

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

COMMONWEALTH OF MASSACHUSETTS  
CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

Michael P. Gardner, Personnel Director  
Gerald Reardon, Fire Chief  
Christopher J. Burke, Superintendent

STAFF:

Elizabeth Y. Lint, Executive Officer

-- held at --

Michael J. Lombardi Municipal Building  
831 Massachusetts Avenue  
Cambridge, Massachusetts  
Basement Conference Room

Tuesday, October 26, 2010

6:10 p.m.

---

REPORTERS, INC.  
CAPTURING THE OFFICIAL RECORD  
617.786.7783/FACSIMILE 617.639.0396  
www.reportersinc.com

## I N D E X

	Page
1	
2	
3	Di sci pl i nary: The Western Front, Inc. 18
4	110
5	Appl i cati on: Paul Revere Transportati on
6	d/b/a EZ Ri de Shuttl e 3
7	Appl i cati on: Star Market Company 162
8	Appl i cati on: P. F. Chang' s Chi na
9	Bi stro 169
10	Appl i cati on: Hourgl ass Tattoo Studi os 174
11	Appl i cati on: Gi ft Jaj a d/b/a Jaj a Cafe 184
12	Rati fi cati ons Approved at the Desk by
13	the Chai rman/Executi ve Offi cer 191
14	Medal l i on #70
15	Medal l i on #141
16	Medal l i on #202
17	Medal l i on #44
18	Medal l i on #212
19	Medal l i on #169
20	#179
21	Medal l i on #199
	Medal l i on #237

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

ELIZABETH LINT: It's License

Commission General Hearing Tuesday, October 26, 2010. It's 6:08 p.m. We're in Michael J. Lombardi Municipal Building, 831 Mass. Ave. basement conference room. Before you are the Commissioners, Acting Chairman Michael Gardner, Chief Gerald Reardon and Superintendent Chris Burke.

If anyone is here for Phi Beta Epsilon, that's been continued to November 23rd. And the Application of Capone Foods has been withdrawn.

Application Paul Revere Transportation doing business as EZRide Shuttle, has applied to amend their existing shuttle route. EZRide will continue to operate seven buses during the morning and afternoon peak commuter hours, 6:00 a.m. to 11:00 a.m. and 3:00 p.m. to 7:00 p.m., covering the full route between Cambridgeport and North

1 Station. EZRide also operates one bus on the  
2 Midday Route from 10:44 a.m. to 3:04 p.m.  
3 between Kendall Square and Pacific Street.  
4 The route is available for review.

5 MICHAEL GARDNER: Just before we get  
6 started with that, let me introduce myself.  
7 My name is Michael Gardner. I'm the  
8 personnel director for the City of Cambridge.  
9 I've been in that role for a number of years.  
10 I've been appointed to temporarily serve as  
11 the Chair of the License Commission during  
12 the leave of absence of the permanent Chair.  
13 I look forward to the work.

14 It would be helpful, sir, if you could  
15 just introduce yourself, state your name for  
16 the record, and give us a description of why  
17 you're here and what you're seeking.

18 JIM GASCOIGNE: Absolutely. My name  
19 is Jim Gascoigne. I'm the Executive Director  
20 of Charles River Transportation Management  
21 Association. We are the contract manager for

1 EZRide Shuttle Service. We hired Paul Revere  
2 Transportation as our vendor. I'm expecting  
3 a representative from Paul Revere, but I  
4 would prefer if it's okay with the Commission  
5 to proceed. I think I will be able to answer  
6 all of your questions about the changes of  
7 the route.

8 This is a shuttle service that's been  
9 in place under license to the Commission  
10 since 2002. In August of this year we  
11 amended the route, changed the route by way  
12 of a merger with one of MIT's shuttle  
13 service. And the -- one of the chief virtues  
14 of this service is that we take private  
15 services that are open only to specific  
16 individuals affiliated with businesses or  
17 institutions, and we provide an open joint  
18 service running between North Station and  
19 Cambridgeport.

20 When we made that merger, frankly we  
21 weren't bold enough. We recognize that we

1 would be serving two distinct audiences: The  
2 MIT folks coming from dormitories in  
3 Cambridgeport around Sydney and Pacific  
4 heading to campus in the morning, away from  
5 campus in the afternoon. And the other  
6 distinct audience are commuters coming into  
7 Cambridge from North Station and being  
8 distributed to the 20 member businesses and  
9 institutions in the morning. And then being  
10 picked up at those institutions, being taken  
11 back to their trains at North Station in the  
12 afternoon.

13 We put the stops in Kendall Square at  
14 the same location on Main Street. And what  
15 we are proposing to do today is separate the  
16 inbound and outbound stops of the service.  
17 The main reason to do that is that when we're  
18 on Main Street, we have to -- we have to make  
19 a loop around through the MIT campus, and  
20 that adds about four to six minutes of  
21 running time. It's fine when we're carrying

1 students to MIT and their grad dorms. That  
2 four to five minute of running time is not  
3 fine for commuters who are trying to reach  
4 their train.

5 So we're proposing tonight that we go  
6 back to the other side of Main Street; that  
7 we use Broadway and the bus turnaround and  
8 stop in front of the Cambridge side -- or in  
9 front of the MIT Coop for our inbound service  
10 to North Station in the evening which will  
11 facilitate people catching their trains on  
12 time. That's one piece.

13 The other piece is we have a midday  
14 service which had a turnaround using Sydney,  
15 Tudor, Brookline and Pacific Streets. When  
16 the paving project was completed on Brookline  
17 Street, the new configuration of parking  
18 spaces made it very difficult for a bus to  
19 make the turn, the right-hand turn from Tudor  
20 to Brookline Street. And so we've made a  
21 change to be able to run that service more

1 effectively. So those are the two changes  
2 we're requesting this evening.

3 ELIZABETH LINT: Traffic and Parking  
4 has approved the amended route.

5 MICHAEL GARDNER: Okay.

6 And so on the Main Street stop how is  
7 it marked now where you will be on the other  
8 side of the street?

9 JIM GASCOIGNE: Yeah, we have stop  
10 signs that look like a regular bus stop sign  
11 that have our logo and a bus logo on them.  
12 Those will be posted in coordination with  
13 parking transportation. And then we have a  
14 sign that provides some information about  
15 when drop-offs and pick-ups occur at those  
16 stops.

17 And our riders are again, we have these  
18 two distinct camps of riders. The merger in  
19 August was to take advantage of empty  
20 capacity on the busses. In other words, we  
21 were full in one direction, MIT was full in



1 the opposite direction. So, we're now making  
2 much better capacity utilization of the seven  
3 vehicles that we have on the road, and that  
4 enabled MIT to take one bus off the road  
5 entirely. So there's an air quality impact  
6 with that. Consequentially we have inbound  
7 and outbound legs to our service. Each group  
8 of riders does the same thing everyday. They  
9 know exactly where they need to be on the  
10 service. And so once we make this change,  
11 there will be a day or two where people get  
12 accustomed to the new service and then  
13 they'll be on autopilot. They'll know where  
14 to go each and every day.

15 We also have a fabulous website. We  
16 have flyers that we hand out to anyone who  
17 rides the service. We're now up and running  
18 with NextBus. Which if you're familiar with  
19 it, the T also does. You can go to a website  
20 or using your handheld device, get  
21 predictions for the next three arrivals for a

1 bus. So it eliminates waiting time. We're  
2 expecting people to start relying on that a  
3 lot more. It's GPS delivered, very  
4 consistent. And we're expecting that that's  
5 going to be the way people use bus service  
6 moving forward for the most part. So there  
7 won't be an issue with the stops.

8 MICHAEL GARDNER: And if approved,  
9 when would this go into effect?

10 JIM GASCOIGNE: We would like to put  
11 this into effect January 1st, the first  
12 business day in the new year. As you may be  
13 aware, there is going to be a bridge closure.  
14 The Craigie Bridge is going to be closed  
15 coming up shortly. That's right along our  
16 route. We're very concerned about making a  
17 route change during such a dramatic impact to  
18 the route.

19 So that the plan would be to do it  
20 January 1st. I would like to ask the License  
21 Commission what sort of leeway we might be

1           able to have with that? Because once we see  
2           the impact of that bridge closure, it may  
3           make sense to do this earlier if possible.  
4           Do you need a firm and fast date or can we  
5           have a window within which we seek to  
6           implement the change?

7                     ELIZABETH LINT: Well, this would  
8           actually have to be approved by the City  
9           Council. So it would be the Commissioners  
10          recommend, if they so choose, to recommend  
11          approval to the City Manager for the City  
12          Council and it could be at any date that was  
13          selected. Whatever you agreed on.

14                    JIM GASCOIGNE: I guess the key  
15          question is you might -- do you need to  
16          select a specific date or could it be a  
17          window within sometime within this four-week  
18          period?

19                    ELIZABETH LINT: Sure.

20                    JIM GASCOIGNE: That would be the  
21          preference. So from say December 1st to --

1 after saying four-week period, I'm going to  
2 ask six weeks if possible. Well, from  
3 approval of City Council to January 15th  
4 would be my preference if that were workable.  
5 If not workable, we'll take what the  
6 Commission can advise.

7 MICHAEL GARDNER: Commissioners?

8 GERALD REARDON: The Craigie project  
9 runs potentially from November to April with  
10 a whole sundry of --

11 JIM GASCOIGNE: There are three  
12 phases. The first phase there will be no  
13 inbound traffic from Cambridge to Leverett  
14 Circle.

15 GERALD REARDON: Correct.

16 JIM GASCOIGNE: That's starting  
17 November 5th, a week from Friday. From early  
18 December until about February there will be  
19 two-way traffic again, two lanes each  
20 direction. And then sometime in early  
21 February to April, again, the roads will be

1 closed such that is that you cannot access  
2 Leverett Circle from Cambridge directly.

3 GERALD REARDON: I just want to make  
4 sure you understand it happens twice  
5 unfortunately.

6 JIM GASCOIGNE: Yeah.

7 GERALD REARDON: The other quick  
8 question is have you already worked out with  
9 Traffic and Parking where this spot is going  
10 to be?

11 JIM GASCOIGNE: Yes.

12 GERALD REARDON: Okay.

13 And it's on Main Street up on the next  
14 to the Marriott property in that area?

15 JIM GASCOIGNE: Correct. It's right  
16 -- we're looking to go -- right now we're --  
17 if you're heading inbound on Main Street, you  
18 pass the T head house and the crosswalk and  
19 the mid-block and the stop is right there,  
20 trolley stop there. Peter Pan Bus does a  
21 service between MIT and Wellesley. They stop

1           there. MIT shuttles stop there. We're  
2           looking to be directly across the street. So  
3           in the other direction, that would be right  
4           before you get to the crosswalk. And  
5           currently there are T busses assigned to that  
6           space.

7                         GERALD REARDON: Okay.

8                         JIM GASCOIGNE: We've talked to the  
9           T. They don't have an issue with it. Paul  
10          Revere our vendor, the general manager long  
11          time operations chief at the T, and he's made  
12          some inquiries and it appears that that's  
13          workable.

14                        GERALD REARDON: And a quick  
15          question. Tudor to Brookline, is that from  
16          cars parking on the corner that it's  
17          difficult?

18                        JIM GASCOIGNE: I have to be honest,  
19          I haven't actually been out and looked at it.  
20          My operations manager did this. My  
21          understanding is that the parking is on the

1 left-hand side of the street. And on  
2 Brookline, parking goes back and forth. It's  
3 on one side only and it will flip  
4 periodically. And I believe it's on the  
5 left-hand side. So when you're making a  
6 right-hand turn with a bus, there's just not  
7 enough room given the size of Tudor Street to  
8 make that turn reliably. It may be that  
9 there's a telephone pole or some other things  
10 on the sidewalk that also make it --

11 GERALD REARDON: That interests me  
12 for other reasons.

13 ELIZABETH LINT: This might help.

14 RICHARD DALEY: Hi. My name is  
15 Richard Daley. I'm the general manager of  
16 Paul Revere. That's exactly what it is, when  
17 they did the road over, the parking was on  
18 the right. Or the no parking on the right,  
19 they moved it over to the left so the bus  
20 cannot come out and take the turn. When the  
21 vehicles are on the right-hand side, we can

1 make the turn. Because they put the parking  
2 on the other side and the bus comes out, it's  
3 not enough room for it it go with the cars  
4 parked on that side of the street.

5 GERALD REARDON: That's of interest  
6 to me for other reasons. Our trucks are a  
7 little bit bigger than your bus.

8 JIM GASCOIGNE: That's true.

9 GERALD REARDON: Okay, thank you.

10 MICHAEL GARDNER: Superintendant,  
11 anythi ng?

12 CHRISTOPHER BURKE: All set.

13 MICHAEL GARDNER: Pleasure of the  
14 Commi ssi on?

15 GERALD REARDON: Move to approve.

16 CHRISTOPHER BURKE: Second that.

17 MICHAEL GARDNER: So thi s woul d be a  
18 moti on to recommend the approval of thi s  
19 change to the Ci ty Manager for consi derati on  
20 by the Ci ty Counci l?

21 ELIZABETH LINT: Correct, yes.



1                   MICHAEL GARDNER: With their having  
2 a window from Council approval through  
3 January 15th in order to implement.

4                   All those in favor?

5                   (Aye.)

6                   (Gardner, Burke, Reardon.)

7                   MICHAEL GARDNER: Opposed?

8                   (No Response.)

9                   MICHAEL GARDNER: The ayes have it.

10                  ELIZABETH LINT: Oh, I'm sorry.

11                  Jim, just check with my office for the date  
12 that it would be on the City Council agenda.  
13 And if you want to speak there, make sure  
14 you're there and sign up for that.

15                  JIM GASCOIGNE: Absolutely. Thank  
16 you.

17

18

19

20

21

1                   ELI ZABETH LINT: Do we have any  
2                   i nformati on on Offi cer Bates?

3                   CHRI STOPHER BURKE: He' s here.

4                   ELI ZABETH LINT: Oh, I di dn' t see  
5                   you. I' m sorry. Okay.

6                   Di sci pl i nary matter, The Western Front,  
7                   I ncorporated doi ng busi ness as The Western  
8                   Front, Marvi n Gi lmore, manager, holder of an  
9                   alcohol ic beverages as a restaurant li cense  
10                  and entertai nment li cense at 343-347 Western  
11                  Avenue due to poli ce reports regardi ng two  
12                  separate i ncidents at the establ ishment. One  
13                  i ncident al legedl y i nvol ved a stabbi ng, and  
14                  the other someone bei ng hi t over the head  
15                  wi th a bottle.

16                  MI CHAEL GARDNER: Shoul d we take  
17                  these matters i n chronol ogi cal order?

18                  ELI ZABETH LINT: I t' s your pl easure.

19                  MI CHAEL GARDNER: All ri ght. I' m  
20                  not exactl y sure how you do i t. Perhaps the  
21                  peopl e at the tabl e ri ght now can j ust

1 introduce themselves for purposes of the  
2 record and then we'll start with the police  
3 department.

4 ATTORNEY JAMES RAFFERTY: Good  
5 evening, Mr. Chairman, members of the  
6 Commission. For the record, my name is James  
7 Rafferty. I'm an attorney with the law firm  
8 of Adams and Rafferty located at 130 Bishop  
9 Allen Drive in Cambridge. I'm appearing this  
10 evening on behalf of the licensee, the  
11 Western Front. Seated to my right is the  
12 owner and manager of the Western Front, Mr.  
13 Marvin Gilmore, G-i-l-m-o-r-e. Mr. Gilmore's  
14 nephew Jeffrey Gilmore is seated to my left.  
15 He is the operations manager at the Western  
16 Front.

17 MICHAEL GARDNER: Sergeant.

18 SERGEANT MARK MCHALE: Sergeant  
19 McHale from the Cambridge Police.

20 OFFICER BATES: I'm Officer Bates  
21 with the Cambridge Police Department.

1 MICHAEL GARDNER: Thank you.

2 Sergeant, would you tell us about the  
3 incident that occurred in July?

4 SERGEANT MARK MCHALE: Yes.

5 I believe it was the night of July  
6 30th. We had a number of units in that  
7 particular area due to separate incidents.  
8 One of our officers happened to be driving by  
9 the Western Front, saw a large crowd pouring  
10 out of the establishment. At that point they  
11 were blocking Western Ave, the intersection  
12 of Western and Putnam. So he had called off  
13 at that point. He didn't know what was going  
14 on. Some other officers that were in the  
15 area responded over to assist him. As they  
16 assisting with some traffic and the crowd, it  
17 was discovered that there was a female who  
18 had been stabbed. She had suffered two stab  
19 wounds, both to her lower extremities. One  
20 more of a puncture, the other one more of a  
21 slash wound. She ended up on the corner of

1 Putnam and Western Ave. If you were looking  
2 at the Western Front, on the opposite corner.  
3 They immediately called for some medical and  
4 assisted to her.

5 As we were dealing with her and dealing  
6 with the crowd, we were notified through  
7 Cambridge City Hospital there were two other  
8 victims suffering from stab wounds.

9 After sending an officer to that  
10 location at the hospital, it was determined  
11 that those two individuals were also inside  
12 the Western Front when they were assaulted.

13 Through some witnesses in the crowd, it  
14 was believed that there was a fourth victim  
15 who at that point had not come forward or not  
16 made himself known. That victim did  
17 eventually make himself known. He also was  
18 interviewed by our detectives, and was  
19 stabbed inside the Western Front during this  
20 altercation.

21 I checked with ECC, communications, and

1           there were no phone calls from inside the  
2           club at all. No notification from any  
3           employees that the fight had happened. It  
4           was determined that the altercation was on  
5           the second floor of the establishment. I  
6           don't know the number of the people, or  
7           frankly I don't know the occupancy. It was  
8           certainly very crowded. The streets were  
9           full of people. A lot of people were upset  
10          at what was going on.

11                 I spoke to I believe it was  
12          Mr. Gilmore -- Jeffrey Gilmore, not the  
13          father, that night. He had stated to me that  
14          basically there was a show going on and they  
15          didn't anticipate the crowd being that large,  
16          and they were caught understaffed.

17                 Speaking with one of the detectives who  
18          was following up on the investigation, and  
19          while we were out in front of the Western  
20          Front that night, we had noticed that there  
21          was a person that looked like with a

1 professional video camera. And apparently  
2 this person was hired by the promoter to  
3 videotape this event. The detective was able  
4 to get a hold of that person and had viewed  
5 the video from inside of the club. It  
6 appeared, according to him, that there was  
7 some type of an altercation that occurred  
8 prior to the fight where the stabbings took  
9 place. You can't see this on the video.  
10 It's just too crowded. You can't make out  
11 the people. You can't see exactly who had  
12 what or who did what. Just that the video  
13 shows them -- the DJ or whoever is on the  
14 stage, trying to tell everybody to calm down,  
15 stop fighting and what not.

16 Sometime after that was when the  
17 altercation occurred and where the victims  
18 were stabbed on the second floor. And that  
19 was it for us.

20 MICHAEL GARDNER: Did you witness or  
21 view the videotape yourself?

1 SERGEANT MARK MCHALE: I have not.

2 MICHAEL GARDNER: Do you know if the  
3 videotape has time markers as to when it  
4 shows the effort to settle the crowd down  
5 from what I take it was the first  
6 altercation?

7 SERGEANT MARK MCHALE: I'm not aware  
8 of any time markers. But according to the  
9 detective it was readily obvious that there  
10 was some type of scuffle or something going  
11 on where they were trying to quell a  
12 disturbance. And a short time later is when  
13 it kind of broke out. And you can obviously  
14 tell when the altercation broke out and the  
15 stabbing occurred. People started yelling  
16 and screaming, running out the doors.

17 MICHAEL GARDNER: And this is on the  
18 videotape?

19 SERGEANT MARK MCHALE: It is.

20 ATTORNEY JAMES RAFFERTY: I'm sorry,  
21 is the Sergeant testifying -- I'm confused,



1 to his observations of the videotape or  
2 something that another individual told him  
3 was on the videotape?

4 MICHAEL GARDNER: Why don't we give  
5 you a chance to ask him those questions when  
6 it's your turn.

7 ATTORNEY JAMES RAFFERTY: Thank you.

8 MICHAEL GARDNER: Do you have a time  
9 estimate between when the police department  
10 first learned of this event from the crowd on  
11 the street and when the event itself happened  
12 based perhaps on the fact that some victims  
13 were apparently already at the hospital?

14 SERGEANT MCHALE: As soon as the  
15 officer called off of the crowd and the  
16 disturbance at the corner, he was then  
17 shortly notified of the victim, of the female  
18 victim. So from the time she got from the  
19 second floor to that corner, could be  
20 anywhere from -- if she got out quickly, two  
21 minutes to possibly five minutes.

1                   MICHAEL GARDNER: Meantime there are  
2 already people being treated at the hospital?

3                   SERGEANT MARK MCHALE: It was  
4 probably 15 minutes or so after we were on  
5 scene that we were notified that victims  
6 showed up at the hospital. And then another  
7 10 minutes or so before the officer got there  
8 and they made a determination that they were  
9 victims from that same incident.

10                  MICHAEL GARDNER: Okay.

11                  Questions from other Commissioners?

12                  CHRISTOPHER BURKE: Yes. Now you  
13 indicated that there was no call for service,  
14 no one from the Western Front made any call  
15 to the police department or requested any  
16 medical attention?

17                  SERGEANT MARK MCHALE: That's  
18 correct. I called ECC to see if there were  
19 any 9-1-1 calls or any calls generated from  
20 that address. And I was informed there was  
21 none.

1                   CHRISTOPHER BURKE: Did you have an  
2                   opportunity while you were there or do you  
3                   know if anyone under your command at the  
4                   scene had any conversation with any  
5                   representative from the Western Front?

6                   SERGEANT MARK MCHALE: I spoke to  
7                   the manager Mr. Gilmore.

8                   CHRISTOPHER BURKE: Is this  
9                   Mr. Gilmore, Junior?

10                  SERGEANT MARK MCHALE: Yes.

11                  CHRISTOPHER BURKE: What did he  
12                  relate to you?

13                  SERGEANT MARK MCHALE: Essentially  
14                  that there was a show going on there. Again,  
15                  the crowd was larger than they expected. He  
16                  had mentioned to me that "They were caught  
17                  shorthanded" on that night. Once the fight  
18                  broke out, he said, that their employees did  
19                  what they could to break up the fight and get  
20                  everybody out. When we showed up, they were  
21                  certainly on the stairs, on the front stairs

1           trying to di sperse the crowd and trying to  
2           move peopl e al ong.

3                   CHRISTOPHER BURKE:   Okay.  Thanks.

4                   GERALD REARDON:  Ms. Lint, what's  
5           the occupancy?

6                   ELIZABETH LINT:  The first floor is  
7           71, and the second floor is 78.

8                   MICHAEL GARDNER:  Did you ask  
9           Mr. Gilmore about whether he attempted to  
10          contact the police department and if he did,  
11          did he respond?

12                  SERGEANT MARK MCHALE:  I don't think  
13          I speci fical ly asked that questi on, no.

14                  MICHAEL GARDNER:  Mr. Rafferty.

15                  ATTORNEY JAMES RAFFERTY:  Thank you,  
16          Mr. Chai rman.

17                  Sergeant, pi cki ng up on thi s  
18          conversati on that you testi fied to wi th  
19          Mr. Gilmore, is it possi ble that the  
20          i ndi vi dual you had that conversati on wi th was  
21          a whi te male by the name of Wel bury

1 (phonetic), Edward Welbury.

2 SERGEANT MARK MCHALE: I did speak  
3 to him. I believe he was a door person or  
4 doorman. I'm not sure what his title was. I  
5 did speak to him also, yes.

6 ATTORNEY JAMES RAFFERTY: You spoke  
7 to Mr. Welbury?

8 SERGEANT MARK MCHALE: I believe so.

9 ATTORNEY JAMES RAFFERTY: But his  
10 name is not in your report but you have a  
11 memory of that name, do you?

12 SERGEANT MARK MCHALE: Just from the  
13 report. I don't know him personally.

14 ATTORNEY JAMES RAFFERTY: No, I say  
15 I don't see his name in your report.

16 SERGEANT MARK MCHALE: Oh.

17 ATTORNEY JAMES RAFFERTY: But I'm  
18 asking you tonight whether you spoke with Mr.  
19 Welbury.

20 SERGEANT MARK MCHALE: There were  
21 several employees that were on the front

1 walkway there, and I saw that he was one the  
2 door persons. I know one of the guys I  
3 talked to was one of the door guys. I assume  
4 it was him. I don't know him personally. I  
5 don't know if it was him particularly.

6 ATTORNEY JAMES RAFFERTY: Is it  
7 fair to say that Officer Lucy (phonetic) is  
8 the first officer that has any interaction  
9 with anyone involved in this incident?

10 SERGEANT MARK MCHALE: Yes.

11 ATTORNEY JAMES RAFFERTY: And your  
12 understanding is that Officer Lucy was in the  
13 area of the club for an unrelated purpose and  
14 made an observation; is that fair to say?

15 SERGEANT MARK MCHALE: Yes.

16 ATTORNEY JAMES RAFFERTY: And that  
17 observation was of a young woman at the  
18 corner of Putnam and Western?

19 SERGEANT MARK MCHALE: No. His  
20 initial observation was a crowd of people  
21 pouring out of the bar blocking the

1 intersecti on, blocki ng Putnam Ave.

2 ATTORNEY JAMES RAFFERTY: So, you' re  
3 testi fyi ng now wi th regard to Offi cer Lucy' s  
4 ini ti al observati on. What' s your basi s for  
5 testi fyi ng as to what hi s ini ti al observati on  
6 was?

7 SERGEANT MARK MCHALE: He menti oned  
8 that on the radi o when he cal led off. And we  
9 were --

10 ATTORNEY JAMES RAFFERTY: Okay. Do  
11 you know i f he prepared a report i n thi s  
12 case?

13 SERGEANT MARK MCHALE: I do not.

14 ATTORNEY JAMES RAFFERTY: You refer  
15 to a radi o cal l that Offi cer Lucy made.  
16 Isn' t that the fi rst di spatch that occurs i n  
17 concerni ng thi s inci dent?

18 SERGEANT MARK MCHALE: I' m not sure  
19 what you mean by di spatch.

20 ATTORNEY JAMES RAFFERTY: Wel l, the  
21 fi rst radi o communi cati on wi th the Cambri dge

1 Police involving this incident, is it the  
2 communication from Officer Lucy at that  
3 corner, do you know?

4 SERGEANT MARK MCHALE: Yes.

5 ATTORNEY JAMES RAFFERTY: Yes, you  
6 know and yes, you believe that to be the  
7 first --

8 SERGEANT MARK MCHALE: Yes, I  
9 believe Officer Lucy came across that  
10 situation and he radioed out that he was  
11 going to be stopping at that intersection due  
12 to the crowd.

13 ATTORNEY JAMES RAFFERTY: So, if  
14 Officer Nickerson (phonetic) says that he  
15 heard Officer Lucy radio that he was off with  
16 a stabbing victim at the corner of Western  
17 and Putnam, that would have been a later  
18 transmission from Officer Lucy according to  
19 your memory?

20 SERGEANT MARK MCHALE: I believe so.

21 ATTORNEY JAMES RAFFERTY: Because



1           you believe there was a prior transmission  
2           from Officer Lucy about a crowd in front of  
3           the Western Front?

4                    SERGEANT MARK MCHALE:  Yes, that's  
5           my recollection.

6                    ATTORNEY JAMES RAFFERTY:  Did you  
7           hear either of the two transmissions from  
8           Officer Lucy personally?

9                    SERGEANT MARK MCHALE:  Yes.

10                   ATTORNEY JAMES RAFFERTY:  Okay.  
11           You made mention of the videotape and  
12           you said that -- did you observe the  
13           individual with the video camera that night?

14                   SERGEANT MARK MCHALE:  Yes.

15                   ATTORNEY JAMES RAFFERTY:  Did you  
16           have conversation with the individual?

17                   SERGEANT MARK MCHALE:  No.

18                   ATTORNEY JAMES RAFFERTY:  Did you  
19           take the video into your possession that  
20           evening?

21                   SERGEANT MARK MCHALE:  No.

1                   ATTORNEY JAMES RAFFERTY: Do you  
2 know who did?

3                   SERGEANT MARK MCHALE: To the best  
4 of my knowledge, it was not taken that  
5 evening. It was -- we -- the officers got  
6 information from the person who was doing the  
7 videotaping, and the detectives followed up,  
8 made contact with that party, and they  
9 voluntarily turned the tape over.

10                  ATTORNEY JAMES RAFFERTY: Okay.  
11 Which detectives had contact, do you know?

12                  SERGEANT MCHALE: Detective Atherton  
13 is the lead detective on that case.

14                  ATTORNEY JAMES RAFFERTY: So would  
15 that suggest your answer is Detective  
16 Atherton had the contact with the video  
17 person?

18                  SERGEANT MARK MCHALE: I don't know  
19 which detective may or may not had  
20 conversation. I believe he was the lead  
21 detective on the case.

1 ATTORNEY JAMES RAFFERTY:

2 Understood, but my question was slightly  
3 different.

4 You relayed for the Commission the  
5 contents of that videotape but you  
6 acknowledged that you personally had not  
7 viewed it, correct?

8 SERGEANT MARK MCHALE: Correct.

9 ATTORNEY JAMES RAFFERTY: So what's  
10 your source of the testimony you provided  
11 concerning the content on that videotape?

12 SERGEANT MARK MCHALE: Detective  
13 Atherton.

14 ATTORNEY JAMES RAFFERTY: And it was  
15 Detective Atherton who provided you with the  
16 scenario involving a prior incident or a  
17 prior altercation he tells you is located on  
18 that tape?

19 SERGEANT MARK MCHALE: Yes.

20 ATTORNEY JAMES RAFFERTY: Do you  
21 know if anyone associated with the License

1           Commi ssi on has vi ewed that tape?

2                   SERGEANT MARK MCHALE:   I do not  
3           know.

4                   ATTORNEY JAMES RAFFERTY:   Do you  
5           know what became of that tape after the  
6           detectives were through wi th it?

7                   SERGEANT MARK MCHALE:   I bel i eve the  
8           i nvesti gati on i s sti ll ongoi ng.   My  
9           understandi ng i s i t i s sti ll i n thei r  
10          possessi on.

11                   ATTORNEY JAMES RAFFERTY:   Okay.  
12                   Can I j ust have one moment,  
13          Mr. Chai rman?

14                   MI CHAEL GARDNER:   Sure.   Whi l e he' s  
15          conferr i ng, Sergeant, do you know i f there' s  
16          been any arrests made i n the case?

17                   SERGEANT MARK MCHALE:   There have  
18          not been any arrests.   No suspect has been  
19          i denti fi ed.

20                   MI CHAEL GARDNER:   Thank you.

21                   ATTORNEY JAMES RAFFERTY:   Nothi ng

1 further. Thank you.

2 MICHAEL GARDNER: Any further  
3 questions for the Sergeant?

4 CHRISTOPHER BURKE: I just have one  
5 follow up. Based on your response to the  
6 scene and your conversations with other  
7 responding officers, do you have any doubt  
8 that the incident occurred inside the Western  
9 Front?

10 SERGEANT MARK MCHALE: No.

11 CHRISTOPHER BURKE: No further  
12 questions.

13 MICHAEL GARDNER: Okay. If we could  
14 ask you to stay until we've concluded this  
15 segment of the hearing in case there's any  
16 further questions, Sergeant?

17 SERGEANT MARK MCHALE: Yes, sir.

18 MICHAEL GARDNER: All right?

19 I think I'd like to hear from the  
20 Licensee about this incident before we go on  
21 and talk to the police department about the

1 next incident. Is that all right with you?

2 ATTORNEY JAMES RAFFERTY: Fine. So  
3 Officer Bates isn't testifying on this case?

4 OFFICER WILLIAM BATES: I was  
5 present at this as well. I don't know if you  
6 have any questions on it.

7 MICHAEL GARDNER: Okay. I didn't  
8 know that.

9 ELIZABETH LINT: I didn't know.

10 MICHAEL GARDNER: All right. Well,  
11 Officer Bates, you've been here for Sergeant  
12 McHale's testimony, haven't you?

13 OFFICER WILLIAM BATES: Yes, sir.

14 MICHAEL GARDNER: Okay. I just ask  
15 you if --

16 GERALD REARDON: Just for the  
17 record, the Officer's full name.

18 MICHAEL GARDNER: Thank you.

19 Why don't you identify yourself for the  
20 record?

21 OFFICER WILLIAM BATES: Patrolman

1 William Bates with the Cambridge Police.

2 MICHAEL GARDNER: I just would like  
3 you to take a few minutes and just supplement  
4 the information for the License Commission  
5 from any observations you made that evening.

6 OFFICER WILLIAM BATES: The Sergeant  
7 actually did a very good job, sir. I guess  
8 what I have to add to that is I did speak to  
9 Mr. Welbury who was the doorman, briefly. I  
10 spent most of my time there speaking to one  
11 of the victims of the stabbing. It's a  
12 25-year-old female resident of the city. And  
13 as the Sergeant described, she had a couple  
14 of wounds on her. A slash on her left thigh  
15 and a pretty deep puncture near her genital  
16 area. She was transported by ambulance for  
17 treatment to Boston Hospital I believe.

18 I also spoke to some other employees  
19 while I was there. The incident did appear  
20 to take -- based on what the employees said,  
21 particularly this one lady I spoke to who was

1 a second floor bartender, the initial  
2 confrontation and the stabbing appears to  
3 have happened up on the second floor. It  
4 would be I guess if you came up the stairs  
5 and then took sort of a hard left back  
6 towards the front of the building, it  
7 happened around there. I believe we noticed  
8 some what appeared to be blood on a couple of  
9 the steps, too, near the bottom of the  
10 stairway. There was probably two or --  
11 probably two employees inside that had been  
12 aware of the confrontation. That a fight had  
13 happened. Maybe not necessarily a stabbing  
14 at the moment it happened. And then  
15 Mr. Welbury, all he had to offer me was he  
16 had seen the people running out like -- he  
17 some -- like, he could tell something had  
18 happened. Something was going on. And we  
19 were actually there -- I was there pretty  
20 quickly as the Sergeant said. I think  
21 Officer Lucy first got the ball rolling



1 because we hadn't received any calls on it.

2 And I was there relatively quickly, too.

3 GERALD REARDON: Mr. Chair, could I  
4 ask a question?

5 MICHAEL GARDNER: Yes.

6 GERALD REARDON: For the record,  
7 what as your position that night; were you a  
8 working officer?

9 OFFICER WILLIAM BATES: I was in  
10 uniform patrol in actually the sector car,  
11 which is Sector III, the Cambridgeport,  
12 Central Square area. It was two-man unit.  
13 So that was -- the establishment was on my  
14 route, so I was in the immediate area.

15 GERALD REARDON: Okay.

16 MICHAEL GARDNER: And anything else  
17 you have to add to what you testified to so  
18 far?

19 OFFICER WILLIAM BATES: I don't  
20 believe so.

21 MICHAEL GARDNER: Do you have any

1 information about how serious the wounds were  
2 with any of the victims? If any of them were  
3 life threatening or how debilitating the  
4 wounds for any of the four were?

5 OFFICER WILLIAM BATES: The only one  
6 I would have information on is the lady I  
7 spoke to. I spent most of my time  
8 concentrating on her trying to get, you know,  
9 her version of what had happened.

10 And as I said, the slice wound to her  
11 thigh was pretty deep, and the puncture wound  
12 was rather deep, too. I suppose there's  
13 major arteries in the area. It could have  
14 possibly been life threatening. At the time  
15 I wasn't in fear for her life. But she was  
16 transported for treatment. She very clearly  
17 needed some, you know, major care for that.

18 MICHAEL GARDNER: And did you learn  
19 from any source how it was that she got from  
20 the place where the assault took place to the  
21 street?

1           OFFICER WILLIAM BATES: She just ran  
2 out with the whole crowd.

3           MICHAEL GARDNER: And could you just  
4 describe what the -- any observations you had  
5 of the size of the crowd out on the street  
6 when you came -- when you first arrived on  
7 scene?

8           OFFICER WILLIAM BATES: When I got  
9 there, it was pretty crowded. There were  
10 people all over the place. I don't remember  
11 if the street was blocked. Once I found her  
12 and saw she'd been stabbed pretty severely, I  
13 focussed a lot of my attention on her until  
14 after she was -- even after she got in the  
15 ambulance, I spent sometime with her. But  
16 there was a lot of people around. It was  
17 pretty chaotic. And the hour especially,  
18 what, it was half passed midnight I guess the  
19 call started.

20           MICHAEL GARDNER: Commissioners, any  
21 other questions?

1                   CHRISTOPHER BURKE: At what point  
2 did you speak to Mr. Welbury?

3                   OFFICER WILLIAM BATES: I believe I  
4 talked to him real quick while the medics  
5 were speaking to her. And I went back to him  
6 again afterwards to get his contact  
7 information as a witness and a little more of  
8 a full story, which he didn't have a lot to  
9 say. As I said, pretty much -- because he  
10 had been outside at the time. And he saw  
11 everybody pretty much come rushing out of the  
12 club at once and he could -- he was aware  
13 that something bad had happened.

14                  CHRISTOPHER BURKE: Did he identify  
15 what his job function was?

16                  OFFICER WILLIAM BATES: Yes. The  
17 doorman.

18                  MICHAEL GARDNER: And did you get  
19 any sense from him that he understood that  
20 there had been wounds or an assault, a  
21 stabbing?

1                   OFFICER WILLIAM BATES: I don't know  
2                   that he had specific knowledge of the  
3                   stabbing at the time. He probably had  
4                   learned -- he might have learned of it  
5                   through the circumstances afterwards. You  
6                   mean at the time it happened?

7                   MICHAEL GARDNER: I'm asking if you  
8                   have any information about when he learned  
9                   that there had actually been a stabbing?

10                  OFFICER WILLIAM BATES: Well, the  
11                  moment he knew there was a stabbing was  
12                  probably a few minutes after everybody had  
13                  come piling out. At the time he just knew  
14                  something had happened.

15                  MICHAEL GARDNER: Okay.

16                  Mr. Rafferty.

17                  ATTORNEY JAMES RAFFERTY: Thank you,  
18                  Mr. Chairman.

19                  Just a few questions, Officer. What  
20                  time would you estimate that you arrived at  
21                  the location?

1 OFFICER WILLIAM BATES: It was  
2 within a minute or two of the first call.

3 ATTORNEY JAMES RAFFERTY: Okay. Now  
4 at that time did you notice how many other  
5 police officers were on scene?

6 OFFICER WILLIAM BATES: At the  
7 moment I arrived, there was maybe only one or  
8 two other ones. I think we were one of the  
9 first units off, other than Officer Lucy. I  
10 believe he was in the wagon that night.

11 ATTORNEY JAMES RAFFERTY: But there  
12 were already EMS personnel attending to the  
13 victim when you arrived there; isn't that  
14 fair to say?

15 OFFICER WILLIAM BATES: No, I don't  
16 believe there was. No, I'm sure they came  
17 after I did.

18 ATTORNEY JAMES RAFFERTY: Okay.  
19 Did you prepare a report in this case.

20 OFFICER WILLIAM BATES: I did.

21 ATTORNEY JAMES RAFFERTY: I just

1 show the report and ask you to read the first  
2 paragraph.

3 First of all, can you acknowledge  
4 that's your report?

5 OFFICER WILLIAM BATES: Yes.

6 ATTORNEY JAMES RAFFERTY: I'm  
7 reading from a report that bears the name of  
8 Officer Bates at the top.

9 OFFICER WILLIAM BATES: Yes, that's  
10 my report.

11 ATTORNEY JAMES RAFFERTY: And in  
12 that report, do you say that when you arrived  
13 on scene, the EMS personnel were attending to  
14 the victim?

15 OFFICER WILLIAM BATES: Actually it  
16 does.

17 ATTORNEY JAMES RAFFERTY: Would that  
18 suggest then that perhaps there were more  
19 officers and personnel on the scene than your  
20 earlier response?

21 OFFICER WILLIAM BATES: Apparently

1 the ambulance was there. I know -- would you  
2 want me to read the whole thing or just the  
3 point you wanted to get at?

4 ATTORNEY JAMES RAFFERTY: No. I  
5 just wanted to reconcile your testimony that  
6 you were among the first and you were there  
7 prior to the arrival of EMS, with what I  
8 understand to be in your report a statement  
9 that you at the time of your arrival EMS was  
10 already there.

11 OFFICER WILLIAM BATES: According to  
12 my report, it appears they were, sir. I  
13 still, I still think I was there within, say,  
14 two minutes of the call.

15 ATTORNEY JAMES RAFFERTY: So things  
16 happened fast then. The victim -- so we have  
17 Officer Lucy arriving on the scene, radiating  
18 about a victim. And EMS is treating that  
19 victim. And you're there all within two  
20 minutes of that activity is your best  
21 estimate?



1                   OFFICER WILLIAM BATES: I believe  
2                   so, yes.

3                   ATTORNEY JAMES RAFFERTY: Okay.

4                   Do you think you might also might be  
5                   mistaken as to the number of other police  
6                   officers that are already on the scene when  
7                   you get there?

8                   OFFICER WILLIAM BATES: Well,  
9                   ultimately I can only testify as to what I  
10                  saw, sir. When I got there there was maybe  
11                  only, you know, two or three other officers  
12                  there. There could have been more that I  
13                  hadn't noticed, came behind me or parked  
14                  somewhere else or what not.

15                  ATTORNEY JAMES RAFFERTY: Right.

16                  At any rate, you did have an  
17                  opportunity to speak with the victim as you  
18                  testified?

19                  OFFICER WILLIAM BATES: Yes.

20                  ATTORNEY JAMES RAFFERTY: And she  
21                  informed you in fact that there had been a

1 fight inside the club and that's where she  
2 had sustained her injuries; is that correct?

3 OFFICER WILLIAM BATES: Yes.

4 ATTORNEY JAMES RAFFERTY: Did you  
5 learn during the course of the investigation  
6 whether this incident involved a single  
7 suspect or multiple suspects?

8 OFFICER WILLIAM BATES: I believe it  
9 was a fight between at least two people.

10 ATTORNEY JAMES RAFFERTY: I'm  
11 referring to the stabbing of the young woman  
12 that you encountered on the corner.

13 OFFICER WILLIAM BATES: Oh. During  
14 my whole response I came to find there was, I  
15 think we -- at the time we had known three.

16 ATTORNEY JAMES RAFFERTY: Three  
17 suspects.

18 OFFICER WILLIAM BATES: Sorry,  
19 suspects or victims?

20 ATTORNEY JAMES RAFFERTY: Suspects.

21 OFFICER WILLIAM BATES: Oh. No, I

1 believe only one was articulated.

2 ATTORNEY JAMES RAFFERTY: All right.

3 There seems to be some consistency in the  
4 reports of the officers, including yourself  
5 of a heavyset, six-foot black male with a  
6 beard. Is that consistent with your  
7 recollection?

8 OFFICER WILLIAM BATES: That sounds  
9 right.

10 ATTORNEY JAMES RAFFERTY: Were you  
11 aware of statements given by some of the  
12 other victims that they were not even aware  
13 that they had been stabbed until they left  
14 the club?

15 OFFICER WILLIAM BATES: I didn't  
16 speak to any of the victims, sir.

17 ATTORNEY JAMES RAFFERTY: That's not  
18 my question, Officer.

19 OFFICER WILLIAM BATES: Oh, I'm  
20 sorry.

21 ATTORNEY JAMES RAFFERTY: Did you

1           become aware of statements made by any other  
2           victims where they indicated that they were  
3           not even aware that they had been stabbed;  
4           whether you have any awareness of those  
5           stabblings?

6                       OFFICER WILLIAM BATES:  No, I  
7           didn't.

8                       ATTORNEY JAMES RAFFERTY:  Okay.  But  
9           the -- I have, the police officer's reports  
10          have been marked as an exhibit or do I need  
11          to introduce them?

12                      ELIZABETH LINT:  You wouldn't need  
13          to.  They are part of the record.

14                      ATTORNEY JAMES RAFFERTY:  They are  
15          part of the record.

16                      ELIZABETH LINT:  They are part of  
17          the record.

18                      ATTORNEY JAMES RAFFERTY:  I'll bring  
19          that up then I guess in argument.  Because  
20          there seems to be a series of statements from  
21          individuals.  It goes to the issue -- the

1 relevance of this goes to the issue of what  
2 was known, how quickly things happened and  
3 was it an incident with a single individual  
4 who fled, and there was an attempt to grab  
5 that individual and the timeline involving  
6 notification. But I understand if you don't  
7 have knowledge of that, then I have no  
8 further questions.

9 MICHAEL GARDNER: Did you have any  
10 conversations with Mr. Jeffrey Gilmore?

11 OFFICER WILLIAM BATES: I believe I  
12 saw him there. I don't think I spoke to him.

13 MICHAEL GARDNER: All right. Thank  
14 you very much, appreciate it. I again ask  
15 you to stay if you would until it's  
16 concluded.

17 OFFICER WILLIAM BATES: Yes, sir.

18 MICHAEL GARDNER: Mr. Rafferty. Do  
19 you want to talk about this incident?

20 ATTORNEY JAMES RAFFERTY: Sure. Mr.  
21 Chairman, we essentially have one witness.

1 But in the interest of time, by waiver and  
2 offer of proof, I'd be happy to stipulate to  
3 a number of facts that have been testified to  
4 by the officers.

5 There was indeed an incident that  
6 occurred at the club which resulted  
7 unfortunately in the stabbing of a few  
8 individuals.

9 Mr. Gilmore, Mr. Jeffrey Gilmore was  
10 present that evening. And he would testify  
11 to what he observed. But there's no factual  
12 dispute that it did indeed happen within the  
13 club.

14 And I think the appropriate review for  
15 the Commission would be three-fold: Whether  
16 or not there was anything about the conduct  
17 of the Licensee that created an environment  
18 that may have facilitated or allowed this to  
19 happen.

20 I think the second question is what was  
21 the response of the Licensee when the

1 incident occurred?

2 And I'd say the third incidence is  
3 whether or not any violations of any License  
4 Commission rules and regulations were  
5 occurred by the Licensee.

6 So I'll ask Mr. Gilmore to state his  
7 name and address for the record.

8 JEFFREY GILMORE: Jeffrey Gilmore,  
9 185 Putnam Avenue, Cambridge.

10 ATTORNEY JAMES RAFFERTY:  
11 Mr. Gilmore, how are you employed?

12 JEFFREY GILMORE: As the manager of  
13 the Western Front.

14 ATTORNEY JAMES RAFFERTY: Is it fair  
15 to say that you are involved in most of the  
16 principal operations of the club?

17 JEFFREY GILMORE: Yes.

18 ATTORNEY JAMES RAFFERTY: And who  
19 owns the Western Front?

20 JEFFREY GILMORE: Marvin Gilmore.

21 ATTORNEY JAMES RAFFERTY: What's

1 your relationship to Marvin Gilmore?

2 JEFFREY GILMORE: He's my uncle.

3 ATTORNEY JAMES RAFFERTY: And do you  
4 know how long your uncle has owned the  
5 Western Front?

6 JEFFREY GILMORE: 35, going on 40  
7 years I think.

8 ATTORNEY JAMES RAFFERTY: Okay. And  
9 how long have you been associated or working  
10 at the club?

11 JEFFREY GILMORE: Over 15.

12 ATTORNEY JAMES RAFFERTY: You live  
13 nearby, in close proximity to the club?

14 JEFFREY GILMORE: Yes.

15 ATTORNEY JAMES RAFFERTY: Where do  
16 you live?

17 JEFFREY GILMORE: In the same  
18 building.

19 ATTORNEY JAMES RAFFERTY: Now,  
20 drawing your attention to the evening in  
21 question, July 29th. Do you recall what day



1 of the week that was?

2 JEFFREY GILMORE: Thursday.

3 ATTORNEY JAMES RAFFERTY: Thursday.

4 What was occurring at the club that evening?

5 JEFFREY GILMORE: We have DJ's who  
6 spin records and performers who sing along  
7 with the records.

8 ATTORNEY JAMES RAFFERTY: Could you  
9 briefly describe for the Commission the  
10 layout of the club, the physical layout of  
11 the space?

12 JEFFREY GILMORE: There's a probably  
13 a four-step walkup to the two entrances. One  
14 entrance on the right-hand side, and with a  
15 section in between and then another entrance  
16 on the left. The entrance on the left takes  
17 you to the downstairs bar, and then you can  
18 -- once you're inside, you continue around to  
19 a staircase that brings you up to the second  
20 floor.

21 The second floor as you top the stairs

1 to the left is the bar, second floor bar.  
2 And to the right is the -- is a floor area  
3 with the sound booth back there. And the  
4 men's, ladies room kitty-corner to the right  
5 and the back. Stage is facing you as you  
6 crest the stairs.

7 ATTORNEY JAMES RAFFERTY: So the  
8 entertainment at the club occurs as it did  
9 that evening on the second floor of the club;  
10 is that correct?

11 JEFFREY GILMORE: Yes.

12 ATTORNEY JAMES RAFFERTY: And with  
13 regard to the entertainment that evening,  
14 what was involved, how was it arranged, and  
15 how were patrons permitted to access the  
16 entertainment area?

17 JEFFREY GILMORE: On the right-hand  
18 side is the entrance, a main entrance. They  
19 pay the fair inside and continue in to the  
20 music upstairs.

21 ATTORNEY JAMES RAFFERTY: Okay.

1           What time did you arrive at the club that  
2           evening?

3                   JEFFREY GILMORE: I'm there at eight  
4           o'clock.

5                   ATTORNEY JAMES RAFFERTY: And when  
6           you -- were you there through the entire  
7           duration of the evening?

8                   JEFFREY GILMORE: Yes.

9                   ATTORNEY JAMES RAFFERTY: Drawi ng  
10          your attention then to the period of time  
11          approachi ng mi dnight, can you expl ai n what  
12          you di d that evening i n a broader context,  
13          how consi stent that i s wi th your typi cal  
14          Thursday ni ght operati ons?

15                   JEFFREY GILMORE: Normal procedure  
16          for Thursday ni ghts bei ng a weekni ght and  
17          i t' s a nei ghborhood, we l i ke to sl ow thi ngs  
18          down around mi dnight. So I had the DJs  
19          conti nue background musi c whi le the  
20          performers were no l onger performi ng. We  
21          bring up the l ights. We clear -- get the

1 bartenders to start clearing tables. And  
2 kind of slow things down until we close at  
3 one o'clock.

4 ATTORNEY JAMES RAFFERTY: So around  
5 12:15 that evening, can you inform the  
6 Commission where you were and what happened  
7 in the following 15 minutes?

8 JEFFREY GILMORE: I was up there  
9 approximately midnight. I got to -- I mean,  
10 twelve o'clock I was up there doing what I  
11 just described. Got downstairs, I normally  
12 monitor the exit door. You know, make sure  
13 what's going on. Who's leaving and, you  
14 know, people -- just doing the regular  
15 monitoring. I'm at the door, and probably  
16 five minutes later I hear the commotion  
17 upstairs. I see people running down the  
18 stairs. Which where I'm at is the door, and  
19 no more than four feet away from me are the  
20 stairs coming down from upstairs. I run up  
21 through the crowd, look around. I don't see

1 anybody, any commotion. I see chairs and  
2 tables knocked over. As I'm up there, I go  
3 around to the bar and make sure everything's  
4 -- everybody's okay at the bar. There's  
5 really no people on that side. People have  
6 already exited as they're running by me. I  
7 go over to the other side, I look and see on  
8 the right-hand side, there's no more than two  
9 minutes it takes me to get from one side to  
10 the other. And I go downstairs.

11 ATTORNEY JAMES RAFFERTY: At that  
12 point when you go downstairs, do you have an  
13 understanding of what has occurred?

14 JEFFREY GILMORE: No, no. I know  
15 there's some kinds of commotion. I have no  
16 idea anybody's been attacked or stabbed or  
17 anything. People are running by me, I'm  
18 trying to assess the situation on the second  
19 floor.

20 ATTORNEY JAMES RAFFERTY: After  
21 you're upstairs, where did you then go?

1                   JEFFREY GILMORE: I came back down  
2 the stairs, followed the people out, make  
3 sure, monitor the door. As soon as I get out  
4 the door, no more than a minute later there's  
5 police outside. People are outside on the  
6 front sidewalk. There's a squad car on the  
7 opposite side of the street. And I went  
8 outside for a few minutes, and I went back  
9 inside to make sure there was -- there's no  
10 people left upstairs or in the building.

11                   ATTORNEY JAMES RAFFERTY: At the  
12 point in time when you described when you go  
13 outside and you observed the police, did you  
14 yet have knowledge of what's taken place  
15 upstairs?

16                   JEFFREY GILMORE: No, I have no idea  
17 people have been stabbed. No. I know  
18 there's an altercation because the physical  
19 evidence is there. The tables and chairs are  
20 all over the place. But as far as someone's  
21 been injured, no.

1                   ATTORNEY JAMES RAFFERTY:   When di d  
2                   you fi rst l earn of that?

3                   JEFFREY GI LMORE:   The stabbi ng?

4                   ATTORNEY JAMES RAFFERTY:   Yes.

5                   JEFFREY GI LMORE:   When the pol ice  
6                   offi cers came back i nsi de.

7                   ATTORNEY JAMES RAFFERTY:   Do you  
8                   recal l whi ch offi cer you spoke wi th?

9                   JEFFREY GI LMORE:   I spoke wi th the  
10                  Sergeant many ti mes.   He was there l ate.   He  
11                  was there wi th me wal ki ng around the bui l di ng  
12                  for at l east 45 mi nutes.   I don' t thi nk I  
13                  spoke to the patrol man.

14                  ATTORNEY JAMES RAFFERTY:   Sergeant  
15                  McHal e testi fi ed that he had a conversati on  
16                  wi th you where you stated that you were  
17                  overcrowded and caught by surpri se.   Di d you  
18                  ever have that conversati on wi th the  
19                  Sergeant?

20                  JEFFREY GI LMORE:   No, I di d not.

21                  ATTORNEY JAMES RAFFERTY:   Di d you

1 talk to anyone else at the club who might  
2 have had a conversation of a similar content?

3 JEFFREY GILMORE: Mr. Welbury, yes.

4 MICHAEL GARDNER: I'm not sure I  
5 understand that answer. The question was did  
6 he have a conversation with somebody who said  
7 they were overcrowded or caught by surprise?

8 ATTORNEY JAMES RAFFERTY: You want  
9 the question repeated?

10 MICHAEL GARDNER: I'm trying to  
11 understand.

12 ATTORNEY JAMES RAFFERTY: My  
13 question is the testimony of the Sergeant  
14 regarding the conversation about being  
15 understaffed, that the statement that the  
16 Sergeant has attributed to you, it's your  
17 testimony that you did not make those  
18 statements to the Sergeant?

19 JEFFREY GILMORE: No, I did not.

20 ATTORNEY JAMES RAFFERTY: But as a  
21 result of conversations you've had with



1 Mr. Welbury, have you come to understand  
2 whether or not he had such conversations?

3 JEFFREY GILMORE: Yes, I have.

4 ATTORNEY JAMES RAFFERTY: Yes. And  
5 what does Mr. Welbury look like?

6 JEFFREY GILMORE: He's about my  
7 height, we're about the same build. Pretty  
8 close.

9 ATTORNEY JAMES RAFFERTY: So he  
10 looks like you?

11 JEFFREY GILMORE: Yeah, we're close,  
12 yes.

13 ATTORNEY JAMES RAFFERTY: Okay. And  
14 what's Mr. Welbury's relationship to the  
15 club?

16 JEFFREY GILMORE: He's our promoter.  
17 He's in for entertainment purposes.

18 ATTORNEY JAMES RAFFERTY: Can you  
19 briefly describe what the role of the  
20 promoter is?

21 JEFFREY GILMORE: He's promoter. He

1 does the ticketing at the door. He does  
2 flyers, things like that.

3 ATTORNEY JAMES RAFFERTY: So at the  
4 point in time that you understand that a  
5 stabbing has occurred, how long have you been  
6 aware of the presence of the police on the  
7 scene?

8 JEFFREY GILMORE: They were there  
9 almost immediately. As soon as I left the  
10 building, they were outside.

11 ATTORNEY JAMES RAFFERTY: Did you  
12 call the police when you learned that this  
13 act of violence had occurred in the club?

14 JEFFREY GILMORE: No, I did not.

15 ATTORNEY JAMES RAFFERTY: Why did  
16 you not do that?

17 JEFFREY GILMORE: When the police  
18 are there, I kind of -- do you need to call  
19 the police? I don't -- I mean, the police  
20 are there.

21 ATTORNEY JAMES RAFFERTY: So your

1 answer is the police were already there?

2 JEFFREY GILMORE: From the time it  
3 took me to get downstairs from the second  
4 floor out the door, the police were already  
5 there outside. In fact --

6 ATTORNEY JAMES RAFFERTY: So your  
7 reason for not calling the police is because  
8 the police were already on the scene at the  
9 time you became aware of the incident?

10 JEFFREY GILMORE: Correct.

11 ATTORNEY JAMES RAFFERTY: And how  
12 long would you estimate from the time the  
13 crowd rushed down the stairs that you first  
14 observed the police on the scene?

15 JEFFREY GILMORE: Less than five  
16 minutes. Four minutes. It took me to go up  
17 through, through the crowd on the staircase,  
18 up to the second floor, see there was no  
19 people up there, back through, down through  
20 the second floor and out the door, three to  
21 four minutes maximum.

1                   ATTORNEY JAMES RAFFERTY: Was the  
2 club understaffed that night? Can you tell  
3 us how many people were there and how you  
4 typically manage crowd control?

5                   JEFFREY GILMORE: No. We were not  
6 understaffed.

7                   ATTORNEY JAMES RAFFERTY: How many  
8 people were there and how did you manage?

9                   JEFFREY GILMORE: I had two  
10 bartenders, myself, two people at the door  
11 and one assisting at the door.

12                  ATTORNEY JAMES RAFFERTY: And how  
13 many people would you estimate were in the  
14 club around the period of time at midnight  
15 when things began to deteriorate?

16                  JEFFREY GILMORE: No more than 70  
17 people.

18                  ATTORNEY JAMES RAFFERTY: Prior to  
19 the incident where the patrons came running  
20 down the stairs, had there been any  
21 altercation earlier that evening?

1 JEFFREY GILMORE: No.

2 ATTORNEY JAMES RAFFERTY: Had there  
3 been any reports to you or anything you  
4 observed that was out of the ordinary in the  
5 conduct of the patrons?

6 JEFFREY GILMORE: Not at all.

7 ATTORNEY JAMES RAFFERTY: I have  
8 nothing further.

9 MICHAEL GARDNER: Commissioners?

10 GERALD REARDON: Could you tell us  
11 how you control occupancy?

12 JEFFREY GILMORE: The count at the  
13 door -- at the entrance.

14 GERALD REARDON: So you would have a  
15 count that night of who was in the club at  
16 the time?

17 JEFFREY GILMORE: I think maximum  
18 was 80 people.

19 GERALD REARDON: And you also do a  
20 subtraction count for people leaving and  
21 coming and going?

1                   JEFFREY GILMORE: Yeah, yeah. It's  
2 my job.

3                   GERALD REARDON: But you weren't at  
4 the door?

5                   JEFFREY GILMORE: I'm everywhere.  
6 I'm at the door. I'm at both doors. I'm  
7 upstairs. So I can keep a head count, a  
8 visual head count while I'm through the club.  
9 So I can count who's on the first floor,  
10 who's on the second floor. So, yeah, I can  
11 monitor.

12                  GERALD REARDON: But in terms of  
13 actual, with the door people, do they  
14 actually use clickers or counters to know  
15 what the occupancy is?

16                  JEFFREY GILMORE: Tickets. Physical  
17 tickets, paper tickets.

18                  GERALD REARDON: So you would be  
19 able to tell how many tickets were sold that  
20 night at the club?

21                  JEFFREY GILMORE: Yes, sir.

1                   GERALD REARDON: And on the second  
2 floor, how many people are on the second  
3 floor that are employees? A bartender --

4                   JEFFREY GILMORE: Two -- three.  
5 Actually three because there's a sound  
6 engineer up there also.

7                   GERALD REARDON: And I guess the  
8 other question would be I guess, we haven't  
9 viewed the tape, but in terms of the band or  
10 whoever the performers were trying to calm  
11 the crowd, are you aware of them doing that  
12 at all?

13                  JEFFREY GILMORE: I haven't seen the  
14 tape so it could -- it could be someone, you  
15 know, when they're on the microphone, they  
16 can say all kinds of stuff. So it could have  
17 been somebody saying something about, you  
18 know, anything. I didn't -- no, I did not  
19 hear it.

20                  GERALD REARDON: Your testimony is  
21 the three people on the second floor, when do

1           they know of an altercation, if they were on  
2           the second floor? And it's not that big a  
3           footprint.

4                     JEFFREY GILMORE: They would know  
5           immediately. The bartenders would know  
6           immediately.

7                     GERALD REARDON: And what was  
8           position of the bartender in terms of making  
9           notification?

10                    JEFFREY GILMORE: To me personally?

11                    GERALD REARDON: Well, what is the  
12           club's policy on them making a  
13           recommendation? Do they have to find you  
14           before they make an emergency phone call?

15                    JEFFREY GILMORE: Oh, I see what you  
16           mean.

17                    GERALD REARDON: Yes.

18                    JEFFREY GILMORE: I would assume  
19           that if they know that there's something  
20           that's going on in that -- you know, if they  
21           made a phone call, they, they -- the action



1           took place on the left. The bar is on the  
2           right. So by the time I got up there, they  
3           knew that I was on. They saw me there. So  
4           they know that I'm in charge of what goes on.

5                     GERALD REARDON: But there's three  
6           people up there prior to you going up?

7                     JEFFREY GILMORE: Well, the sound  
8           engineer. I don't know what his -- he  
9           doesn't really work for us.

10                    GERALD REARDON: I guess I'm asking  
11           the policy of the club in terms of what would  
12           they do if they saw a medical emergency,  
13           altercation, someone has whatever, what is  
14           the club policy? Who makes the notification?  
15           Is there a phone available?

16                    JEFFREY GILMORE: By the time --  
17           yes. But by the time I'm up there, people  
18           are already downstairs. They're gone. I  
19           mean, there's hardly -- there's no one  
20           upstairs really. The people have run out.  
21           So, if they see me, they're assuming that I'm

1 in control .

2 GERALD REARDON: I understand that.  
3 But I'm asking you in general , what is the  
4 policy --

5 ATTORNEY JAMES RAFFERTY: He's  
6 asking about the policy.

7 GERALD REARDON: Who makes the call?  
8 Is there any policy spelled out to them  
9 specifically?

10 JEFFREY GILMORE: I would.

11 GERALD REARDON: Would they have to  
12 wait for you or could they independently make  
13 a call , and do they have the means of making  
14 a call ?

15 JEFFREY GILMORE: If they felt it  
16 was necessary, they would definitely make the  
17 phone call , yes.

18 GERALD REARDON: And do they have a  
19 telephone accessible to them?

20 JEFFREY GILMORE: Oh, yeah. Uh-huh.

21 GERALD REARDON: And it's a club

1           wired phone that's available somewhere?

2                   JEFFREY GILMORE:   There is a -- yes,  
3           a land line.

4                   MARVIN GILMORE:   And a cell phone is  
5           there as well.

6                   CHRISTOPHER BURKE:   I'm a little  
7           unclear on what the staffing was at the time  
8           the altercation occurred.   Now you testified  
9           that there were two bartenders?

10                   JEFFREY GILMORE:   Right.

11                   CHRISTOPHER BURKE:   And there's one  
12           on the first floor?

13                   JEFFREY GILMORE:   Uh-huh.

14                   CHRISTOPHER BURKE:   And one on the  
15           second floor?

16                   JEFFREY GILMORE:   Correct.

17                   CHRISTOPHER BURKE:   And then there's  
18           yoursel f?

19                   JEFFREY GILMORE:   Uh-huh.

20                   CHRISTOPHER BURKE:   And you said the  
21           three other employees were at the door.   So,

1 when the altercation occurred, who was on the  
2 second floor?

3 JEFFREY GILMORE: Bartender --

4 CHRISTOPHER BURKE: Just the  
5 bartender alone?

6 JEFFREY GILMORE: Yes. And the  
7 sound man. There's only one bar there.

8 CHRISTOPHER BURKE: What's the role  
9 of the sound man?

10 JEFFREY GILMORE: He just does the  
11 music, you know. He controls the band.

12 CHRISTOPHER BURKE: So, you stated  
13 that there was an altercation. How were you  
14 alerted that there was an altercation?

15 JEFFREY GILMORE: There was? That  
16 there was?

17 CHRISTOPHER BURKE: Yes.

18 JEFFREY GILMORE: I heard it.

19 CHRISTOPHER BURKE: What did you  
20 hear?

21 JEFFREY GILMORE: I heard chairs

1 crashing. That's what made me run upstairs.

2 CHRISTOPHER BURKE: Were chairs

3 crashing inside or outside?

4 JEFFREY GILMORE: Inside the

5 building.

6 CHRISTOPHER BURKE: So you're clear

7 the incident occurred inside?

8 JEFFREY GILMORE: Oh, yeah. There

9 was --

10 CHRISTOPHER BURKE: Okay.

11 JEFFREY GILMORE: The altercation --

12 yes.

13 CHRISTOPHER BURKE: So you heard the

14 chairs falling and then you rushed upstairs?

15 JEFFREY GILMORE: Correct.

16 CHRISTOPHER BURKE: What did you see

17 when you got on the second floor?

18 JEFFREY GILMORE: Nobody. Nothing.

19 CHRISTOPHER BURKE: You just saw the

20 tables overturned and the chairs knocked

21 over?

1 JEFFREY GILMORE: Yes.

2 CHRISTOPHER BURKE: So you saw the  
3 results of the altercation?

4 JEFFREY GILMORE: Correct.

5 GERALD REARDON: If I could, where  
6 was the bartender at that particular point  
7 from the second floor?

8 JEFFREY GILMORE: At the bar. The  
9 bar -- there's a -- as it cuts through, the  
10 second floor there's a wall in between. And  
11 then you just stick a little area that they  
12 can cut through there to the other side. The  
13 side of the altercation.

14 GERALD REARDON: So on the second  
15 floor there's primarily, without total view  
16 of the area, you've got the sound person who  
17 is really doing sound work and you've got the  
18 bartender who may or may not have full view  
19 of that second floor?

20 JEFFREY GILMORE: They can easily  
21 see what's going on. They come around the

1 corner. There's two sides to the bar.

2 GERALD REARDON: But that's the only  
3 person that was assigned up there for that  
4 whole second floor is actually just the  
5 bartender at this point? The sound man was  
6 doing a different job.

7 JEFFREY GILMORE: The sound man's --  
8 yeah, he's doing a different job. Yes, yes.

9 MICHAEL GARDNER: So, when you got  
10 up there and the room was essentially cleared  
11 and you saw tables and chairs turned over, I  
12 thought I -- and the bartender was still  
13 there, right?

14 JEFFREY GILMORE: Yes.

15 MICHAEL GARDNER: Did you ask the  
16 bartender what happened?

17 JEFFREY GILMORE: I went back  
18 downstairs immediately. There's no one up  
19 there. I went back downstairs to monitor the  
20 door to get outside to see where people are  
21 running to.

1                   MI CHAEL GARDNER: So you didn't ask  
2 the bartender what happened?

3                   JEFFREY GILMORE: No. Not until  
4 later on of course.

5                   MI CHAEL GARDNER: Right. And you've  
6 been a manager for 15 years or so?

7                   JEFFREY GILMORE: Yes.

8                   MI CHAEL GARDNER: Have you ever been  
9 there when the second floor cleared out that  
10 fast before?

11                  JEFFREY GILMORE: Well, considering  
12 it wasn't as large a crowd as, you know,  
13 people are trying to make it seem like, it  
14 doesn't make much to get what, 15, 20 people  
15 out of there instantly.

16                  MI CHAEL GARDNER: So if there are 80  
17 people in the club about that time and only  
18 15 or 20 of them were upstairs?

19                  JEFFREY GILMORE: Yeah. 80 people  
20 all together. So that would include -- that's  
21 the whole evening. So people are coming and



1 going. So at any given time -- the  
2 downstairs they hang out down there because  
3 there's a bar down there also. There could  
4 be 40 people downstairs and 40 people  
5 upstairs. It fluctuates.

6 MICHAEL GARDNER: But is what you're  
7 telling us at the time of the altercation  
8 only about 20 people upstairs?

9 JEFFREY GILMORE: From the people I  
10 saw come down the stairs and how many people  
11 were up there when I got up the stairs, I  
12 wouldn't say more than 30 maximum that were  
13 on the second floor.

14 MICHAEL GARDNER: Have you ever seen  
15 the entire crowd pour off the second floor as  
16 a result of an incident?

17 JEFFREY GILMORE: That would assume  
18 that there was an incident. I never had an  
19 incident like that.

20 MICHAEL GARDNER: So, is this the  
21 most serious incident that has occurred

1           inside the premises of the bar since you've  
2           been there?

3                     JEFFREY GILMORE:   Yes, sir.

4                     CHRISTOPHER BURKE:   Could you  
5           clarify for me what Mr. Welbury's role is? I  
6           heard him called a doorman and a promoter.  
7           Can you clarify that?

8                     JEFFREY GILMORE:   He's pretty much  
9           both. He monitors the door through the  
10          ticket sales.

11                    CHRISTOPHER BURKE:   During the  
12          course of an evening where there's  
13          entertainment, is he promoting it or is he a  
14          doorman?

15                    JEFFREY GILMORE:   He's monitoring  
16          the door for the tickets.

17                    CHRISTOPHER BURKE:   So where does  
18          the promoter role come in?

19                    JEFFREY GILMORE:   I guess it would  
20          be before he -- to promote the show. And  
21          then the night of the show he's taking

1 tickets.

2 CHRISTOPHER BURKE: And he's paid by  
3 you? He's an employee of the bar?

4 JEFFREY GILMORE: I don't pay him,  
5 no. He earns money through ticket sales.

6 CHRISTOPHER BURKE: How long has he  
7 been in that role?

8 JEFFREY GILMORE: A year.

9 CHRISTOPHER BURKE: Do you have any  
10 other people who are on your payroll that are  
11 at the door or provide any door role?

12 JEFFREY GILMORE: That night I used  
13 his people.

14 CHRISTOPHER BURKE: So, how many  
15 people were employed by the Western Front  
16 that were at this location during this  
17 incident?

18 JEFFREY GILMORE: Four.

19 CHRISTOPHER BURKE: And that would  
20 be the two bartenders --

21 JEFFREY GILMORE: Uh-huh.

1                   CHRISTOPHER BURKE: -- yourself?

2                   JEFFREY GILMORE: Uh-huh.

3                   CHRISTOPHER BURKE: And are you  
4 including the sound man?

5                   JEFFREY GILMORE: Yeah, we pay him.

6                   CHRISTOPHER BURKE: And his function  
7 is to stay in the booth where the sound  
8 equipment is?

9                   JEFFREY GILMORE: Correct.

10                  CHRISTOPHER BURKE: So, for the  
11 purposes of this incident you have two floors  
12 with three employees?

13                  JEFFREY GILMORE: Yes.

14                  CHRISTOPHER BURKE: Okay.

15                  JEFFREY GILMORE: Three paid  
16 employees by the Western Front.

17                  GERALD REARDON: Just to follow up  
18 with two things. So, I'm a little confused  
19 with the bartender on the second floor.  
20 Al altercation, things are tipping over, he  
21 hears it. People are running out of the

1 place. At this point he makes no phone call  
2 to anyone?

3 JEFFREY GILMORE: Well, like I said  
4 before, as soon as he sees me, he knows I'm  
5 doing -- I'm taking care of business.

6 GERALD REARDON: Well, I mean,  
7 you're probably fast but you're not going to  
8 be up there in -- it probably takes you a  
9 couple minutes to get upstairs.

10 JEFFREY GILMORE: No, no. It's only  
11 14 flights -- 14 steps.

12 GERALD REARDON: You testified you  
13 were fighting your way up the stairs because  
14 the crowd was coming down.

15 JEFFREY GILMORE: No, I never said I  
16 was fighting. I was just going through the  
17 crowd --

18 GERALD REARDON: Well, I guess it  
19 would be fair to say that the bartender --

20 JEFFREY GILMORE: I'm a big guy. I  
21 can get through the crowd.

1                   GERALD REARDON: -- earlier than you  
2                   di d.

3                   JEFFREY GILMORE: No.  
4                   Instantaneously. I heard it. I'm at the  
5                   bottom of the stairs. I heard it. As soon  
6                   as I get upstairs, through the people, I'm  
7                   upstairs. They see me, then I go back down.

8                   GERALD REARDON: And as far as the  
9                   door person goes, there's no one from the  
10                  Western Front on your payroll who's actually  
11                  taking and monitoring tickets or occupancy?

12                  JEFFREY GILMORE: Not on our  
13                  payroll.

14                  GERALD REARDON: Okay. Thank you.

15                  MICHAEL GARDNER: And isn't it three  
16                  or four minutes from when the altercation  
17                  occurs or you hear the sound until you  
18                  realize the police are there?

19                  JEFFREY GILMORE: No more than  
20                  three. I'm outside. I see the police.

21                  MICHAEL GARDNER: Okay. So I guess

1 I don't understand why under the procedures  
2 here you've had an event which has cleared  
3 out an entire floor of all of the customers,  
4 tables and chairs are overturned you still  
5 don't know what happened, but you know  
6 something happened. And neither you or the  
7 bartender think to put a call in to 9-1-1 to  
8 get a police response? And I want to know  
9 why that didn't happen.

10 JEFFREY GILMORE: I don't believe  
11 it's not thinking about it. I think things  
12 happened so quickly that to physically pick  
13 up the phone and make the phone call when  
14 I've already gone outside and know the police  
15 are on the premises --

16 MICHAEL GARDNER: No, you didn't  
17 know the police were on the premises for  
18 three or four minutes if I understood your  
19 testimony, right? So I'm talking about the  
20 three or four minutes.

21 JEFFREY GILMORE: If I'm going to

1           make the phone call, I would have to do it  
2           while I was running up and down the stairs.

3                   MICHAEL GARDNER: And your testimony  
4           is because you had appeared on the second  
5           floor, the bartender now does nothing because  
6           you're in charge?

7                   JEFFREY GILMORE: The bartender  
8           should be securing the bar.

9                   MICHAEL GARDNER: The bartender  
10          shouldn't be calling the police to get  
11          assistance for a public safety event?

12                   ATTORNEY JAMES RAFFERTY: Well,  
13          Mr. Chairman, I think what the testimony has  
14          been here is that there was obviously signs  
15          of a commotion. Perhaps the question the  
16          Commissioner's asking is does the licensee,  
17          when he becomes aware of a commotion, but is  
18          uncertain as to the extent or existence of  
19          injuries, should the initial response be to  
20          call the police? Because clearly the facts  
21          as testified to by the witness, as well as



1 the officers, that's not what happened here.  
2 And there's no factual dispute over that.  
3 What the witness has testified to, what  
4 Mr. Gilmore says is he was attempting to  
5 ascertain what had happened, and within a  
6 short period of time he realizes the police  
7 are present. So, that's his explanation for  
8 why the police were not called.

9 But it seems from the line of  
10 questioning that the suggestion is that the  
11 immediate response in a nightclub setting to  
12 a commotion would be for someone to pick up  
13 the phone and call the police.

14 MICHAEL GARDNER: Well, commotion --  
15 I mean, something that scared enough people  
16 that they immediately evacuated the room,  
17 leaving tables and chairs overturned. I  
18 mean, is -- I mean, I suppose you can label  
19 that a commotion. But it seems like it must  
20 have been for somebody a pretty scary or  
21 disruptive event.



1 front door at the time of the incident  
2 because the club was in the process of  
3 exiting. And the exiting club has patrons on  
4 the street regardless of the incident. So a  
5 portion of the patrons that are on the street  
6 are part of the natural closing down  
7 operation of the club. It was all  
8 accelerated by this incident. So the  
9 additional 20 or 30 people that came running  
10 down on the stairs are now out on the street.  
11 But if the opportunity exists for the  
12 Commission to read the reports, you'll find  
13 that at least two of the victims interviewed  
14 at the Beth Israel and at the Cambridge City  
15 Hospital acknowledge that it wasn't until  
16 they were outside that they themselves were  
17 aware. So in retrospect a four individual  
18 stabbing is a serious, serious offense. And  
19 there's no attempt to trivialize it. But  
20 there was a certain quickness to what  
21 happened, and an evacuation of the premises.

1 And I think the witness has testified  
2 honestly that that's what he did. He  
3 attempted to ascertain what had happened and  
4 was within a few minutes aware of the  
5 presence of the police.

6 MICHAEL GARDNER: Okay. Just a  
7 couple other questions, Mr. Gilmore.

8 The promoters, I'm sorry, was Mr. --

9 JEFFREY GILMORE: Welbury?

10 MICHAEL GARDNER: -- Welbury.  
11 Worked in some sort of business arrangement  
12 with you as a promoter at the club for about  
13 a year?

14 JEFFREY GILMORE: Uh-huh.

15 MICHAEL GARDNER: Essentially the  
16 person to whom you had turned over  
17 responsibility for managing head counts and  
18 occupancy control, right?

19 ATTORNEY JAMES RAFFERTY: I'm going  
20 to object to the characterization. That's  
21 not what the testimony was.

1                   MICHAEL GARDNER: Okay, well, then  
2                   -- all right, fine. You've objected. Then  
3                   let me follow up and understand what I --  
4                   what his -- let me --

5                   ATTORNEY JAMES RAFFERTY: Prior to  
6                   fact --

7                   MICHAEL GARDNER: Let me ask him.

8                   ATTORNEY JAMES RAFFERTY: -- the  
9                   questions are to be reflective of the  
10                  testimony.

11                  MICHAEL GARDNER: Let me ask him  
12                  then about his testimony.

13                  As I understand it, Mr. Welbury was  
14                  responsible for selling the tickets.

15                  JEFFREY GILMORE: Correct.

16                  MICHAEL GARDNER: And his income  
17                  came from the tickets?

18                  JEFFREY GILMORE: Yes.

19                  MICHAEL GARDNER: And the source of  
20                  understanding occupancy compliance would be  
21                  the tickets?

1 JEFFREY GILMORE: Would be me.

2 ATTORNEY JAMES RAFFERTY: The  
3 witness testified --

4 MICHAEL GARDNER: Well, how is --

5 ATTORNEY JAMES RAFFERTY: -- of his  
6 own personal observation, Mr. Chairman.

7 MICHAEL GARDNER: No. May I ask  
8 you, please, to let me ask questions of the  
9 witness?

10 ATTORNEY JAMES RAFFERTY: I'm used  
11 to a different format. I apologize,  
12 Mr. Chairman. But the trier of fact isn't  
13 always the prosecutor in the case. And in  
14 this case is, all I'm trying to do is have  
15 the questions be consistent with the  
16 testimony of the witness and not include  
17 legal conclusions that are at odds with that  
18 testimony.

19 MICHAEL GARDNER: Okay. And I'm  
20 kind of used to having the evidence come in  
21 before the argument is made.

1                   So, you're responsible for essentially  
2 occupancy control?

3                   JEFFREY GILMORE: Yes.

4                   MICHAEL GARDNER: How do you do  
5 that?

6                   JEFFREY GILMORE: Head count.

7                   MICHAEL GARDNER: And your head  
8 count is done how?

9                   JEFFREY GILMORE: I count the people  
10 in the club. I monitor the club. I am up,  
11 down, up down, up down, all night.

12                  MICHAEL GARDNER: Is there any  
13 reason why you would question Mr. Welbury's  
14 assessment that there was a larger crowd than  
15 expected and there was insufficient staff to  
16 handle that crowd based on bias? Any reason  
17 he would say that out of malice or bias?

18                  JEFFREY GILMORE: I think it would  
19 be more along the lines that he was worried  
20 about his job. Feeling sorry for himself  
21 maybe, you know? Second guessing himself. I

1 don' t know. I have no i dea.

2 MI CHAEL GARDNER: Do you have any  
3 doubt about the si nceri ty of that comment?

4 JEFFREY GI LMORE: My comment?

5 MI CHAEL GARDNER: Hi s comment.

6 JEFFREY GI LMORE: Oh. Oh, yeah.

7 MI CHAEL GARDNER: Di d you have  
8 conversati ons wi th hi m about why he sai d i t?

9 JEFFREY GI LMORE: I n passi ng.

10 MI CHAEL GARDNER: Coul d you relate  
11 those conversati ons to us?

12 JEFFREY GI LMORE: Pretty much why  
13 woul d you say somethi ng I i ke that? Why woul d  
14 when you know full well i t' s not, you know,  
15 he has no expl anati on.

16 MI CHAEL GARDNER: So when you ask  
17 hi m why, he di dn' t tel l you why he sai d i t?

18 JEFFREY GI LMORE: He -- truthf ul l y  
19 he doesn' t even remember sayi ng i t.

20 MI CHAEL GARDNER: Okay.

21 CHRI STOPHER BURKE: Coul d I ask



1           Offi cer Bates a questi on?

2                   ATTORNEY JAMES RAFFERTY:   Can I have  
3           a redi rect on thi s wi tness before we go to  
4           another wi tness?

5                   MI CHAEL GARDNER:   Yes.   I thi nk we  
6           shoul d do that.

7                   CHRI STOPHER BURKE:   Okay.

8                   ATTORNEY JAMES RAFFERTY:   Coul d you  
9           expl ai n -- Mr. Wel bury who has become the  
10          subj ect of much i nqui ry here thi s eveni ng,  
11          coul d you expl ai n what hi s busi ness i s and  
12          whether he works wi th any other clubs i n  
13          Cambri dge and what the rol e of a promoter i s  
14          and the rel ati onshi p of the promoter to an  
15          event?

16                   JEFFREY GI LMORE:   He works wi th  
17          qui te a few.   He works wi th Mi ddl e East, and  
18          that' s probabl y where I met hi m.   He works  
19          wi th Harper' s Ferry i n Boston.   He works wi th  
20          -- there' s, I can' t remember the li ttle clubs  
21          i n Cambri dge that seem to be poppi ng up

1 everywhere.

2 ATTORNEY JAMES RAFFERTY: Can you  
3 describe then for the Commission what the  
4 promoter does in terms of promoting the  
5 event, marketing the event and arranging the  
6 entertainment?

7 JEFFREY GILMORE: He finds the acts.  
8 He promotes the acts, and he sells tickets.

9 ATTORNEY JAMES RAFFERTY: There's a  
10 reason you are located -- towards the closing  
11 hours of the evening, what's your typical  
12 location in the nightclub?

13 JEFFREY GILMORE: I'm either on the  
14 second floor monitoring or down by the front  
15 exit door.

16 ATTORNEY JAMES RAFFERTY: And why  
17 are you positioned at the exit door as you  
18 were that evening at that time?

19 JEFFREY GILMORE: To monitor people  
20 exiting. Make sure people don't bring  
21 bottles out and things like that.

1                   ATTORNEY JAMES RAFFERTY: How many  
2                   peopl e woul d you esti mate had exi ted i n the  
3                   time frame j ust pri or to the i nci dent  
4                   occurri ng?

5                   JEFFREY GI LMORE: The li ghts went up  
6                   at mi dni ght.    Approxi matel y 20 -- 20, 25.

7                   ATTORNEY JAMES RAFFERTY: And you  
8                   were present at the door to ensure an orderly  
9                   exi ti ng of those patrons?

10                  JEFFREY GI LMORE: Yes.

11                  ATTORNEY JAMES RAFFERTY: Pri or to  
12                  that i nci dent had there been any di ffi cul ty  
13                  wi th the patrons as they were exi ti ng the  
14                  cl ub?

15                  JEFFREY GI LMORE: None whatsoever.

16                  ATTORNEY JAMES RAFFERTY: Di d you  
17                  make any observati on of the area outsi de the  
18                  cl ub as the patrons were exi ti ng pri or to the  
19                  i nci dent?

20                  JEFFREY GI LMORE: I -- defi ni tel y.  
21                  I moni tor the outsi de al so.    And there was no

1 incident -- no problems.

2 ATTORNEY JAMES RAFFERTY: Were there  
3 people on the sidewalk out there?

4 JEFFREY GILMORE: Oh, yeah.

5 ATTORNEY JAMES RAFFERTY: How many  
6 people would you estimate were already on the  
7 sidewalk before any incident occurred inside  
8 the club?

9 JEFFREY GILMORE: 10, 15.

10 ATTORNEY JAMES RAFFERTY: Thank you.  
11 I have nothing further.

12 MICHAEL GARDNER: Superintendent?

13 CHRISTOPHER BURKE: No questions of  
14 Mr. Gilmore.

15 MICHAEL GARDNER: You had some  
16 questions of the Officer?

17 CHRISTOPHER BURKE: Yes. Officer  
18 Bates, you spoke to Mr. Welbury?

19 OFFICER WILLIAM BATES: Yes, sir.

20 CHRISTOPHER BURKE: And you didn't  
21 speak to Mr. Gilmore?

1 OFFICER WILLIAM BATES: No, I  
2 di dn' t.

3 CHRI STOPHER BURKE: Can you tell me  
4 does Mr. Gilmore look like Mr. Welbury?  
5 Woul d you have confused them?

6 OFFICER WILLIAM BATES: No, I  
7 woul dn' t. I believe they are -- I don' t  
8 recall exactly how tall Mr. Gilmore is, but I  
9 believe they are somewhat consistent in  
10 stature.

11 CHRI STOPHER BURKE: So other than  
12 height you woul d be confused in thei r  
13 appearance?

14 OFFICER WILLIAM BATES: I woul dn' t  
15 confuse them.

16 ATTORNEY JAMES RAFFERTY: Well, I  
17 thi nk we can sti pulate one is a black man and  
18 the other is a whi te man.

19 OFFICER WILLIAM BATES: Yes, si r.

20 ATTORNEY JAMES RAFFERTY: The fact  
21 that that goes unnoti ced is probabl y a good

1           thing. It might be a physical feature that  
2           is worth --

3                   CHRISTOPHER BURKE: Well, I  
4           understand but I thought there was some  
5           statements earlier --

6                   ATTORNEY JAMES RAFFERTY: I just  
7           wanted it on the record, Superintendent.

8                   CHRISTOPHER BURKE: -- Officer  
9           McHale was speaking to the wrong person. I  
10          thought there were statements of the crowd  
11          being out of control and there was some  
12          confusion as to who actually made that  
13          statement. So I was looking for  
14          clarification on that.

15                   MICHAEL GARDNER: Any other  
16          questions about the incident on July the  
17          29th?

18                   Mr. Rafferty, would you like to  
19          summarize on this event or would you like to  
20          hold it for after we deal with the second?

21                   ATTORNEY JAMES RAFFERTY: Well, I'll

1 just briefly conclude, and I don't have much  
2 more to add because as the Chair noted, I  
3 think I was able to structure the testimony  
4 around essentially what we would suggest is  
5 the issue for the Commission inquiry, a very  
6 appropriate inquiry, involving the conduct of  
7 the Licensee. I would suggest that the  
8 testimony is that there was indeed an  
9 incident, and that's not being disputed.

10 That it was an average-sized capacity given  
11 what's allowed there, had been the testimony  
12 from Mr. Gilmore. In that there was nothing  
13 in the record to suggest that the environment  
14 at the club led to or contributed to the  
15 stabbing.

16 The second question for which we have  
17 spent appropriate amount of time is  
18 understanding what the Licensee -- what  
19 action the Licensee took upon the incident  
20 occurring. And I would acknowledge that  
21 there is no record of the Licensee calling

1 the police. But I do think that requires a  
2 close focus and attention on the timeline  
3 starting with the appearance of Officer Lucy  
4 at the corner. How soon he is on the scene.  
5 Other officers are there. Not everyone's  
6 memory is good this evening as it might have  
7 been that night. It's clear that the EMT's  
8 were there, and the officers were there. But  
9 Officer Bates believes he's there within a  
10 very short time as well, but obviously a  
11 period of time between Officer Lucy's  
12 arrival, Officer Lucy's sending out a  
13 dispatch about what he's encountered, and the  
14 arrival of the EMTs treating the victim in  
15 that location. It is a compressed timeline,  
16 and it is not inconsistent with the timeline  
17 that Mr. Gilmore testified to.

18 I think one of the lessons here, in  
19 fact, I have counseled Mr. Gilmore is perhaps  
20 that notwithstanding the presence of the  
21 police, it would behoove a licensee to have a



1 record of a call. And he's frankly scoffed  
2 at that notion when we reviewed this matter.  
3 Why would I call? I said, because this will  
4 be looked at months after the fact, memories  
5 will fade, and there will not be a record of  
6 a call. And as the Licensee, you could  
7 suffer as a result of that if there's a  
8 retrospective look at why weren't you called.  
9 We've offered the Commission, the  
10 explanation. It's a truthful explanation.  
11 Whether it meets the management and standards  
12 imposed upon the Licensee by the Commission,  
13 is obviously within your discretion. I would  
14 note, however, that I think that the level of  
15 cooperation by the Licensee when the police  
16 are on the scene is consistent with those  
17 standards. Mr. Gilmore testified that he  
18 remained until 4:30 that morning dealing with  
19 detectives and police officers around this  
20 incident, and that he has remained  
21 cooperative in providing information. It was

1           apparently a one-off incident involving an  
2           individual who seems to have gotten into some  
3           kind type altercation with some other people.

4                     Thank you for the chance to frame the  
5           issue from the perspective of the Licensee.

6                     MICHAEL GARDNER:   And of course you  
7           reminded me of one other question which I'll  
8           ask.

9                     ATTORNEY JAMES RAFFERTY:   Question  
10          times are over, Mr. Chairman, you can't ask  
11          any.

12                    MICHAEL GARDNER:   Thank you.

13                    Sergeant McHale, Officer Bates,  
14          anybody, do we know who made the call to  
15          bring the EMTs or bring medical response?

16                    SERGEANT MARK MCHALE:   I think as  
17          soon as Officer Lucy was informed there was a  
18          victim who was assaulted, he immediately  
19          called for medical.

20                    MICHAEL GARDNER:   Thank you.   Shall I  
21          we move to the --

1                   JEFFREY GILMORE: Can I -- just in  
2 the report it says he was driving by. So  
3 immediately he was there.

4                   MICHAEL GARDNER: You're referring  
5 to Officer Lucy?

6                   JEFFREY GILMORE: Yes.

7                   MICHAEL GARDNER: Thank you.

8                   Shall we move to the August 13th?

9                   ELIZABETH LINT: May I suggest that  
10 you make a motion on this matter to either  
11 decide it or continue it to the November 4th  
12 decision-making hearing?

13                  MICHAEL GARDNER: Okay. Although  
14 I've done it and sort of talked about this as  
15 one thing, I had seen that the agenda item is  
16 for two incidents. But are you suggesting  
17 that we break them out?

18                  ELIZABETH LINT: I think you have  
19 to. They're two separate dates, you have to  
20 treat them as two separate.

21                  MICHAEL GARDNER: Okay. I'll

1 certainly take your advice about that.

2 Pleasure of the Commissioners on this?

3 ATTORNEY JAMES RAFFERTY:

4 Mr. Chairman, just before the Commission  
5 disposes of the matter, there is the issue  
6 and I apologize, of this videotape. And it's  
7 my understanding that there are personnel at  
8 the License Commission, including the License  
9 Commission investigator and the License  
10 Commission Executive Officer that have viewed  
11 that videotape. And that the notice -- and  
12 I'd like the record to reflect that with the  
13 full knowledge of viewing that videotape, the  
14 notice of this hearing does not include a  
15 complaint for overcrowding. I think there's  
16 a reason for that.

17 ELIZABETH LINT: I would be happy to  
18 address that.

19 Both myself -- I did not view the  
20 entire videotape. I viewed sections of it.  
21 It's actually nothing like I've ever seen

1 before. When you put the disc in, it gives  
2 you segments. So I was shown specific  
3 segments that were later in the evening. And  
4 you could not tell how many people were in  
5 there. It shows you very small spots. So  
6 you could count five people or you could  
7 count ten people, but you don't see the  
8 entire area. So there's no way to determine  
9 how many people were there.

10 ATTORNEY JAMES RAFFERTY: Thank you.

11 ELIZABETH LINT: And that's why the  
12 notice did not include it.

13 MICHAEL GARDNER: Would you, I guess  
14 the question is would you like to defer this  
15 to the decision meeting or would you like to  
16 deal with it now?

17 CHRISTOPHER BURKE: I think we can  
18 defer it. Make a motion to defer.

19 GERALD REARDON: Defer to  
20 decision-making? Make a motion to defer to  
21 decision-making.

1                   CHRISTOPHER BURKE: Second that.

2                   MICHAEL GARDNER: All those in  
3 favor?

4                   (Aye.)

5                   (Gardner, Burke, Reardon.)

6                   MICHAEL GARDNER: Opposed?

7                   (No Response.)

8                   MICHAEL GARDNER: Understand that,  
9 Officer, you were the principal responder in  
10 the August incident?

11                  OFFICER WILLIAM BATES: I was one of  
12 them, sir. I actually wrote a supplemental  
13 report, too. I'm not sure who wrote the main  
14 report. And Sergeant Frammartino responded  
15 also.

16                  MICHAEL GARDNER: Would you just  
17 describe what you observed that evening?

18                  OFFICER WILLIAM BATES: It was the  
19 early morning hours of August 13th shortly  
20 after one a.m. Again, I was assigned in the  
21 area and was sent for a report of disturbance

1 where someone had been hit in the head with a  
2 bottle. I got there pretty short order. And  
3 I also noted that a description had been  
4 given out of a thin white male with jeans and  
5 a T shirt. And as I pulled up, a group of  
6 two or three young males who pretty much fit  
7 that description -- or two out of the three  
8 fit the description pretty well. They were  
9 walking away just from the door. So, I  
10 stopped them to do a field inquiry and see  
11 what was going on. One of them was pretty  
12 intoxicated, started giving me a hard time.  
13 And I had to pretty forcefully tell him  
14 several times he wasn't going anywhere yet  
15 until we figured out what was going on. The  
16 doorman of the club, who we later identified  
17 as the same gentleman Mr. -- we said it  
18 several times. His name escapes me. Welbury  
19 was it? Welbury. We later identified him as  
20 that. He had been the gentleman I spoke to  
21 the week before also. He was in the

1 immediate area and saw me -- saw those kids  
2 kind of yell at me and me, you know, ordering  
3 them to stop and what not. And he said Oh,  
4 they're not doing anything. There's no  
5 problem here. And I said, Well, I'm stopping  
6 them. Something's going on. And he said,  
7 Well, nothing's going on. There's no problem  
8 at the club here. I said, There is a  
9 problem. We got some sort of call. I do not  
10 know who the call came from, but it said  
11 something is going on here. Maybe you don't  
12 know about it, but someone's been hurt and,  
13 you know, so I'm going to talk to these guys.  
14 He said a couple times "Nothing's going on  
15 here."

16 And it turned out that these young men  
17 I had been speaking to, while they fit the  
18 description, they were not who we were  
19 looking for. So we sent them on their way.  
20 In the midst of that a 24-year-old male from  
21 Boston had been brought out with a wound to



1 his head, a laceration to his head by having  
2 been hit by a bottle. So I started to try to  
3 talk to him to get a little bit of the  
4 story, and the suspect was -- the suspect in  
5 the incident was sort of casually known to  
6 some of the people around. We weren't able  
7 to get an actual like full identifying  
8 information on him at the time. We got some  
9 sort of name on him. But I didn't go in the  
10 club this time. I had been outside, as I  
11 said, with those three people and then trying  
12 to -- the victim was a little tough getting  
13 the real full piece of story from him.

14 So, what I note in my report is  
15 approximately three to five minutes later --  
16 now my arrival time had been very quick. As  
17 I said, I was in the area. But three to five  
18 minutes later Mr. Welbury says Oh, the guy  
19 you want ran that way, pointed out Western  
20 Ave. towards Central Square. And I said,  
21 Well, what do you mean the guy I want? Well,

1 you know, the guy that was involved in the  
2 altercation. And I said, Well, what are you  
3 telling me this five minutes later for? I  
4 got here and told you something was going on  
5 and you said nothing was going on, and now  
6 the guy that you saw enough at the time to  
7 know I was looking for him, you let him run  
8 away and tell me five minutes later. I felt  
9 like he intentionally kind of misled me to  
10 make good the escape of whoever this person  
11 was. And I said -- I asked him, Why would  
12 you -- if you knew at the time I was probably  
13 going to be looking for this guy, why did you  
14 not tell me this? And he said, Oh, I didn't  
15 think of telling you. And I did speak to  
16 some other persons present during my time  
17 there. As I said, he was -- the suspect was  
18 casually known but wasn't able to get good  
19 identifying information. That was about the  
20 extent of my supplemental. As I said, I  
21 don't know who wrote the main report.

1                   MICHAEL GARDNER: Do you know if  
2 there was subsequently an arrest in the  
3 event?

4                   OFFICER WILLIAM BATES: I do not.

5                   MICHAEL GARDNER: Questions?

6                   CHRISTOPHER BURKE: Yes, I do.

7                   Now you indicated in your report that  
8 your initial observation was three males and  
9 one may have fit the description?

10                  OFFICER WILLIAM BATES: There was a  
11 group of three, sir, and two of them were  
12 consistent with the initial description.

13                  CHRISTOPHER BURKE: Now, those  
14 three, how far away were they from the club?

15                  OFFICER WILLIAM BATES: Pretty close  
16 to the door. Maybe not even the length of  
17 this room.

18                  CHRISTOPHER BURKE: Were they  
19 walking? Were they stationary hanging around  
20 or were they moving in a particular  
21 direction?

1                   OFFICER WILLIAM BATES: They were  
2 walking slowly away from the club towards  
3 Central Square up Western Ave.

4                   CHRISTOPHER BURKE: And this Mr. --  
5 the doorman, Mr. Welbury, he was the same  
6 doorman you spoke to during the September  
7 30th incident?

8                   OFFICER WILLIAM BATES: I believe  
9 so. Actually, to be fair and honest, I  
10 neglected to note his name in my report. But  
11 I noticed in Sergeant Frammartino's  
12 supplemental that he did name him. Because  
13 in the course of telling the Sergeant what  
14 was going on, I did say Gee, Sarge, I showed  
15 up and that guy there told me nothing was  
16 going on, and five minutes later he says the  
17 guy you want went that way. So Sergeant  
18 Frammartino did make a point to identify him  
19 in his supplement as well.

20                   CHRISTOPHER BURKE: From your  
21 conversation with Mr. Welbury the doorman,

1 did you -- were you led to believe that those  
2 three individuals out front had been patrons  
3 of the club?

4 OFFICER WILLIAM BATES: He actually  
5 didn't make any specific comment either way  
6 as if they had been in the club. Just -- but  
7 that he did know what was going on with them  
8 enough to know that oh, there's nothing going  
9 on, those guys didn't do anything.

10 CHRISTOPHER BURKE: And you  
11 indicated -- you report that one of them was  
12 inebriated?

13 OFFICER WILLIAM BATES: Yeah. He  
14 was pretty well inebriated.

15 CHRISTOPHER BURKE: So, it was clear  
16 from your conversation with the doorman that  
17 he gave conflicting statements?

18 OFFICER WILLIAM BATES: Not so much  
19 conflictive as I mean, the boys hadn't done  
20 anything. That they -- I had stopped them  
21 because they fit the description. But when

1 we discovered pretty quickly that they  
2 weren't who we were looking for, it was more  
3 that he had seen someone run away and had the  
4 where with all to know that's who probably  
5 who we were looking for. And first he tells  
6 me nothing's going on here, everything's  
7 fine. And then five minutes later he says  
8 oh, the guy you want ran that way. That was  
9 my main problem with that. So, it wasn't so  
10 much conflicting as concealing I guess or  
11 whatever you call it.

12 CHRISTOPHER BURKE: Okay.

13 MICHAEL GARDNER: Mr. Rafferty, do  
14 you have any questions of the officer?

15 ATTORNEY JAMES RAFFERTY: Yes, thank  
16 you, Mr. Chairman.

17 Officer, drawing your attention to your  
18 initial arrival at the scene, according to  
19 your report you arrived at the scene having  
20 been made aware of a reported assault and  
21 battery, a person struck in the head with a

1 bottle and a preliminary description; is that  
2 correct?

3 OFFICER WILLIAM BATES: Yes.

4 ATTORNEY JAMES RAFFERTY: Do you  
5 know what the source of that information was?

6 OFFICER WILLIAM BATES: That was  
7 over the radio from dispatch. There would be  
8 no reason or way for me to be aware in the  
9 field of who communicated that to dispatch.

10 ATTORNEY JAMES RAFFERTY: No, I  
11 don't mean at that moment, but I mean today,  
12 do you have a present understanding of what  
13 the source of that information might have  
14 been?

15 OFFICER WILLIAM BATES: No, I do  
16 not.

17 ATTORNEY JAMES RAFFERTY: Did you  
18 testify that in your conversation with  
19 Mr. Welbury that you mentioned that a phone  
20 call had come in from the club?

21 OFFICER WILLIAM BATES: I don't know

1 if I specifically said a phone call. I said,  
2 we got a call. I guess, meaning a call for  
3 service.

4 ATTORNEY JAMES RAFFERTY: I see.

5 OFFICER WILLIAM BATES: And I said  
6 to him -- when he said nothing's going on, I  
7 said, something is going on here and, you  
8 know, we were called here.

9 ATTORNEY JAMES RAFFERTY: Would you  
10 agree that that's a fairly complete piece of  
11 information, a description of the incident  
12 and a description of a possible suspect?

13 OFFICER WILLIAM BATES: I guess that  
14 would depend on what your definition of  
15 complete is, sir. The description was --  
16 it's a general description.

17 ATTORNEY JAMES RAFFERTY: Okay.

18 OFFICER WILLIAM BATES: There's  
19 certainly enough to warrant the response and  
20 investigation, too.

21 ATTORNEY JAMES RAFFERTY: Okay. So



1 you had an encounter with four individuals  
2 you testified to?

3 OFFICER WILLIAM BATES: Three, sir.

4 ATTORNEY JAMES RAFFERTY: Three.

5 Thank you.

6 And at some point while you were  
7 talking to these people, Mr. Welbury says  
8 these guys aren't doing anything.

9 OFFICER WILLIAM BATES: Yes.

10 ATTORNEY JAMES RAFFERTY: Right?

11 And in fact, you later concluded that his  
12 characterization of them was accurate; is  
13 that not fair?

14 OFFICER WILLIAM BATES: That's  
15 correct.

16 ATTORNEY JAMES RAFFERTY: Right.  
17 Because in fact you let them go, they hadn't  
18 done anything seemingly, correct?

19 OFFICER WILLIAM BATES: They hadn't.

20 ATTORNEY JAMES RAFFERTY: Right.

21 And while you're there talking to Mr. Welbury

1           apparently, within three to five minutes in  
2           your report, you say that an individual  
3           emerges, the victim emerges; is that correct?

4           OFFICER WILLIAM BATES:   Yes.

5           ATTORNEY JAMES RAFFERTY:   And you  
6           observed that he had a large gash to his  
7           head?

8           OFFICER WILLIAM BATES:   Yes.

9           ATTORNEY JAMES RAFFERTY:   Now, are  
10          you aware of whether or not that individual  
11          had ever left the club prior to the time you  
12          observed him leave?

13          OFFICER WILLIAM BATES:   I'm sorry,  
14          say that again.

15          ATTORNEY JAMES RAFFERTY:   Do you  
16          have any knowledge whether that individual,  
17          the victim, who you saw emerge from the club,  
18          whether prior to your arrival he had left the  
19          club earlier in that, in a similar condition?

20          OFFICER WILLIAM BATES:   I have no  
21          idea what he did before I got there.

1                   ATTORNEY JAMES RAFFERTY: I would  
2                   assume that to be the case. Thanks.

3                   So my question is: If he had not left  
4                   the club and was injured inside the club and  
5                   was appearing for the first time while you  
6                   were present on the sidewalk, it's also fair,  
7                   is it not, that William Welbury may not have any  
8                   knowledge of that individual's condition. Is  
9                   that not reasonable to assume?

10                  OFFICER WILLIAM BATES: I lost you,  
11                  sir.

12                  ATTORNEY JAMES RAFFERTY: Well, let  
13                  me take it in parts.

14                  OFFICER WILLIAM BATES: Say it  
15                  again.

16                  ATTORNEY JAMES RAFFERTY: You're  
17                  present -- you're there a few minutes and an  
18                  individual emerges who clearly has injuries?

19                  OFFICER WILLIAM BATES: Yes.

20                  ATTORNEY JAMES RAFFERTY: And you've  
21                  been now on the scene for three to five

1 minutes according to your report?

2 OFFICER WILLIAM BATES: Yes.

3 ATTORNEY JAMES RAFFERTY: And in  
4 that three to five minute period you haven't  
5 made any observations of that individual  
6 prior to the time he emerges from the club?

7 OFFICER WILLIAM BATES: Yes. I  
8 hadn't seen him before he was brought out at  
9 that point.

10 ATTORNEY JAMES RAFFERTY: And  
11 Mr. Welbury is with you during that entire  
12 period of time?

13 OFFICER WILLIAM BATES: Yes.

14 ATTORNEY JAMES RAFFERTY: And you  
15 never -- and my question, is it reasonable to  
16 assume that Mr. Welbury may -- that might  
17 have been Mr. Welbury's first observation of  
18 that individual? You can agree or disagree  
19 whether that's a reasonable assumption is the  
20 only purpose of my question.

21 OFFICER WILLIAM BATES: I suppose it

1 could be reasonable. I don't have any way of  
2 knowing that, sir.

3 ATTORNEY JAMES RAFFERTY: Okay. Did  
4 you ever see Mr. Jeffrey Gilmore that  
5 evening?

6 OFFICER WILLIAM BATES: I don't  
7 remember seeing him that evening.

8 ATTORNEY JAMES RAFFERTY: Okay. But  
9 it's your testimony you then never went  
10 inside the club?

11 OFFICER WILLIAM BATES: That night I  
12 don't believe I did.

13 ATTORNEY JAMES RAFFERTY: Are you  
14 aware of any other officers that went inside  
15 the club that night?

16 OFFICER WILLIAM BATES: I believe  
17 some other officers did. I wouldn't be able  
18 to tell you who.

19 ATTORNEY JAMES RAFFERTY: Did  
20 Officer Ivy (phonetic) go in?

21 OFFICER WILLIAM BATES: I don't

1 remember.

2 ATTORNEY JAMES RAFFERTY: Did  
3 Sergeant Frammartino go in?

4 OFFICER WILLIAM BATES: I don't  
5 remember.

6 ATTORNEY JAMES RAFFERTY: Nothing  
7 further.

8 MICHAEL GARDNER: In your report,  
9 Officer, in the -- I think the second  
10 paragraph it says Approximately three to five  
11 minutes later the same doorman admitted he  
12 had been aware that there had been some sort  
13 of altercation and said that the guy you want  
14 ran that way, indicating Western Ave. towards  
15 Central Square. Can you give us any fuller  
16 description of how it was that you came to  
17 the conclusion that he had -- that he had  
18 admitted that he had been aware that there  
19 had been an altercation.

20 OFFICER WILLIAM BATES: I couldn't  
21 give you the exact words he used. But in

1 speaking to him, as I said, he admitted  
2 several minutes later that he did know there  
3 had been an altercation and saw who he would  
4 imagine we would have been looking for run  
5 away and chose not to say anything about it  
6 for several minutes.

7 MICHAEL GARDNER: So when you ask  
8 him why he had not told us this when we  
9 arrived, which is a paraphrasing of part of  
10 your report, he did not respond by saying oh,  
11 I just learned of it now?

12 OFFICER WILLIAM BATES: No, he said  
13 he didn't think to tell us.

14 MICHAEL GARDNER: Okay.

15 OFFICER WILLIAM BATES: That was my  
16 issue with it. Is that while he was telling  
17 me nothing's going on here, he knew that  
18 something had gone on. And knew that the guy  
19 who -- you know, I guess by his own  
20 assumption who probably would have been the  
21 one we were looking for went that way. So he

1 knew something happened and knew that was the  
2 guy and chose to say nothing for five minutes  
3 while saying nothing's going on here.

4 MICHAEL GARDNER: And from the  
5 overall context you reached the conclusion  
6 that the guy he thought you were looking for  
7 who had gone that way, had in fact gone that  
8 way before you arrived on the scene?

9 OFFICER WILLIAM BATES: Yes.

10 GERALD REARDON: Officer, when you  
11 responded to this call, was it an emergency  
12 call using light and siren?

13 OFFICER WILLIAM BATES: Yes.

14 GERALD REARDON: When you pulled up?  
15 So someone pulling up would easily  
16 understand that you were there for an  
17 emergency as opposed to just driving by?

18 OFFICER WILLIAM BATES: Yes.

19 GERALD REARDON: And when you  
20 approached Mr. Welbury, his answer was  
21 nothing was going on. Had he made any



1 attempt to find out what the situation was to  
2 then -- I guess, I'm trying to -- I have some  
3 difficulty with Mr. Welbury's answer that a  
4 police car would pull up in emergency mode  
5 and his first answer is there's nothing going  
6 on. But did he check with anyone? When he  
7 was talking to you did he go back inside and  
8 ask is something going on? Or did he make  
9 any attempt that you're aware of?

10 OFFICER WILLIAM BATES: I'm not  
11 sure, sir. As I pulled up, I saw that group  
12 of boys, and thinking they could have been  
13 the assailants, I just stopped them  
14 immediately. And it was while I was  
15 initially speaking to them that Mr. Welbury  
16 was telling me that, you know, nothing's  
17 going on here. Those guys aren't doing  
18 nothing. Nothing's going on here.

19 And I had been out in the area first.  
20 I guess like I said, what kind of made me  
21 just shake my head was at the time he was

1           sayi ng nothi ng' s goi ng on here, he knew that  
2           somethi ng had gone on, and a guy ran that  
3           way. Knowi ng that, he' s telli ng me nothi ng' s  
4           goi ng on and then wai ts fi ve mi nutes to tell  
5           me oh, I di d know somethi ng was goi ng on and  
6           the guy went that way. Because at that time  
7           it was only moments before, you know, we  
8           probabl y coul d have caught hi m. Or we woul d  
9           have had a much better chance to catch hi m I  
10          guess woul d be more fai r to say.

11                   GERALD REARDON: I guess it asks for  
12          i nterpretati on, but the reason he knew those  
13          i ndi vi dual s were not i nvol ved because he  
14          potenti al l y knew who was i nvol ved and had  
15          al ready l eft?

16                   OFFI CER WI LLI AM BATES: That woul d  
17          be a reasonabl e concl usi on, si r. He was  
18          pretty sure that the boys I was talki ng to --  
19          he was absol utel y sure that the ones I was  
20          talki ng to weren' t the ones. I suppose it  
21          woul d beg the concl usi on maybe he knew who it

1 was.

2 GERALD REARDON: I guess I'm  
3 confused on why he would say they're not the  
4 ones if he's saying to you there's nothing  
5 going on. And they're the ones who didn't do  
6 -- I guess that kind of begs the question of  
7 what would lead him to say that immediately  
8 if he didn't think anything was going on.

9 OFFICER WILLIAM BATES: That's the  
10 issue I had, sir, as well. I couldn't make  
11 sense of it. His only answer is I didn't  
12 think of telling you.

13 GERALD REARDON: Okay. Thank you.

14 MICHAEL GARDNER: Any follow up on  
15 that, Mr. Rafferty?

16 ATTORNEY JAMES RAFFERTY: Just  
17 briefly.

18 Officer, your report notes that the  
19 suspects knew each other casually. Did you  
20 ever come to learn that this was an incident  
21 that took place after the club was closed

1 with members of a band?

2 OFFICER WILLIAM BATES: I believe  
3 the suspect may have had something to do with  
4 the musical aspect of it. I don't remember  
5 exactly what. As I said, he was casually  
6 known by many of the people present. And the  
7 victim sort of had an idea of who he was, but  
8 not enough to say Jimmy Jones, he lives at  
9 200 Main Street in Chelsea.

10 ATTORNEY JAMES RAFFERTY: Okay.  
11 Just back to your arrival. You were on the  
12 scene responding to a call, assault and  
13 battery with a dangerous weapon, a head  
14 wound, but you never went inside the club?

15 OFFICER WILLIAM BATES: I didn't. I  
16 don't believe I went inside. No.

17 ATTORNEY JAMES RAFFERTY: So, is it  
18 fair to say not having gone inside, you don't  
19 have any understanding of how many people  
20 were in the club at the time you were on the  
21 sidewalk and watched the victim emerge?

1 OFFICER WILLIAM BATES: That would  
2 be accurate. I had no idea who was in the  
3 club while I was outside.

4 ATTORNEY JAMES RAFFERTY: Okay.  
5 Thank you.

6 MICHAEL GARDNER: Any other  
7 questions of the officer?

8 CHRISTOPHER BURKE: No.

9 GERALD REARDON: No.

10 MICHAEL GARDNER: Thank you. I just  
11 ask you if you could please stay.

12 OFFICER WILLIAM BATES: Yes.

13 MICHAEL REARDON: Mr. Rafferty.

14 ATTORNEY JAMES RAFFERTY: I would  
15 call Jeffrey Gilmore. Same spelling as the  
16 prior hearing.

17 Mr. Gilmore, could you just inform the  
18 Commission with regard to the incident of  
19 August 12th, can you describe what happened  
20 that evening in the context of this  
21 complaint?

1                   JEFFREY GILMORE: I'm at my usual  
2 spot downstairs by the door at the bottom of  
3 the stairs. I hear a smash. I go upstairs.  
4 We have already -- this is about 12:45, we've  
5 already shut down. Shut down at one o'clock.  
6 Music was over at 12:30 there's probably no  
7 more than five, or five to seven people  
8 there, all in the band. All performers. And  
9 I hear a smash and I see the kid, one of the  
10 kids -- the kids he's describing fighting,  
11 pulling somebody away from a person. They're  
12 fighting in the corner over on the side. I  
13 immediately go to the person that's been hit.  
14 I see he's got a gash in his head. So, I  
15 turn around, and those guys are fighting  
16 their way down the stairs and chasing the guy  
17 who hit him in the head. They all know each  
18 other. Every one of these guys know each  
19 other. Welbury's outside. He wasn't inside  
20 when the incident took place. I'm in  
21 administering help to the kid with the -- I

1 got a rag for him. His girl friend's standing  
2 right there. She has -- I turn around, she's  
3 on the phone I called the police. I told her  
4 to call the police. She's on the phone.  
5 She's calling the police. I go back outside,  
6 chase the kid. The kid's -- they're chasing  
7 him down the stairs. But he's already gone.  
8 They're walking back. As they're walking  
9 back, I went back outside -- back inside.  
10 He's -- they're all outside. The guys who  
11 are chasing the kid are outside. Welbury,  
12 they're all outside. I go back inside to  
13 make sure the kid's okay. I come back  
14 outside, the policeman's there.

15 ATTORNEY JAMES RAFFERTY: Is it your  
16 testimony that you exited with the victim as  
17 he came down the stairs and went outside?

18 JEFFREY GILMORE: The second time  
19 out, yes.

20 ATTORNEY JAMES RAFFERTY: Did you  
21 make any observation as to whether Officer

1 Bates was present at that point?

2 JEFFREY GILMORE: Officer Bates was  
3 talking to the guys, Welbury and those other  
4 two guys, three guys.

5 ATTORNEY JAMES RAFFERTY: Just to be  
6 clear, did you call the police?

7 JEFFREY GILMORE: The girlfriend of  
8 the victim.

9 ATTORNEY JAMES RAFFERTY: Were you  
10 present when she made that call?

11 JEFFREY GILMORE: Oh, yeah.  
12 Standing right next to her.

13 ATTORNEY JAMES RAFFERTY: So, is  
14 that -- why didn't you call the police?

15 JEFFREY GILMORE: I'm physically  
16 helping the kid out. She's on the phone. I  
17 told her -- she asked, I tell her call the  
18 police. Do I call them again?

19 ATTORNEY JAMES RAFFERTY: We just  
20 want to establish what reason you -- because  
21 you didn't call the police, but it's fair to



1 say the reason you didn't call the police is  
2 because you were present when a call was  
3 placed to the police --

4 JEFFREY GILMORE: Correct.

5 ATTORNEY JAMES RAFFERTY: -- and  
6 when you arrived outside with the victim, the  
7 police were present.

8 JEFFREY GILMORE: Yes, sir.

9 ATTORNEY JAMES RAFFERTY: Would this  
10 be the same Mr. Welbury who two weeks earlier  
11 was a promoter at an event?

12 JEFFREY GILMORE: Yes.

13 ATTORNEY JAMES RAFFERTY: Do you  
14 have much more to do with Mr. Welbury?

15 JEFFREY GILMORE: No.

16 ATTORNEY JAMES RAFFERTY: Nothing  
17 further.

18 GERALD REARDON: So you went out the  
19 first time to chase whoever was leaving. So  
20 I assume Welbury saw you the first time  
21 coming running out of the door. At that time

1 was Officer Bates present?

2 JEFFREY GILMORE: No.

3 GERALD REARDON: So Mr. Welbury, one  
4 would assume had knowledge that something was  
5 going on when you come running out the front  
6 door?

7 JEFFREY GILMORE: He didn't know.  
8 He didn't know the altercation. He didn't  
9 know what was about what was going on. He  
10 just knew about people running out the  
11 door, that's all.

12 GERALD REARDON: Well, I guess one  
13 would assume --

14 JEFFREY GILMORE: I didn't speak  
15 with him. I went back inside.

16 GERALD REARDON: I would assume, a  
17 reasonable person would assume something was  
18 going on?

19 JEFFREY GILMORE: Yeah. I mean,  
20 Welbury's not -- you know, he's talking to  
21 the police. He's talking about the guys that

1 are chasing the guy. He's not talking about  
2 things that went on in the club. He's not  
3 talking about anything. He doesn't have any  
4 knowledge of.

5 GERALD REARDON: But the point I'm  
6 getting to is that when Officer Bates talks  
7 to him already knowing that someone was being  
8 chased out the front door, a reasonable  
9 person would assume that he knows something  
10 is going on? He may not know what.

11 JEFFREY GILMORE: A reasonable  
12 person would, yes.

13 GERALD REARDON: So when he told the  
14 officer nothing was going on, one would  
15 conclude that he may not have been truthful  
16 or as honest --

17 JEFFREY GILMORE: I think he was  
18 referring to the guys outside. He's saying  
19 nothing's going on with those guys. That's  
20 why he would say after the fact that there is  
21 something going on. That he found out. He's

1 referring to the guys that are running --  
2 that are outside running after the guy or  
3 coming back from running after the guy.

4 GERALD REARDON: He didn't see you  
5 run out the building the first time?

6 JEFFREY GILMORE: I don't think so.

7 MICHAEL GARDNER: You saw him?

8 JEFFREY GILMORE: Yeah, he's out  
9 there. I run out, come back in. I didn't  
10 even go all the way out. I went out the  
11 doorway. See, they're chasing him to go back  
12 inside. The primary purpose is going to make  
13 sure the guy upstairs is okay.

14 MICHAEL GARDNER: From your  
15 observation was Welbury in a position to tell  
16 a chase was underway?

17 JEFFREY GILMORE: I don't think he  
18 knew what was going on. They ran out to run  
19 by him.

20 MICHAEL GARDNER: I didn't ask what  
21 you thought he knew. I asked if he was in a

1           posi ti on to see that there was a chase?

2                   JEFFREY GI LMORE:   No.   There' s two  
3           stai rcases.   He' s on one and they' re goi ng  
4           out the other.   There' s approxi mately 20 feet  
5           between them.   So no, I don' t thi nk he knew  
6           what was goi ng on.   I thi nk he had no  
7           knowl edge of what was happeni ng i nsi de.

8                   GERALD REARDON:   And Mr. Wel bury' s  
9           posi ti on agai n that ni ght was promoter,  
10          si mi lar to the previ ous?

11                   JEFFREY GI LMORE:   Yes.

12                   GERALD REARDON:   So he woul d be  
13          doi ng head count and ti ckets.   And i s he al so  
14          the person who does the ID checks at the  
15          door?

16                   JEFFREY GI LMORE:   No, we have a --  
17          he' s hi red somebody to do ID checks.   So he  
18          doesn' t physi cal ly check IDs.

19                   GERALD REARDON:   Okay.

20                   MI CHAEL GARDNER:   But that' s a  
21          functi on you' ve essenti al ly del egated to hi m?

1                   JEFFREY GILMORE: I know the person  
2 he uses and I trust that person.

3                   MICHAEL GARDNER: But it is, and I  
4 take it probably the same one July the 29th,  
5 these are his workers who are essentially  
6 doing the door --

7                   JEFFREY GILMORE: Different people.

8                   MICHAEL GARDNER: -- the door  
9 functi on?

10                  JEFFREY GILMORE: Yeah, but  
11 di fferent peopl e.

12                  MICHAEL GARDNER: Not the same  
13 person but somebody who is working wi th hi m.

14                  JEFFREY GILMORE: Correct.

15                  MICHAEL GARDNER: Okay.

16                  CHRISTOPHER BURKE: If I may, what  
17 was the staffi ng l evel for that event?

18                  JEFFREY GILMORE: Same thi ng.

19                  CHRISTOPHER BURKE: So two  
20 bartenders, yoursel f?

21                  JEFFREY GILMORE: Thi s i s between

1 people that were in the -- these are  
2 performers. No more than seven people.

3 ATTORNEY JAMES RAFFERTY: You need  
4 to be responsive to the question.

5 JEFFREY GILMORE: Sorry.

6 CHRISTOPHER BURKE: So what was the  
7 staffing level again, two bartenders?

8 JEFFREY GILMORE: Correct.

9 CHRISTOPHER BURKE: Yourself?

10 JEFFREY GILMORE: Correct.

11 CHRISTOPHER BURKE: Did you require  
12 a sound man for that event?

13 JEFFREY GILMORE: Yes.

14 CHRISTOPHER BURKE: How many persons  
15 were with Mr. Welbury?

16 JEFFREY GILMORE: Three.

17 CHRISTOPHER BURKE: So after the  
18 first event on the 30th you didn't increase  
19 security or staffing levels at all?

20 JEFFREY GILMORE: This is much, much  
21 smaller show. No more than 20 people showed

1 up that night.

2 GERALD REARDON: What night of the  
3 week was this one?

4 JEFFREY GILMORE: Thursday.

5 GERALD REARDON: Thursday?

6 MICHAEL GARDNER: The morning of the  
7 13th. So the 14th is a Friday --

8 ATTORNEY JAMES RAFFERTY: Thursday  
9 into Friday day.

10 MICHAEL GARDNER: The morning of the  
11 13th? Early morning.

12 GERALD REARDON: What time do you  
13 stop serving alcohol on those nights?

14 JEFFREY GILMORE: Thursday night,  
15 12:30.

16 GERALD REARDON: 12:30. And that's  
17 when you put the lights up, last call?

18 JEFFREY GILMORE: The lights go on  
19 midnight. Last call is quarter after. Last  
20 drink 12:30. Everybody out by one. That's  
21 why I say these are people that are



1 performers, and they're fighting.

2 ATTORNEY JAMES RAFFERTY: I wonder  
3 if it might assist the Commissioner just  
4 because of the prior hearing to contrast the  
5 entertainment at the prior incident and this.  
6 My understanding is the prior incident  
7 involved DJs that have somewhat of a  
8 following. This was just a small local band  
9 that you didn't have more than 30 people in  
10 the club the entire evening.

11 JEFFREY GILMORE: No more. Not at  
12 all. Not even 30.

13 ATTORNEY JAMES RAFFERTY: And is  
14 that more of a consistent Thursday night at  
15 the club when you have local bands?

16 JEFFREY GILMORE: Thursday's small,  
17 yes. Thursday's normally small.

18 GERALD REARDON: In the past usually  
19 you didn't even work Thursdays, right?

20 MARVIN GILMORE: Nobody.

21 GERALD REARDON: Friday and Saturday

1 usual l y.

2 MARVIN GILMORE: 25, 30 dol l ars.

3 (I naudi bl e.)

4 JEFFREY GILMORE: These are compl ete  
5 anomal ies. We don' t have thi s --

6 MARVIN GILMORE: Thi s i s a rare  
7 thi ng that happened. We don' t have probl ems  
8 at the cl ub as you know.

9 JEFFREY GILMORE: And these  
10 performers are fi ghting over thei r  
11 gi rl fri end. That' s why he hi t them i n the  
12 head wi th a bottl e.

13 MARVIN GILMORE: Thi s was among  
14 themsel ves after the bar had cl osed i n the  
15 cl ub.

16 ATTORNEY JAMES RAFFERTY: Mr. Chai r,  
17 we' re concl uded from our perspecti ve. I know  
18 you have many heari ngs. I f I mi ght be  
19 permi tted I woul d acknowl edge --

20 MI CHAEL GARDNER: May I ask one more  
21 questi on?

1                   ATTORNEY JAMES RAFFERTY: No, I  
2 apologize for oversteppi ng.

3                   MI CHAEL GARDNER: It' s qui te all  
4 right.

5                   So, my understanding is that among  
6 these band members or at least these people  
7 who are i nvol ved i n the post-head wound,  
8 getting out the stai rs, that one of them is  
9 ei ther carryi ng somebody else down or is  
10 fighti ng wi th them goi ng down or they' re  
11 grappli ng on the way out?

12                  JEFFREY GI LMORE: Chasi ng.

13                  MI CHAEL GARDNER: And I understood  
14 that -- chasi ng.

15                  And your testi mony is that Wel bury  
16 wasn' t i n a posi ti on to see that?

17                  JEFFREY GI LMORE: No. Around the  
18 corner. He' d have to wal k around and see  
19 what was goi ng on.

20                  MI CHAEL GARDNER: Because he' s at a  
21 di fferent stai rway?

1 JEFFREY GILMORE: Physi cal l y, yes.

2 Di fferent doorway, yes.

3 MI CHAEL GARDNER: Okay. Thank you.

4 Mr. Rafferty.

5 ATTORNEY JAMES RAFFERTY: Wel l ,

6 thank you agai n. Si mi l ari ti es but I woul d

7 say si gni fi cant di fferences i n thi s i nci dent

8 than the pri or i nci dent. The overall t enure

9 of the eveni ng i s di fferent. I t' s a much

10 smal l er venue. I t' s more consi s tent wi th the

11 typi cal operations at the cl ub. An i nci dent

12 occurs after the vast majori ty of the members

13 of the publ ic are out. These are al l

14 i ndi vi dual s known to each other. A si ngl e

15 i ndi vi dual swi ngs a beer bottl e and hi ts

16 another one over the head, and from that the

17 conduct of the Li censee gets eval uated. I

18 woul d suggest that i t was nothi ng l eadi ng up

19 to the i nci dent that woul d have -- testi mony

20 that woul d suggest that the cl ub was

21 negli gent i n al l owi ng those seven band

1 members to remain upstairs as the evening  
2 wound down.

3 Mr. Gilmore's actions in this case  
4 providing assistance to the victim and  
5 directing or observing a call being made to  
6 the police, I would suggest meets the  
7 standard of a Licensee providing  
8 notification. We're then left, of course,  
9 with Mr. Welbury, an individual who I think  
10 whose credibility is not necessarily a  
11 reflection on the integrity of the management  
12 of the club. I think it's fair to assume  
13 that Mr. Welbury, because he is the promoter  
14 and hires these bands, has a relationship  
15 with the band, that there might be some  
16 incentive on his part to respond in a way  
17 that would prevent the band from being in  
18 trouble. He has a business relationship with  
19 the band.

20 I think the officer that gave testimony  
21 that would suggest that part of what Welbury

1           said might have been accurate in the context  
2           of the four individuals that were there.  
3           From that point admittedly there's some  
4           deviation as to what did Welbury know or what  
5           should he have known. He may not have been  
6           aware of the nature of the injury, but I  
7           think it's reasonable to assume that he would  
8           have been mindful, based on his observations  
9           of Mr. Gilmore and others, that something had  
10          happened. So, it is in fact regrettable.

11                 The next day Sergeant Frammartino went  
12          to the club at 8:30 that evening and spoke  
13          with both Jeffrey and Mr. Welbury. His focus  
14          of inquiry was more consistent with two weeks  
15          ago. Why didn't you call the police? And I  
16          think the issue on that front is pretty well  
17          established by the facts, by the fact that a  
18          call was made, and a call that contained a  
19          description of the incident and a description  
20          of the suspect was obviously provided by  
21          somebody. The officer admits he was never in

1 the club, so someone from inside the club  
2 provided that information. And I do think  
3 that we, again, find ourselves in a situation  
4 where the rules and regulations of the club,  
5 of the License Commission would require the  
6 Licensee to cooperate of course with the  
7 police in their investigation. Mr. Welbury's  
8 outside and his responses are regrettable  
9 because I do think they regrettably cast a  
10 poor light upon the club if they're viewed in  
11 isolation. But I think given the context of  
12 what he might have known and his relationship  
13 there. And when Mr. Gilmore emerges with the  
14 victim while the officer is there, there's no  
15 attempt on the part of the club to evade  
16 responsibility or avoid interaction with the  
17 club.

18 Does the conduct or the response of  
19 Mr. Welbury, a non-club employee, as I said,  
20 it's regrettable and could have been more  
21 complete, and I suspect the Commission in

1       evaluating the Licensee's performance here  
2       will look to the relationship between  
3       Mr. Welbury. It's my understanding that  
4       Mr. Welbury, his skills are in the marketing  
5       and promotion area, and the club is no longer  
6       going to have a situation where he could give  
7       the appearance of management at the club  
8       because of that.

9                So, I know we've been here a long time  
10       and I appreciate the issue, but I'm very  
11       mindful and it is the licensing. I know  
12       Mr. Gilmore just wanted to speak briefly in  
13       closing. Two incidences within two weeks  
14       involving similar concerns certainly would  
15       allow the Commission to ascertain whether  
16       there's a pattern of conduct or a pattern of  
17       behavior with the management of the club  
18       which should be of concern and warrant  
19       discipline. I think they are in fact quite  
20       isolated, and in both cases they should be  
21       viewed in the context of the immediacy in



1           which they occurred and the ongoing  
2           cooperati on or the cooperati on provi ded by  
3           the poli ce by the Li censee both at the time  
4           of the inci dent as well as involvi ng  
5           fol low-up investi gati ons, in thi s case, some  
6           24 hours later.

7                     Mr. Marvi n Gil more i f we may be  
8           permi tted, woul d j ust l i ke to say one word.  
9           He i s the owner of record.   And he  
10          appreci ates the Com mi ssi on' s granti ng hi s  
11          request for an extensi on.   He was wi th  
12          Presi dent Sarko zy l ast month when thi s  
13          heari ng was schedul ed to be kni ghted by  
14          the --

15                    MARVIN GILMORE:   The Legi on of  
16          Honor.   I have a l i ved i n Cambri dge si nce  
17          1924.   I' m 86-years-ol d.   And the club real l y  
18          stands as a symbol for mi nori ti es.   We are  
19          the only, I' ll use the word, black club.   I  
20          gave my l i fe fi ghti ng on D-day i n France.   I  
21          j ust acknowl edge that I spent a l ong time

1           there in the Navy, the Sixth Fleet also  
2 honored me. It's just incredible, the town  
3 stood out. I come back here and we have  
4 these incidents and I'm upset really.

5           We've been on that corner for years and  
6 years and years, no problem. We've never had  
7 a problem. We're not your problem. It's  
8 hard to say how people act and react  
9 suddenly. Jeffrey is my nephew, my brother's  
10 son, he's tough, he's hard. And he keeps an  
11 eye on the club for us and the people of  
12 Cambridge. We just don't have this problem.  
13 Twice two incidents that happened that, we  
14 not, you know, we didn't create those  
15 incidents. People have attitude.  
16 Boyfriend/girlfriend. The upstairs. And  
17 Jeffrey is like a tiger. He's right there.  
18 That's why I trust him, he's my nephew. I  
19 wouldn't go up against him. But to where  
20 part of the city, we're the fabric of it. I  
21 think we run a beautiful club for everybody.

1 That's been our -- we're not before the  
2 Board. This is a rare, rare time to see  
3 this. I'm really upset. At 86 years I stand  
4 to help the community. We're there for good  
5 time for people. I do not like promoters  
6 other because we don't have no control with  
7 promoter promote certain band that will  
8 attract, you know, other types of groups. I  
9 caution my nephew from here on here we'll  
10 hire our own groups. We will control the  
11 music in that club.

12 We don't have -- Thursday nights like a  
13 dead night, I'll be honest with you. You  
14 look at my tapes. But why are you open? I  
15 open just for the community because we do a  
16 lot of nice things. Reggae music. And  
17 people like to dance. We have a dance club.  
18 We're not a club that's open to late at  
19 night. If you go by there, the chief knows,  
20 the club is dead. I mean, people come there  
21 like ten, ten-thirty. We close way earlier

1           than we're supposed to close, one-thirty, two  
2           o'clock. And Jeffrey, let's put it this way,  
3           he's honest, he's trustworthy. We don't have  
4           as you know no fights. This is a rare -- and  
5           then these fights happen among themselves.  
6           How it happens, we don't know. Our alcohol  
7           you got to go to the bar to get it. We don't  
8           have teenagers there. That's not our  
9           lifestyle.

10                        So, just really understand both these  
11           incidents happened without -- happened so  
12           suddenly that we had people there. I mean,  
13           Jeffrey is a tough boy, too. He's always at  
14           that door. If you look at the club, the  
15           stairway that comes down is right at the  
16           door. So when people rush down, they go  
17           right outside. It's not going around to try  
18           to find your way out. We have three doors on  
19           that club on the first level. And on the  
20           second floor another door. So there's four  
21           doors to exit there in case there is a

1           probl em. I had it that way years ago just in  
2           case you have a fire, people can get out  
3           immedi ately. So it only takes but mi nutes if  
4           you're on the second floor to hi t both those  
5           -- three doors, to go one, two, three.  
6           That's all it takes, a coupl e mi nutes. So,  
7           no matter how we react or anythi ng,  
8           everybody's gone. It's just that fast.

9                        So I beg thi s, you know, the Commi ssi on  
10           to look at thi s very careful ly for us. And  
11           we want to stay in busi ness. We've been in  
12           busi ness. We don't ever cause any probl ems  
13           in the Ci ty of Cambri dge. That's why we're  
14           sti ll there. I thi nk peopl e speak hi ghly of  
15           us. It's a pleasur e to speak to all of you.

16                        MI CHAEL GARDNER: Mr. Gil more, thank  
17           you very much.

18                        I do have one questi on for you,  
19           Mr. Rafferty. You had sai d Mr. Wel bury is  
20           not an empl oye e of the cl ub. Is there any  
21           doubt in your mi nd that for the purposes of

1           these two evenings, he was an agent of the  
2           club?

3                   ATTORNEY JAMES RAFFERTY: Well, it's  
4           an interesting question under the theory of  
5           agency. He is an independent -- he has his  
6           own independent business where he promotes  
7           the bands. On that evening in question, he  
8           was there in his role as a promoter. He had  
9           pre-sold some of the tickets and he was  
10          collecting them at the door, but I certainly  
11          think that that is a question that would  
12          require further inquiry. And I don't have my  
13          understanding at the moment.

14                   MICHAEL GARDNER: Even that he's  
15          responsible for doing the ID checks by  
16          arrangement with management, he's not an  
17          agent of the club?

18                   ATTORNEY JAMES RAFFERTY: Well,  
19          that's the first I heard of that aspect of  
20          his function. I'm not sure. I'm not trying  
21          to be evasive, but I haven't explored whether

1 he meets that. I think one can certainly  
2 conclude that his presence at that location  
3 at the door and his interaction might lead  
4 one to reach that conclusion. Whether or not  
5 he would legally, legally meet the standards  
6 of agency. And I'm not trying to be over  
7 technical. I understand the point of the  
8 question, which is the licensee cannot simply  
9 choose to disassociate himself from someone  
10 who is acting within a parent authority if  
11 not actual authority. And I think in this  
12 case, that relationship is that of a  
13 promoter. I'd have to explore further as to  
14 -- but I know he does this at other clubs  
15 around town, and it's the nature of his role.  
16 And he should not be speaking for the club.  
17 And particularly when the police arrive,  
18 Mr. Gilmore knows he's the one who should be  
19 speaking for the club. But in this case he  
20 was outside on two occasions. So I suspect  
21 that you'll reach a conclusion based upon the

1 evidence that may warrant that determination.

2 But at the moment I wouldn't offer a

3 conclusive concurrence with that.

4 MICHAEL GARDNER: Already. Thank  
5 you very much.

6 Pleasure of the Commissioners?

7 ELIZABETH LINT: Defer.

8 GERALD REARDON: Yes, please. We'll  
9 make a motion to place it under advisement as  
10 the previous.

11 CHRISTOPHER BURKE: I second the  
12 motion.

13 MICHAEL GARDNER: So, there's been a  
14 motion to place it under advisement.

15 All those in favor.

16 (Aye.)

17 (Gardner, Burke, Reardon.)

18 MICHAEL GARDNER: Opposed?

19 (No Response.)

20 MICHAEL GARDNER: Thank you very  
21 much. We appreciate your perseverance of all



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

the witnesses of this lengthy event, but  
clearly an important one.

ATTORNEY JAMES RAFFERTY: Thank you.

ELIZABETH LINT: Application Star

1 Markets Company, Incorporated doing business  
2 as Star Market, James Hegarty, manager,  
3 holder of an alcoholic beverages as a package  
4 store license, seven-day, at 675 Mount Auburn  
5 Street has applied for change of manager from  
6 James Hegarty to Debra Lee Heffernan.  
7 Applicant is also applying for a change of  
8 officer to remove Warren Simpson as Assistant  
9 Secretary and appoint Barbara Nunziato as  
10 Assistant Secretary.

11 MICHAEL GARDNER: Good evening.  
12 Sorry you had to wait so long.

13 ATTORNEY SHARON MARKS: Much more  
14 interesting than my job.

15 MICHAEL GARDNER: Appreciate your  
16 coming. Could you just introduce yourselves  
17 for the record, please.

18 ATTORNEY SHARON MARKS: Sure.  
19 Sharon Marks (phonetic). I'm an attorney  
20 with Shaw's Supermarket.

21 DEBRA HEFFERNAN: I'm Debbie

1 Heffernan I'm with the Star Market at the  
2 Mount Auburn Shaws.

3 MICHAEL GARDNER: Could you explain  
4 to the Commissioners exactly what you're  
5 proposing to do and why?

6 ATTORNEY SHARON MARKS: We're  
7 proposing to change the store director from  
8 James Hegarty to Deb Heffernan. And also the  
9 Assistant Secretary under the list of  
10 officers and directors from Warren Simpson to  
11 Barbara Nunziato. Warren Simpson is no  
12 longer with the company.

13 MICHAEL GARDNER: So this is a  
14 change in operational management at the  
15 store?

16 ATTORNEY SHARON MARKS: At the  
17 store, yes.

18 GERALD REARDON: How long has  
19 Mr. Hegarty been there, a long time?

20 ATTORNEY SHARON MARKS: Yes, long  
21 time.

1 GERALD REARDON: Is he retired?

2 DEBRA HEFFERNAN: No, no. He's in  
3 our Auburn store. They move the managers  
4 around.

5 MICHAEL GARDNER: And so could you  
6 just describe your experience in work similar  
7 to this?

8 DEBRA HEFFERNAN: In work similar to  
9 being a store director?

10 MICHAEL GARDNER: Yes.

11 DEBRA HEFFERNAN: I've been with  
12 Shaw's Star Market for 33 years and been a  
13 manager for 17 of these years and just  
14 recently assigned to the Mount Auburn store.

15 MICHAEL GARDNER: So, have you had  
16 responsibility before for managing of  
17 alcoholic beverages in a package operation?

18 DEBRA HEFFERNAN: No.

19 MICHAEL GARDNER: This would be your  
20 first assignment in that regard?

21 DEBRA HEFFERNAN: Yes.

1                   MICHAEL GARDNER: Has a background  
2 check been done?

3                   ELIZABETH LINT: Yes. It's fine.

4                   MICHAEL GARDNER: Will there be any  
5 other changes in the operation of the store  
6 besides the management and the listing of the  
7 assistant director?

8                   ATTORNEY SHARON MARKS: No.

9                   GERALD REARDON: Have you had any  
10 training in Cambridge with regard to alcohol  
11 sales through a License Commission?

12                  DEBRA HEFFERNAN: No.

13                  ELIZABETH LINT: The License  
14 Commission several years ago voted that any  
15 new manager, server, owners would be required  
16 to take 21-proof training through CPC with  
17 Frank Connolly.

18                  MICHAEL GARDNER: And that hasn't  
19 happened yet, but you're prepared to do it?

20                  DEBRA HEFFERNAN: Sure.

21                  MICHAEL GARDNER: Were you aware of

1 that requirement?

2 DEBRA HEFFERNAN: No.

3 ELIZABETH LINT: This is usually  
4 when they find out.

5 MICHAEL GARDNER: Superintendent,  
6 any questions?

7 CHRISTOPHER BURKE: No questions.

8 GERALD REARDON: Quick question.

9 So who is doing the ID on this? Every  
10 one of the cashiers is actually doing ID on  
11 liquor sales or is that separate?

12 DEBRA HEFFERNAN: The cashiers do  
13 it.

14 GERALD REARDON: So all the cashiers  
15 have training on --

16 DEBRA HEFFERNAN: All the cashiers  
17 have training, and they sign off an  
18 acknowledgement form. And if they're under  
19 18, there's a manager that will check the ID  
20 and scan the liquor.

21 GERALD REARDON: Thank you. All

1 set.

2 MICHAEL GARDNER: All right.

3 Pleasure of the Commissioners?

4 GERALD REARDON: I make a motion to  
5 approve pending the 21-proof training.

6 ELIZABETH LINT: That usually  
7 happens after the fact.

8 GERALD REARDON: Right.

9 ELIZABETH LINT: So generally you  
10 approve it and then we send them for  
11 training. And if they don't do the training,  
12 we're notified by Frank Connolly and then we  
13 send them a letter to make sure that they  
14 participate.

15 GERALD REARDON: So I make a motion  
16 to approve subject to the successful 21-proof  
17 training.

18 CHRISTOPHER BURKE: I second that  
19 motion.

20 MICHAEL GARDNER: All those in  
21 favor?

1

(Aye.)

2

(Gardner, Burke, Reardon.)

3

MI CHAEL GARDNER: Opposed?

4

(No Response.)

5

MI CHAEL GARDNER: Thank you very

6

much.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21



1 ELIZABETH LINT: Appl i cati on P. F.  
2 Chang' s Chi na Bi stro, Incorporated, Ahmed  
3 Soufan, Manager, holder of an al l alcohol ic  
4 beverages as a restaurant li cense at 100  
5 Cambri dgesi de Pl ace has appl i ed for change of  
6 manager from Ahmed Soufan to Abi gai l  
7 Champi on.

8 MI CHAEL GARDNER: If you woul d j ust  
9 be so ki nd to i ntroduce yoursel ves for the  
10 record.

11 ATTORNEY ANDREW UPTON: Good  
12 eveni ng, Comi ssi oners. Andrew Upton from  
13 the l aw fi rm of Denacol a, Sorenson and Upton,  
14 counsel for P. F. Chang' s Chi na Bi stro, Inc.  
15 Wi th me i s Abi gai l Champi on the proposed new  
16 manager at the Cambri dgesi de Gal l eri a. She  
17 has been wi th the company for ei ght years.  
18 She' s been i n a vari ety of l ocati ons. She  
19 has supervi sed both staff and alcohol servi ce  
20 i n the past. She i s a T. I. P. S. Certi fi ed  
21 empl oyeer, and al so a T. I. P. S. trai ner of the

1 employees, but we understand that she also  
2 needs to take the 21-proof class and she  
3 plans to do that.

4 MICHAEL GARDNER: Good evening.

5 ABIGAIL CHAMPION: Hello.

6 MICHAEL GARDNER: So any other  
7 changes in operations at the establishment?

8 ATTORNEY ANDREW UPTON: No.  
9 Officers, floor plan, menu, hours will all  
10 remain exactly the same. Only the change in  
11 the manager.

12 MICHAEL GARDNER: And background,  
13 Ms. Lint?

14 ELIZABETH LINT: It's fine.

15 MICHAEL GARDNER: For my  
16 education, could you give me a brief  
17 explanation, Ma'am, and what T.I.P.S. is and  
18 what it means to be a T.I.P.S. Certified  
19 trainer?

20 ABIGAIL CHAMPION: Yep. I took a  
21 class through my boss -- well, my boss had

1 set it up a couple years ago so that I could  
2 go out and educate our servers and bartenders  
3 and anybody who would be responsible for  
4 serving alcohol. Make sure that they had the  
5 necessary tools and that they could  
6 responsibly check ID. You know, not over  
7 serve alcohol to anybody and just serve  
8 alcohol responsibly in our establishments.  
9 So I was responsible for teaching those  
10 classes. I had actually taught the staff in  
11 Cambridge during the opening last year. I  
12 taught that class for them, and I've done  
13 some for locations in the area.

14 MICHAEL GARDNER: And have you  
15 managed at this level of responsibility in a  
16 place that serves before now?

17 ABIGAIL CHAMPION: I have been a  
18 manager for the company for three years at  
19 the Prudential Center. I recently was  
20 promoted to operating manager which is just  
21 the general manager for the Cambridge

1           Locati on.

2                   MI CHAEL GARDNER:   Okay.   And you  
3           understand the obligati on to take the  
4           21-proof cl ass?

5                   ABI GAI L CHAMPI ON:   Yes, I do.   Yep.

6                   MI CHAEL GARDNER:   Questi ons?

7                   GERALD REARDON:   No.

8                   CHRI STOPHER BURKE:   No questi ons.

9                   GERALD REARDON:   Moti on to approval  
10          subj ect to the condi ti ons of the 21-proof.

11                  CHRI STOPHER BURKE:   Second that  
12          moti on.

13                  MI CHAEL GARDNER:   All those in  
14          favor?

15                  (Aye. )

16                  (Gardner, Burke, Reardon. )

17                  MI CHAEL GARDNER:   Opposed?

18                  (No Response. )

19                  MI CHAEL GARDNER:   Thank you very  
20          much.   Good Luck i n the assi gnment.

21

1 ELIZABETH LINT: I don't see anyone  
2 here from Uno's. They do have another matter  
3 on November 23rd. I suggest that we put  
4 these over and I'll inquire why they didn't  
5 come in for this.

6 MICHAEL GARDNER: Procedural issue.  
7 You think I should have been asking if  
8 there's anybody in the audience to want to  
9 speak about these things?

10 ELIZABETH LINT: Yes. Except I knew  
11 that there wasn't.

12 MICHAEL GARDNER: Sorry to have  
13 failed to give you an opportunity to speak on  
14 those matters if you wish.

15

16

17

18

19

20

21

1                   ELIZABETH LINT: Appl i cati on  
2                   Hourglass Tattoo Studi os, Incorporated has  
3                   applied for an Antique Store License at 1680A  
4                   Massachusetts Avenue. If approved, thi s  
5                   License will grant the keepi ng, purchase,  
6                   storage, or sale of secondhand furni ture,  
7                   bri c-a-brac, art objects, pai nti ngs, jewel ry,  
8                   or anti ques.

9                   JOHN REGAN: Mr. Chai rman,  
10                  Commi ttee.

11                  MICHAEL GARDNER: Thank you for  
12                  comi ng. Coul d you j ust please i denti fy  
13                  yoursel f for the record.

14                  JOHN REGAN: Yes, I 'm John Regan  
15                  (phoneti c). I 'm the owner of Hourglass  
16                  Tattoo Studi o and Gall ery on 1680A  
17                  Massachusetts Avenue i n Cambri dge.

18                  MICHAEL GARDNER: Coul d you descri be  
19                  for us a l i ttle bit about what the busi ness  
20                  is l i ke now and how it wi ll change?

21                  JOHN REGAN: Yes, si r. The busi ness

1 is -- it's broken up into two different  
2 revenue streams. It's a large space. It's  
3 1600 square feet. The main space is a  
4 gallery space. Roughly 800 square feet. And  
5 the rest of the unit is all work stations for  
6 tattooing. Both stations are cut off from  
7 each other. Meaning, the work stations are  
8 fully enclosed. We don't allow any food,  
9 drink or any non-sterilized equipment  
10 obviously in those areas. The gallery is the  
11 public area, and that is a supplemental  
12 income for us. We do art shows once or twice  
13 a months.

14 The business we -- I saw Ms. Lint about  
15 a month or two ago, and we had no idea we had  
16 to have an art gallery license. So we had  
17 been putting together an event once a month  
18 since we opened in May, and all of a sudden  
19 they're like, hey, do you have a license, an  
20 antique store license? And I said what the  
21 heck do we need that for? So the process

1 began and put the application together and  
2 here we are now.

3 GERALD REARDON: 1680 is which  
4 building?

5 JOHN REGAN: The West Side Lounge.  
6 We're right above.

7 GERALD REARDON: You're above it.

8 JOHN REGAN: Yeah, Charlie is our  
9 landlord.

10 So the business won't essentially  
11 really change. It just would allow us to be  
12 a legal art gallery.

13 MICHAEL GARDNER: So is the purpose  
14 for this application not so much to sell  
15 antiques as to have an art gallery? I guess  
16 I'm confused.

17 JOHN REGAN: Yeah. It's the only  
18 license, right, that requires an official art  
19 gallery. So, I mean, we're not selling  
20 antiques really.

21 ELIZABETH LINT: But that's what the



1 license is.

2 JOHN REGAN: Yeah.

3 ELIZABETH LINT: Under the statute.

4 MICHAEL GARDNER: All right. So in  
5 terms of the summary here that this would  
6 grant the keeping purchase, storage or sale  
7 of secondhand furniture, bric-a-brac, art  
8 objects, paintings, jewelry or antiques, your  
9 focus is on the art objects?

10 JOHN REGAN: Yes.

11 MICHAEL GARDNER: And not the  
12 others?

13 JOHN REGAN: That's correct.

14 GERALD REARDON: And my question  
15 would be is obviously the storage of  
16 furniture and so forth. But the license  
17 would actually allow you to do that?

18 JOHN REGAN: Right. It's not  
19 something that we're going to require, you  
20 know.

21 GERALD REARDON: And that's not

1           sprinklered upstairs, correct?

2                   JOHN REGAN: Sprinklered, no. But  
3 we have brand new fire alarm system. Captain  
4 Brogan has been there a bunch of times. And  
5 they're a little sensitive which is good. It  
6 went off once a few months ago.

7                   MICHAEL GARDNER: Is there any  
8 potential zoning issues with this?

9                   ELIZABETH LINT: No. In fact, the  
10 Building Department had already signed off.  
11 I did have communication from the Cambridge  
12 Health Alliance however. And I do have  
13 Captain Brogan's sign off as well already.

14                   Their concern was that whenever there's  
15 tattooing going on that the regulations  
16 absolutely prohibit any alcohol. So they're  
17 doing events that are gallery openings type  
18 of situation, and just the health alliance  
19 wanted to be sure that there would be  
20 absolutely no drinking by customers or  
21 artists or anyone else that's participating

1 in tattooing.

2 JOHN REGAN: Correct.

3 And I spoke to Mike about that who is  
4 my contact at the Cambridge Health Department  
5 and he's been the space multiple times  
6 before. He just wanted to reassure us that,  
7 you know -- and something that Ms. Lint and I  
8 spoke about before was perceptions and  
9 reality. So, if you're thinking of a tattoo  
10 parlor or a tattoo studio, you're thinking of  
11 a bunch of people standing around getting  
12 tattooed, drinking, you know, that's not the  
13 case. The actual space as I mentioned  
14 earlier, is broken into two different spaces,  
15 work stations. You're not even allowed to  
16 bring a bottle of water in the work stations  
17 let alone alcohol.

18 GERALD REARDON: Well, there's no  
19 alcohol at all in that premises either side,  
20 right?

21 JOHN REGAN: Exactly.

1           MICHAEL GARDNER: And this permit  
2           wouldn't give the right to serve alcohol?

3           ELIZABETH LINT: No.

4           MICHAEL GARDNER: And you don't  
5           serve alcohol at openings?

6           JOHN REGAN: No -- I'm confused.  
7           The issue was we were getting one day  
8           licenses.

9           ELIZABETH LINT: They can get one  
10          day alcohol licenses for gallery events.

11          JOHN REGAN: Right.

12          ELIZABETH LINT: There cannot be any  
13          tattooing.

14          JOHN REGAN: Right.

15          MICHAEL GARDNER: So, what's before  
16          us is to allow you to have essentially the  
17          art gallery, and then if we're satisfied that  
18          the division in the space is secure enough so  
19          that should they apply for a one day liquor  
20          license in conjunction with an event --

21          ELIZABETH LINT: Yes.

1                   MICHAEL GARDNER:  -- it would,  
2                   assuming they followed the rules about the  
3                   segregation --

4                   ELIZABETH LINT:  Yes.

5                   MICHAEL GARDNER:  -- there wouldn't  
6                   be any violations?

7                   ELIZABETH LINT:  Correct.

8                   CHRISTOPHER BURKE:  How many work  
9                   stations do you have?

10                  JOHN REGAN:  We have four.

11                  CHRISTOPHER BURKE:  What do you  
12                  anticipate the percentage of the business  
13                  tattoo versus the art portion?

14                  JOHN REGAN:  Good question.  We're  
15                  hoping to get the art going as soon as  
16                  possible with this license.  It's probably  
17                  about 70/30 on tattooing.  We'd like it to  
18                  increase.  If we can sell larger pieces and,  
19                  once the economy gets back up -- I mean,  
20                  art's taking a beating right now.  I think  
21                  our best sales we did was about \$1600 in one

1 art gallery show which isn't bad. I'd like  
2 it to be a lot more.

3 MICHAEL GARDNER: Any other  
4 questions you have?

5 GERALD REARDON: All the paperwork  
6 in order?

7 ELIZABETH LINT: Everything's in  
8 order. Background check is fine.

9 MICHAEL GARDNER: Are there any  
10 members of the public who would like to speak  
11 on this matter?

12 (No Response.)

13 MICHAEL GARDNER: Hearing none.  
14 Pleasure of the Commissioners?

15 GERALD REARDON: Move to approve.

16 CHRISTOPHER BURKE: Second that  
17 motion.

18 MICHAEL GARDNER: All those in  
19 favor?

20 (Aye.)

21 (Gardner, Burke, Reardon.)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

MICHAEL GARDNER: Motion approved.

1                   ELI ZABETH LINT: Appl i cati on Gi ft  
2           Jaj a doi ng busi ness as Jaj a Cafe, has appl i ed  
3           for a common victual er l i cense to be  
4           exerci sed at 441 Cambri dge Street. Sai d  
5           l i cense, i f granted, woul d allow food and  
6           non-alcohol i c beverages to be sol d, served,  
7           and consumed on sai d premi ses wi th a seati ng  
8           capaci ty of 10. The hours of operati on woul d  
9           be from ei ght a.m. to fi ve p.m. Monday  
10          through Saturday.

11                   MI CHAEL GARDNER: Good eveni ng.  
12          Thank you for wai ti ng. And coul d you j ust  
13          i ntroduce yoursel f for the record, please.

14                   GI FT JAJA: My name i s Gi ft Jaj a.

15                   MI CHAEL GARDNER: And coul d you  
16          descri be for us the busi ness that you woul d  
17          l i ke to open here?

18                   GI FT JAJA: I 'd l i ke to open a  
19          coffee, tea, beverage store wi th many bagel s  
20          and muffi ns and j ui ces and sandwi ches. Wraps  
21          for l unch. And to be open from ei ght to fi ve



1 Monday through Saturday.

2 MICHAEL GARDNER: Could you describe  
3 for us the experience you've had in this kind  
4 of business in the past?

5 GIFT JAJA: I've not really had that  
6 much experience other than I worked in a  
7 cafeteria in college and I used to do the  
8 Cambridge World Fair. And I've been a  
9 chemistry teacher in one of the Boston public  
10 schools. And I cater at my church here at  
11 Saint Peter's Episcopal Church almost every  
12 Sunday. Actually I just catered this past  
13 Sunday because was at our church. And I was  
14 taking class, the Safe Serve classes and  
15 passed it.

16 MICHAEL GARDNER: And do you have --  
17 will you have employees who will assist you  
18 or work with you?

19 GIFT JAJA: Yes, I will have  
20 probably one employee, and then my children  
21 who are now a little bit older. I have 18

1 and almost 14 years old. So when they're not  
2 in school, I will have them help out.

3 MICHAEL GARDNER: And employees who  
4 you propose to employ, have any of them had  
5 experience in food handling and preparation?

6 GIFT JAJA: I will be looking for  
7 some -- someone who has work in such setting,  
8 and primarily for cashier work. But the  
9 sandwich making will be primarily myself  
10 because I have taken the Safe Serve classes.  
11 I've passed it. So I'm more knowledgeable in  
12 terms of what is required in order to do  
13 that.

14 GERALD REARDON: Where is this  
15 around Fifth Street?

16 GIFT JAJA: Sixth Street.

17 GERALD REARDON: Sixth. Okay.

18 GIFT JAJA: It used to be a bicycle  
19 shop, the space.

20 GERALD REARDON: And have you done  
21 any rehabilitation to the building yet or

1 anythi ng?

2 GIFT JAJA: Presently we are --  
3 presently I'm doi ng the bui ld out. The  
4 carpentry work i t's ongoi ng. And el ectri cal  
5 work is al so ongoi ng. And so i t's work i n  
6 progress, and I'm hopi ng to open by the last  
7 week of November i f everythi ng works wel l.

8 MI CHAEL GARDNER: Background?

9 ELI ZABETH LI NT: Don' t need one. I  
10 do have l etters of support.

11 Counci l or Toomey l writes i n support of  
12 the appl i cati on. He sai d, "As Cambri dge  
13 Street conti nues to struggl e wi th empty  
14 storefronts, a new cafe is a wel comed  
15 addi ti on to the streetscape." He' s heard  
16 from many resi dents that a cafe is a much  
17 desi red busi ness al ong Cambri dge Street i n  
18 East Cambri dge, and he feels i t wi ll be very  
19 wel l recei ved i n the nei ghborhood.

20 And there' s al so a l etter from the East  
21 Cambri dge Busi ness Associ ati on wri ti ng i n

1 support of the application. "As members of  
2 the business community in East Cambridge, we  
3 have heard time and time again that there was  
4 a desire by the residents to see a cafe open  
5 along Cambridge Street in East Cambridge.  
6 With the many vacancies appearing in the  
7 neighborhood this is a welcome sign. A Cafe  
8 will help draw additional foot traffic to the  
9 area and many other businesses in the  
10 vicinity could benefit from an increase in  
11 foot traffic."

12 MICHAEL GARDNER: Are there any  
13 zoning issues?

14 ELIZABETH LINT: I have zoning  
15 sign-offs.

16 GERALD REARDON: I would make a  
17 motion to approve subject to the conditions  
18 -- yes.

19 ELIZABETH LINT: That the \$175  
20 hearing and advertising fee needs to be paid.

21 GIFT JAJA: I've already paid that.

1                   ELI ZABETH LINT: You did? Because I  
2                   have a note that it wasn't. We can  
3                   straighten it out.

4                   And I need the abutters' notifications.  
5                   Do you have the green cards back? The green  
6                   cards that were attached. That's your  
7                   receipt. That's your postal receipt.

8                   GIFT JAJA: Oh, okay. You're right.  
9                   I have paid that and I do have the receipt.  
10                  But unfortunately I don't have that here.

11                  ELI ZABETH LINT: Okay, that's fine.  
12                  You can straighten that out with Chris O'Neil  
13                  in my office tomorrow.

14                  GIFT JAJA: I'm stop by sometime  
15                  during the week.

16                  MICHAEL GARDNER: So a motion to  
17                  approve the granting of the license, I take  
18                  it anything like this is all subject to the  
19                  completion of all the final payments.

20                  GERALD REARDON: Subject to  
21                  conditions and sign-offs from the appropriate

1           bui l di ngs, i nspecti onal , fi re and heal th.

2                   MI CHAEL GARDNER:   Okay.   Is there a  
3           second to that moti on?

4                   CHRI STOPHER BURKE:   I wi ll second  
5           that moti on.

6                   MI CHAEL GARDNER:   All those in  
7           favor?

8                   (Aye. )

9                   (Gardner, Burke, Reardon. )

10                  MI CHAEL GARDNER:   Opposed?

11                  (No Response. )

12                  MI CHAEL GARDNER:   Good Luck.

13                  GI FT JA JA:   Thank you very much.

14

15

16

17

18

19

20

21

1 ELIZABETH LINT: And then we have  
2 rati fi cations that have already been  
3 approved. All the paperwork was in order.

4 Medal lion #70 which was a stock  
5 transfer.

6 Medal lion #141 and #202 were refi nance.

7 Medal lion #44, #56, #212, #169, #179,  
8 sale of stock.

9 Medal lion #199 and #237 sale of stock.

10 MI CHAEL GARDNER: Just for my  
11 edi fi cation, I'm sorry, when it's a sale of  
12 stock, does that mean essentially the  
13 medal lion's being transferred from one enti ty  
14 to the other?

15 ELIZABETH LINT: From Katheri ne's  
16 Cab to -- well, Katheri ne's Cab, Carol 's Cab  
17 to George Fi orenza and Joe Si lva.

18 MI CHAEL GARDNER: And all the  
19 fi nanci ng is what it sounds like?

20 ELIZABETH LINT: Exactly.

21 MI CHAEL GARDNER: And what's a stock

1 transfer?

2 ELIZABETH LINT: One was from it was  
3 either from a father to son or a husband to  
4 wife.

5 MICHAEL GARDNER: Okay. Thank you.

6 ELIZABETH LINT: I would just ask  
7 that they be accepted.

8 GERALD REARDON: Motion to be  
9 accepted as written?

10 CHRISTOPHER BURKE: Seconded.

11 MICHAEL GARDNER: All those in  
12 favor?

13 (Aye.)

14 (Gardner, Burke, Reardon.)

15 MICHAEL GARDNER: Opposed?

16 (No Response.)

17 MICHAEL GARDNER: Thank you.

18 Is there any other business before the  
19 Commission?

20 ELIZABETH LINT: I have nothing  
21 further.



1                   MI CHAEL GARDNER: The next scheduled  
2 meeting of the Commission is the 4th?

3                   ELI ZABETH LINT: The 4th of  
4 November.

5                   MI CHAEL GARDNER: Motion to adjourn  
6 the meeting?

7                   CHRI STOPHER BURKE: Motion.

8                   MI CHAEL GARDNER: Second?

9                   GERALD REARDON: Second.

10                  MI CHAEL GARDNER: All those in  
11 favor?

12                  (Aye.)

13                  (Gardner, Burke, Reardon.)

14

15                  (Whereupon, at 8:30 p.m., the  
16 meeting adjourned.)

17

18

19

20

21

## C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRI STOL, SS.

I, Catherine Lawson Zelinski, a  
Certified Shorthand Reporter, the undersigned  
Notary Public, certify that:

I am not related to any of the parties  
in this matter by blood or marriage and that  
I am in no way interested in the outcome of  
this matter.

I further certify that the testimony  
hereinbefore set forth is a true and accurate  
transcription of my stenographic notes to the  
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 1st day of November 2010.

\_\_\_\_\_  
Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 23, 2015

THE FOREGOING CERTIFICATION OF THIS  
TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION  
OF THE SAME BY ANY MEANS UNLESS UNDER THE  
DIRECT CONTROL AND/OR DIRECTION OF THE  
CERTIFYING REPORTER.