. They monitor the
25 bar. The bouncers inside the club keep an eye on

1 people's hands. If there are skirmishes or fights
2 within the bar it's taken care of. They are escorted
3 outside. If the police need to called the police are
4 called.

5 This is an effort to attack the business
6 because, for lack of a better term, they don't like
7 the people who are going there. And that's what it
8 looks like to us from the inside, because five, six
9 nights a week there are not problems. One night a
10 week there seems to be some issues. And the way that
11 this is being handled -- there's an action in State
12 Court and that action should be allowed to at least be
13 determined if a nuisance is actually occurring before
14 this Council takes into account Section 9:79,
15 maintaining a nuisance. Because if the State Court in
16 the county of Washtenaw does not determine that a
17 nuisance has been maintained then they should be
18 allowed to have their liquor license.

19 MR. FARINHA: I would -- with the Court's
20 permission.

21 HEARING OFFICER: Yes.

22 MR. FARINHA: I would support co-counsel,
23 everything he stated.

24 I would ask the Court to look what's
25 missing from this picture. All you see are police

1 officers. You don't see one citizen coming forward or
2 any evidence from any citizen saying this club has
3 blocked, I couldn't get access to my house because of
4 the traffic, I had persons or patrons urinating at the
5 side of my club; we have prostitution activity that
6 affects my neighborhood, we have drug activity,
7 illegal sales; MCL 600.3801, the nuisance abatement
8 statute. And when I was prosecuting the nuisance
9 abatement statute we focused on the effect on the
10 citizens, how is it affecting the community. What we
11 hear are hearsay statements brought up by the police
12 who have unlimited power to enter that establishment
13 and conduct what they want to deem liquor inspections.
14 Fine. You want to set it up where your police have
15 the absolute power and control of whether a business
16 establishment survives and can create a false record,
17 then that's what's going on in this situation here.
18 Where are the citizens? What's missing? Where are
19 the neighbors? Where are the people coming forward to
20 say this club is affecting our livelihood or affecting
21 our enjoyment of our premises? Zero.

22 Now if we go to the Police Department --
23 when we prosecute nuisance abatement claims we look to
24 see where are the violations? The disorderly persons
25 violations, none. Where are the citations for

1 carrying the weapons, where is the citations for
2 allowing minors in possession -- or selling to minors
3 in possession? None. There are no tickets or
4 citations issued for patrons of the club. And if you
5 look at the witnesses that they allege -- the officer
6 admitted witnesses lie. So we're supposed to take
7 hearsay evidence that's subject to untruth or false
8 statements as a basis for closing this club down?

9 If you look at the other clubs in Ann Arbor
10 this is one of the finest establishments. They
11 haven't talked about the million dollars they've
12 raised for African American students to go abroad.
13 They haven't talked about the money they raised in
14 that for charitable purposes.

15 We had a minister here today that's
16 evidence of the church -- of the facility being used
17 as a church on Monday nights for church services.

18 This is a bar, okay. It's a bar that's
19 going to have some activity. But violence itself is
20 not necessarily a nuisance by the State statute. And
21 to come in here and bring -- parade witnesses after
22 witnesses who are police officers, who don't take the
23 time to document the proper statements of witnesses is
24 a travesty. It's a travesty targeting these
25 patrons -- owners of the establishment. When you look

1 at the nights that they're there, almost conclusively
2 it's a Saturday night, it's an African American night.

3 The city of Ann Arbor -- and we've heard
4 when -- is not to be looked at as a city that utilizes
5 its police powers to drive legitimate businesses away
6 and would close legitimate businesses. They have
7 property interests, constitutionally protected
8 interests that have to be upheld by the City Council,
9 that have to be established by this Court.

10 We can't be saying it's not proper evidence
11 or evidentiary issues or we don't follow Rules of
12 Evidence here, but we follow the rules of decency and
13 common sense. And if you don't take the time to give
14 them a ticket so they can challenge it, but you
15 unilaterally bring your officers to target and create,
16 create an image, a negative image, but you don't
17 document the good they do. They don't document how
18 many times they passed liquor inspections, how many
19 times officers have gone and found no problem. They
20 don't get letters to show to this Court that five
21 officers came in this week or within the month and
22 every one has been passed. They don't bring that,
23 only the negative.

24 I would say that in this hearing the
25 license should be retained. This matter should be

1 dismissed. The fact that how they have kept up with
2 their taxes takes away any underlying precedent or any
3 underlying substance that the City has that targets
4 this establishment. And I would argue the only thing
5 that makes sense is race. And I would say it's a
6 malicious attempt to shut a business that attracts an
7 element that the City does not want.

8 The annoying person statute has been shot
9 down in Detroit. The Sixth Precinct were targeting
10 gay men in Rouge Park using an annoying person
11 statute. And that's litigated in the Michigan Courts
12 and it's been struck down. That's the exact same
13 thing that we're having here and we ask that this
14 matter be dismissed.

15 HEARING OFFICER: Any further comments?

16 MR. WEST: Very briefly. I would note that
17 the two previous nuisance actions that were dismissed
18 were done so not because the Court ruled on the
19 merits, but because the City voluntarily dismissed
20 those cases after a period of good behavior, if you
21 will, by the bar. One of which occurred after a very
22 lengthy time when the bar wasn't even open for
23 business. Unfortunately, each time the cases were
24 voluntarily dismissed the problems started all over
25 again. And that's where we are right now.

1 HEARING OFFICER: There being no further
2 witnesses, no further evidence and no further
3 statements I would like to thank counsel for the City,
4 but also counsel for the establishment on a
5 well-presented case.

6 Obviously these are not easy decisions.
7 There's a lot of evidence and that I am going to have
8 to go through and a lot of thought that has to go into
9 it. And again I thank you.

10 This is, as many of you know, a new
11 procedure that's been around for about two years now,
12 in terms of providing a hearing and an opportunity to
13 raise objections to potential renewal, and also to
14 answer those objections. And as we get more into it I
15 think that we get better at it. But I think this is a
16 very well-presented case on both sides with all the
17 correct issues, I think, raised, as well as the
18 objections.

19 Thank you both for your hard work on this.
20 And this hearing is adjourned. I will take this under
21 advisement and will be issuing my findings and
22 recommendations forthwith.

23 MR. FARINHA: Thank you.

24 (Proceedings concluded at 1:38 p.m.)

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CERTIFICATE OF REPORTER

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

I hereby certify that I reported
stenographically the foregoing proceedings and
testimony under oath at the time and place
hereinbefore set forth; that thereafter the same was
reduced to computer transcription under my
supervision; and that this is a full, true, complete
and correct transcription of said proceedings.

AMY TOBIAS LENGA, CSR-4925
Notary Public
Wayne County, Michigan
My commission expires: 12-22-16